

FATWAS **FOR DAILY LIFE**

ISLAMIC Q & A
HANDBOOK

MUFTI SIRAJ DESAI

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FATWAS FOR DAILY USE

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INTRODUCTION

This book is, hopefully, the first in a series of compilations resulting from hundreds of questions that have come into our offices via post, fax, email, radio programs, website, personal consultations and the sms service that we operate, spanning almost a decade.

Alhamdu-lillah, it is indicative of people's enthusiasm to learn Deen that there is a continuous and constant flow of questions. In fact, we cannot keep up with the volume of incoming questions. It can be safely said that this publication is actually the fruit of Muslims out there who satiated their thirst for learning about Islam.

This book covers some of the hundreds of questions answered by Mufti Siraj Desai. Questions have been selected on the basis of current need as well as for their interest value.

May Allah Ta'ala accept this work and make it a means of salvation for the writer and all those who have assisted in its publication.

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MARRIAGE

CHAPTER 1 MARRIAGE ISSUES

1.1 Husband Smoking Marijuana

Q: What's the faith of a woman who distances herself from a husband who smokes marijuana?

A: A wife has to remain faithful towards her husband as long as she is married to him. She has to continue to fulfill the rights of the marriage as commanded by Shariah. Therefore, even if the husband is onto drugs or marijuana, she has to still maintain his rights. Perhaps the husband needs help to overcome this problem. The wife could provide some assistance. However, if this habit of the husband causes him to continuously break her rights and not fulfill marital dues, then the wife may seek a divorce or annulment. But that must be determined by local Ulema who will study and judge the case on its merits.

If by "distancing" you mean that the wife remains in nikah but keeps aloof from her husband, then though that is permissible, she still has to fulfill the rights of nikah. If him being in that state causes grief and anguish to the wife during sexual relations, then she is allowed not to allow him access to her body while he is under the influence of marijuana.

And Allah knows best.

I suggest that a couple facing such a problem go to local Ulema for counseling and help. May Allah bring about a cure to this evil, aameen.

1.2 Marital Conflict and Seeking Advice

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Q: I need to find advice with regard to the situation I find myself in at the moment. It relates to my marriage. Please advise me as to who I can seek some advice and direction from.

A: Seek counsel from the Ulama in your area, or elder members of your family, or elders of your area, especially those who are steadfast on the Deen (religion of Islam).

May Allah Ta'ala grant you ease. Aameen.

1.3 Wife Leaving Islam

Q: My wife accepted Islam because I asked her, now she doesn't want to be Muslim. Do I leave her?

A: If she has already left Islam then get some learned people to speak to her to remove her doubts and convince her about Islam. If she agrees to come back into the fold of Islam within a period of three months, then there is no need to renew your Nikah (marriage). You simply take her back and resume marital ties. Whilst attempts are being made to persuade her to come back into the fold, sexual relations and intimacy (kissing, etc) are not permissible. If she refuses to return to Islam then you will have to leave her. You cannot be married to her as long as she remains out of the Deen (religion) of Islam.

1.4 Adulterer Marrying a Chaste Woman

Q: If a man who has committed zina repents and wishes to marry a chaste woman, is this halaal?

A: If one has repented from zinaa and wishes to marry a chaste woman or a virgin, this is totally permissible; there is nothing that prevents him from doing so. The nikah will be valid. However, he has to make such strong taubah that after marrying this chaste

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woman he should not go back to that evil sin, or else his marriage will break-up.

1.5 Secretions from Private Parts

Q: While husband and wife are fondling each other and secretions come out from the private parts, will Ghusl (full body bath) be necessary?

A: This depends on the type of secretion. If the secretion is mazhi, wudhu breaks but ghusl is not necessary. The area will have to be washed and the soiled clothes will either have to be changed or washed. Mazi is a sticky, colourless liquid that is discharged from the private part at the time of arousal. If the discharge was that of mani or semen then ghusl becomes necessary. Mani is a thick fluid, the colour of which varies from whitish to yellowish, and is discharged through ejaculation or orgasm. The difference between mazhi and mani is that the former emerges gradually and without force, whilst the latter is emitted with force and all at once.

1.6 Muslim Woman Marrying a Christian Man

Q: Is it allowed in Islam for a Muslim woman to marry a Christian man or one who has converted to Islam?

A: It is not permissible for a Muslim lady to marry a Christian man, unless he converts to Islam. It is reported by Imam Abu Dawood that Abdullah bin Abbas (radhiallahu anhuma), who had divinely been appointed as the Chief of Commentators of the Quran, said: Muslim females have been prohibited from marrying their (Ahl-e-Kitab) men. The same fatwa has been narrated from Imam Hasan and Imam Mujahid, and it is the view of both Hanafi and Shaafi'ee Scholars. (*Tafseerul Aaloosi v.2 p.216*)

1.7 Valid Reasons for Contraception

Q: Please explain the circumstances under which contraception is allowed in Shariah (Islamic Law).

A: Contraceptives are allowed for the following reasons:

1. When it is established through experience or expert medical advice that pregnancy will endanger the life of the mother or the foetus-to-be, or she will suffer serious complications to her health.
2. When the mother is unable to cope in the rearing of children for social or economic reasons, such as her having to go out and work for a living when the husband is invalid or not willing to earn an income.
3. When the couple live in such a remote area where they fear for the morals and Deeni (Islamic) upbringing of their kids.
4. Due to physical weakness or terminal illness the mother cannot rear children, and the family is not by the means to employ people for this purpose.
5. The couple intend separating in the near future, or the wife fears her husband may divorce her soon, or desert her.
6. To enable the couple to provide proper education and discipline to their offspring, contraception is used to space out pregnancies.

These are but a few reasons. Other contingencies may arise in different situations. The onus is on the couple involved to ascertain from the Ulema whether any given situation warrants permissibility of the use of contraceptives. However, resorting to contraception for fear of poverty, or to enable the wife to pursue a career, or merely because it is 'fashionable' to have small families, is not permissible. Further, the moment the above reasons no longer exist, use of contraception will once again become unlawful.

It must also be noted that having children is the right of the wife. The husband cannot overrule her in this case, unless the wife refuses to have babies for reasons that are not valid in Shariah, as mentioned above.

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1.8 Marital Dispute and Custody of Children

Q: My first wife left our marital home a few years ago, when I married my second wife. I have not divorced the first wife. We (my first wife and I) have 3 children, one son and two daughters. My son is 14 years and daughters are 12 and 10. Who has the right of custody of our children?

A: Since you clearly state that you have not divorced your first wife, your marriage is still intact. The question of custody only arises when a divorce takes place. In your case you claim you never issued a divorce; in that case you have all the right over your children. As in a normal marriage you being the father have the right to custody. You may keep your children with you until your wife returns to the marital home, or, if you so wish, you may allow them to live with her. The choice is absolutely yours. Here the age of the children is not taken into account.

1.9 Marriage Without Sexual Relations

Q: Is nikah (marriage) valid without sexual intercourse?

A: Even if a couple had no intimate relations after getting married, their nikah is valid and complete. Consummation of the marriage is not a condition for its validity.

1.10 Time for Sexual Relations

Q: How long after nikah should the couple have sexual relations?

A: Sexual intercourse can be done any time after nikah, depending on circumstances and the mutual agreement of the couple. But the hadith encourages a wife to respond to her husband whenever desires her.

1.11 Sexual Intercourse in Room with Sleeping Infant

Q: Is sexual intercourse permissible in the room where an infant is asleep?

A: It is permissible for a couple to have sexual relations in a room where infants are sleeping. But care should be taken that they don't wake up while the husband and wife are engaged in this act. However, even though this is not a sin, but it is not advisable. It is better for the couple to be in another room when having intimate relations, if this is possible.

1.12 Calculating Mehr (Dowry)

Q: How does mehr work? Does the boy have to give the Mehr-e-Fatimi?

A: It is not necessary to stipulate the mehr-e-fatimi. This is a sunnat form of mehr for those who can afford it, especially since nowadays the mehr-e-fatimi is quite high. The bridegroom may offer any amount of mehr as long as it is more than the minimum mehr. It is then up to the bride to accept the amount offered, or negotiate a higher figure. Again, Shariah prohibits exorbitant dowries.

1.13 Wakeel (Representative) for a Revert Lady

Q: Who should be a wakeel for a revert Muslim woman who is marrying a Muslim man? All her relatives are non-Muslims. Can any Muslim be her representative for nikah at the masjid?

A: A non-Muslim cannot act as a wakeel in nikah for a Muslim woman. In this case, any responsible, baaligh Muslim male should act as her representative for nikah in the Masjid.

1.14 Parents' Consent for a Marriage

Q: I would like to know what are the primary requirements of nikah? Is the parents' consent compulsory?

A: In the Shaafi' math-hab a girl cannot marry without the consent of her father, or the consent of her wali in the absence of her father. Such a marriage is null and void. In the Hanafi math-hab a

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nikah without the permission of the father is valid on three conditions: 1) The boy must be capable of supporting the girl he intends marrying. This means that he be capable of at least providing the mehr (dowry) which she is entitled to, and monthly maintenance. 2) The boy must possess Islamic morals or character that is similar to or better than that of the girl. 3) If the girl is a Muslim by birth, the boy too, must be a Muslim by birth. If these conditions are not met then even in the Hanafi math-hab such a nikah is not valid without the consent of the wali (guardian). Furthermore, even if these conditions are met, for moral, spiritual, and social success, the parents' consent and approval are absolutely necessary. By marrying outside the fold of this approval our youth are destroying their morals and weakening their Islamic foundations.

In the case of a baaligh boy, he does not require the consent or permission of parents according to either mazh-hab. However, such a boy is also strongly advised not to marry a girl without his parents blessings.

1.15 Marriage Without an Aalim/Sheikh

Q: If nikah (marriage) is made between a couple without the presence of a Moulana or Sheikh, what would the procedure be?

A: Due to discrepancies that have arisen in the past, we do not allow marriages without the presence of a Moulana or Imam. Any couple wishing to get married must seek the assistance of a Moulana or Imam.

1.16 Fiancé's Terrible History

Q: A friend of mine is getting married and her fiancé has a terrible history, and there is suspicion that he continues to take part in these haraam activities. Is it my duty to notify her, anonymously of course?

A: It is definitely your Islamic duty to convey to her whatever in-

formation you have about the person she intends marrying, especially since she is courting that person as well. This is not gheebat or scandalizing, provided your information is correct and true.

1.17 Barailvi Marrying Jamaatul Muslimeen

Q: Is it Ok for Barailvi girl to marry a Jamaat ul Muslmeen boy?

A: The nikah of a Bareilvy girl to a 'Jamatul Muslimeen' (non-Bareilvy) boy will be valid. However, experience has shown that a nikah wherein husband and wife are compatible lasts longer and has less problems. It is clear that Bareilvies and non Bareilvies have a number of differences as regards beliefs and practices. These differences are bound to result in major disputes between the husband and wife. It is, therefore, better that a girl and boy of these backgrounds do not marry. As stated earlier, if they do get married, the nikah will be valid but parties involved should not only look at short term validity; instead, long term compatibility and harmony should be the deciding factors.

And Allah knows best.

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CHAPTER 2 BUSINESS ISSUES

2.1 Takafol

Q: Can one take out insurance with the company called Takafol South Africa (Pty) Ltd?

A: We have reservations over certain aspects of the Takafol system; hence we discourage people to utilize this facility.

2.2 Income from Cigarettes

Q: Is the selling of cigarettes haraam?

A: No, selling of cigarettes is not haraam. Such an income is lawful but makrooh.

2.3 Money from Gambling

Q: If someone gives you money that you know is from gambling, can one accept it?

A: If you are certain that the money has been acquired through gambling, it is not permissible to accept such money. If one has already taken the money, it is necessary to give that amount in sadqa (charity) without any intention of thawaab (reward).

2.4 Female Working

Q: I am a female pharmacist and would like to continue this profession. Am I allowed by Shariah to go out and work?

A: A woman who is self sufficient or is being supported by her husband or family members, is not allowed to work at all. This is totally prohibited. A woman may only work if she has no husband, nor any relative who is prepared to maintain her, or if the hus-

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band is present but is unable or refuses to support her for whatever reason.

In your case, in order to keep in touch with the pharmacy profession, try working from home, without having to leave the confines of the home. Since your situation does not fall within the ambit of a Shar'ee need, it will not be permissible to go out and work.

2.5 Selling a Waqf Property

Q: A house was given as waqf (endowment) to a jamaat. A mutawalli (trustee) sold it below value and invested the money in his own investment? Was it correct to sell waqf property? The other jamaat members were not happy with what he did though he says he will pay the jamaat back. So far he has only paid a little of the money. Should that mutawalli be asked to resign?

A: The Ulema are unanimous that selling waqf property is not permissible. The sale itself is not valid. Steps should be taken to cancel that sale and redeem the Waqf property. As for the trustee, well he has committed a serious breach of trust, on the basis of which he has disqualified himself from being a trustee. It is written in the Hanafi book of Jurisprudence, Raddul-Muhtaar that when a trustee breaches his trust, he is automatically disqualified from that position. He should, therefore, resign. If the sale is cancelled then this trustee has to reimburse the buyer for the price of that house. If due to legal technicalities, this could not be done, then the trustee has to pay the market value of the property back into the trust.

2.6 Working at a Bank

Q: A boy intends to marry me but he works at bank. How do I advice him about leaving that job?

A: Working in a bank is not totally Haraam. Some types of work in

the banking industry are lawful. If his work entails involvement in riba (interest) then such work is Haraam. Our advice for him is to look out for another job as a matter of urgency, but in the meantime continue working at the bank. However, if he is working in an Islamic bank, then his job is totally lawful and permissible. In this case he doesn't have to leave the job. If you need any advice on the Islamic banks, please contact us again.

2.7 Working for a Liquor Store

Q: Can a person work for a bottle (liquor) store making safes?

A: No, this is haraam. The Holy Quran prohibits us to aid and abet sin.

2.8 Women Doing Business During Jumu'ah

Q: Can Muslim women do business during Jumu'ah salah?

A: Muslim women should not be doing business at any time, let alone the time of Jumu'ah. According to the hadith it is among the signs of Qiyaamah that women will aid their husbands in business and trade. Muslim businessman should rather close their businesses at the time of Jumu'ah instead of leaving their womenfolk to run the business. In view of today's escalating crime wave, it is also in the interests of our physical and emotional well-being not to leave our womenfolk alone in businesses.

2.9 Not Attending Jumu'ah

Q: If a person does not attend Jumu'ah salah, is his income halaal?

A: Presumably you are referring to one who trades during the time of Jumu'ah and thus misses his Jumu'ah. If this is so then know that one who misses Jumu'ah has committed a major sin. According to some Ulema a male who misses three Juma's in a row for no valid reason, loses his iemaan. Though his income will be halaal,

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there is no blessing and good luck in such an income. It is devoid of barakaat (blessings), and such a business is doomed to failure.

2.10 Extended Guarantee on Items

Q: Is it permissible when purchasing an item to purchase an extended guarantee? Normally the guarantee is for one year, but pay an extra R250 (for example) and it will be extended to 3 years.

A: If this amount is included in the overall price, which amount is paid at the time of collecting the item, then such a deal is permissible. In other words, at the time of taking possession of the article, one pays a single price inclusive of all costs related to the article. If this extra amount is paid separately or after taking possession of the article then it is not lawful.

2.11 Issuing Medical Certificates Under False Pretences

Q: I am a medical practitioner and we usually issue medical certificates to sick patients. Sometimes patients are not really ill, but seek a certificate out of fear for losing their jobs should they fail to produce one as reason for their absence. Is it permissible for us doctors to issue a certificate under false pretences?

A: To certify a patient as ill when he is not really so, is tantamount to giving false evidence. No matter what valid reason an employee has for staying out of work, the doctor cannot falsely certify him or her as sick. The doctor will have to explain the Islamic and moral position to the patient and kindly refuse. If money is taken in lieu of such untrue certificates then the sin is even bigger.

2.12 Interest Money for Staff Bonuses

Q: Is it permissible to use interest to pay staff bonuses? Bonuses have been made compulsory.

A: If in any profession or employment the payment of bonuses has

become a set trend, or legislation provides for it then one cannot use interest to pay the bonus. The bonus has now become a legal payment recognized by Shariah, on the same level as the usual remuneration. If an employer pays his staff bonuses from interest, it means that he has derived benefit in his business from interest, which is unlawful.

2.13 Islamic Finance for Buying a House

Q: I wish to buy a house. Are the Islamic finances advertised by banks permissible?

A: Islamic finance for housing is offered by First Rand (FNB), Absa, and Al-Barakah (in South Africa). (There may be a few more on the market). Purchasing your house through one of these banks is far better than taking out a bond on which one would pay interest. However, when entering into a contract with the bank, please check the paper work or have an alim (Muslim scholar) check it for any discrepancies as far as Shariah is concerned.

2.14 Borrowing Money from a Bank

Q: I borrowed money from the bank on my card without interest for a friend of mine, who promised to pay it back before the bank charges interest. Now if he don't pay me back in time will I be sinful for the interest charged?

A: Indeed, you will be sinful because in spite of you taking out the loan for your friend, the deal was between you and the bank. You are responsible to pay back that loan to the Bank; hence any interest charged will be linked to your loan, not the loan of the friend. This is something one must think of in advance before taking a loan from banks.

2.15 Coffin-making Business

Q: Is it permissible to own a business that makes coffins?

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A: Yes such a business is lawful and the income halaal. However, it is haraam for a Muslim to manufacture or sell coffins that have religious inscriptions on them, such as the cross or pictures of Jesus and Mary.

2.16 Working for a Brewery

Q: Is it permissible to work for SA Breweries as an Admin Clerk or Accountant in their offices?

A: It is not permissible to do any work for a company that manufactures and/or sells liquor. If one is already in such an employ, he or she should look out for an alternate employment as a matter of urgency. Once another job is found one should immediately resign, regardless of the perks or payouts that may be lost, and notwithstanding a drop in salary and income. Allah puts people to test in this world. When they pass the test, He then opens up His Doors of Mercy and Rizq upon them. In earning a halaal income, one is assured of blessings all the time. Working for a Brewery is living constantly under the curse of Allah, a threat that was sounded for people involved in wine and wine making.

2.17 Women and Work

Q: My wife has been offered a job. Can she accept it?

A: According to Shariah a woman only works when she has no means of income and maintenance. In other words, only in cases of necessity. If you as the husband are earning and supporting her, then it is haraam for her to go out and work. Couples should learn to streamline their budget and spending, thus avoiding the need for extra income.

2.18 Stolen Goods and Liability

Q: A transporter reported to his client that some of the goods he was supposed to have delivered were stolen en-route. He stated that the door of the truck was closed but not locked and that the goods were stolen whilst he was driving. An oncoming motorist alerted his attention to the open door of the truck. Only then did he realize that goods were missing. At the time of negotiating the contract the transport company had agreed to take responsibility for any losses. According to Shariah, who is responsible for the loss?

A: The Islamic principle governing this situation states that if goods were lost while being transported due to negligence, as in the above case, then the transporter is liable for losses sustained. Leaving the door unlocked is an act of carelessness which should necessitate compensation. Furthermore, the transporter had undertaken acceptance of liability for any losses, in which case he is liable for losses. He shall have to compensate his client for the current market value of the goods that were stolen. However, if both parties agree on a settlement figure, that is also allowed.

2.19 Buying Stolen Goods

Q: Nowadays Muslim businessmen are buying stolen goods, either knowingly or unknowingly? What is the Islamic status of such businesses, and the consequences thereof?

A: I do not believe that a businessman in today's times will purchase stolen items while being blissfully unaware that they are stolen. A person in business circles will know only too well that items sold for below their market value must be stolen. Traders who buy back-door goods either conveniently ignore this fact or do so deliberately. The consequences of both are the same and are quite serious. Firstly, the hadith shareef warns that a person who wears, eats, or drinks, stolen items will not have his ibaadat (worship) accepted for forty days. Secondly, the flesh that is nourished with haraam will burn in Jahannum (Hell). Thirdly, there

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will be no barakat (blessing) in such a business when the owner dabbles in backdoor deals and stolen goods. Fourthly, such items must be given back to the rightful owner, and if this is not possible then the items must be given in charity without an intention of reward. If for some reason or other, the item itself could not be given to the poor, then it should be sold and all the proceeds from the haraam sale must be given to the poor. Fifthly, the businessman who did this should make taubah (repentance) for this major sin. There was once a glorious era in our history when the Muslim businessman was a paragon of honesty and virtue. Alas, the sun has set on that once illustrious past, to be replaced by the darkness of sin and vice. Today, Muslim traders have developed habits of deceit, fraud, unfaithfulness, distrust, and dishonesty. Even our kuffar (non-Muslim) counterparts fear to do business with some Muslim traders.

May Allah guide them to the straight path and restore the beautiful heritage of our admirable predecessors, aameen.

2.20 Government Land Reparations

Q: In the apartheid times the government forcefully took away many properties from our parents and grandparents and gave them meager sums of money as a form of compensation. The government is now compensating people who were affected by giving applicants who claim that their parents/grandparents properties had been expropriated, other properties in lieu of the injustice done. My question is that would the properties now given form part of the estate of the deceased to be distributed amongst the heirs or will they be the sole right and ownership of the applicant.

A: It is a principle of Islamic Law that when a non Muslim state usurps the land or property of a Muslim, that state or government becomes its owner, as stated in the famous Hanafi law book Al-Hedayah. This means that such a property has left the possession

of the Muslim and has entered the ownership of the non Muslim state. Upon the occurrence of such a transfer of ownership, the Muslim has lost all rights to that property. Consequently when that Muslim dies, the property usurped from him by the state does not form part of his estate. His heirs will have no claim to such a property at any stage. The same law applies to properties acquired by the State through forced sales. The owners forfeited all rights over those properties to the state the moment they signed the deeds of sale. Years later, when the new government decides to compensate the former owners by giving them the same properties back, or other properties in its place, this must not be considered a retrieval of a past right, or a type of refund. In Shar'ee terms restitution of land is actually a gift or grant by the government to compensate the former owners for their losses. Hence, whoever the authorities decide to give these lands to, will become the owners. As stated earlier, lands lost to the apartheid government no longer belonged to the former owners, so such lands were never inherited by the heirs. On this basis, when today lands are given to people who lost theirs during the apartheid regime, it will be regarded as government grants. The recipients are the owners, not the heirs of the former owners. So these lands and properties will not form part of the deceased's estate and does not need to be distributed among surviving heirs. The one who receives such a land from the state will own it unconditionally.

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CHAPTER 3 MEN'S ISSUES

3.1 Men Shaving Chest Hair

Q: Is trimming or shaving of chest hair allowed for Muslim men?

A: It is permissible to remove the hair from the chest; there is no sin in this. However, it is advisable not to do so. It was not the sunnah of Rasoolullah r to shave the chest. (*Al-Fatawwal Hindiyyah*)

And Allah knows best.

3.2 Long Hair for Men

Q: Is keeping long hair for man prohibited in Islam?

A: Long hair for a man is allowed if it is kept according to the Sunnah of Rasulullah ﷺ. According to the books of hadith, the Messenger of Allah ﷺ had three lengths of hair. One length was till the middle of the ear, the second till the ears, and the third till just above the shoulders. Rasool ﷺ never tied his hair into a pony tail nor did he plait his hair. Hence, the long hair must not resemble the styles of the non-Muslim West for the Quran-e-Kareem and Hadith-e-Shareef have condemned the imitation of disbelievers. Furthermore, hair should not be so long that it resembles the hair of a woman, which normally falls down to the waist or middle of the back. Resemblance of a woman by man is prohibited in a hadith of Bukhari Shareef.

3.3 Man Waxing Chest and Back

Q: Can a man wax his chest and back?

A: Although it is permissible to remove the hair from the chest and back, it is not advisable. (*Raddul Muhtaar, Al Fataawa al Hindiyyah*)

MEN'S ISSUES

3.4 Removal of Pubic Hair

Q: I am 14 years old. Is it necessary for me to shave my pubic region (front private part) hairs?

A: Once hair grows in the pubic region (from the navel to around the anus) then it becomes necessary to shave. It is not permissible to leave the hair for 40 days without shaving. So yes, regardless of your age, when hair appears, it must be shaven. Also note that you need to shave hair around the anus as well (that is, the back private part). (*Raddul-Muhtaar*)

3.5 Long or Short Kurta

Q: Is it a sunnat to wear the long (Arab style) kurta or the shorter kurta with a slit?

A: A kurta that comes down till the shins is sunnat. That was the length of the kurta of Rasoolullah ﷺ. No specific style of kurta has been defined as sunnat by the Ulema. However, some Ulema have provided research to indicate that the kurta **without** slits is closer to the Sunnah. And Allah Ta'ala knows best. The long Arabian kurtas that fall till the ankles cannot be termed sunnah because its longer than the kurta length. And if the kurta flows below the ankles, then it is haraam, for the hadith prohibits dragging any garment below the ankles.

3.6 Hair Removal Cream and Pubic Hair

Q: Is it permissible to use hair removal creams for removal of pubic hair?

A: Using a cream for this purpose will obviate the use of a razor, which is the proper sunnah for males. Hence, using of creams for males, though permissible, will be discouraged since it leads to neglect of the sunnah, unless one uses the razor along with the cream.

3.7 Sunnah way of Removing Pubic Hair

Q: Please advise me on a personal matter regarding boys who are about to reach their puberty years. What is the sunnah way of removing the pubic hair, for the first time and thereafter?

A: Pubic hair, whether for the first time or later, should be removed at least every 40 days, but preferably every Friday when one takes ghusl (a bath) for Jumu'ah. It should not be left on the body for longer than forty days, for this is sinful. All hair from below the navel till underneath the anus should be removed. The sunnat for men is to use a razor.

3.8 Men Wearing Rings

Q: Are men allowed to wear rings? If so, from which metal must the rings be made of?

A: The rings that Rasoolullah ﷺ and the Sahaba wore were used mainly to affix a seal onto letters. Today we have the rubber stamp which is placed on letters and documents to prove authenticity. In those days they used their rings. The inscription on the ring of Rasoolullah ﷺ was "Muhammadur Rasoolullah". The rings they wore for this purpose was from silver, and Allah's Messenger r prohibited all other metals in rings, such as gold, brass, copper, etc. In our times we do not use the rings for this purpose. The only reason why men wear rings today is for ornamentation and fancy display. For this reason some Ulema prohibited the use of rings for men of today's times. It is, therefore, advisable for men not to wear even silver rings. Rings made from platinum, titanium, or any other metal, will be haraam for men. Women may wear only gold or silver.

It is mentioned in the Hanafi fiqh kitab, *Maraaqil-Falaah* that it is mustahabb for men to wear rings on the day of Eid.

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CHAPTER 4

FOOD

4.1 Eating Shark Meat

Q: Is it permissible for us to eat shark meat?

A: Shark falls under the category of fish, hence it is halaal. The hadith states that among sea creatures, only fish is halaal. Therefore, any creature of the sea that belongs to the category of fish, will be halaal for consumption.

4.2 Consuming a Little Alcohol

Q: In the Quran it says not to have alcohol until you get drunk. So are we allowed to have little of it?

A: What you have mentioned is not stated anywhere in The Holy Quran. Never did Allah Ta'ala say that you must not have alcohol until you get drunk or that you should not consume so much wine that makes you drunk. In fact, I shall quote two verses of The Holy Quran that strictly condemn alcohol/wine.

1. They ask you about wine and gambling: Say: In these two there is great sin and some benefits for people, but their sin is greater than their benefits. (*Al-Quran 2:219*)
2. O Believers: Wine, Gambling etc. are filth from the deeds of the Devil, so abstain there from so that you may be prosperous. (*Al-Quran 5:90*)

These verses of Quran do not differentiate between a large amount of a little bit. It states that all amounts of alcohol are haraam. This is also proven from the Hadith of Rasoolullah r who said:

THAT WHICH INTOXICATES IN LARGE AMOUNTS, EVEN A LITTLE

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OF IT IS HARAAM. (Narrated by Abu Dawood, Nasaa-ee, Ibn Majah, Hakim, Ahmed and others)

In summary, it is totally haraam for a Muslim to consume even a small amount of alcohol that does not cause intoxication.

4.3 Pig Gelatine

Q: I heard that in the Quran it says not to eat pig meat. Does it mean we are allowed to have pig gelatine?

A: The pig and all its parts and components are 'Najisul Ayn'. Thus, no part of the pig may be consumed. (Tabyeenul Haqaa'iq) Gelatine manufactured from pig is, therefore, totally haraam. Allah Ta'ala says in the Holy Quran: "It (the pig) is filth" (Surah 6, verse 145). This verse proves that every part of the pig is filth and haraam for consumption.

4.4 Pig Meat

Q: In a masjid I attend, I heard that in the Quran it says not to eat pig meat. Is this true?

A: Yes, verse 173, Surah 2; verse 3, Surah 5; and verse 145, Surah 6, all prohibit the eating of pork.

4.5 Cigarettes and Khabaa-ith

Q: In The Quran Shareef Allah Ta'ala declares khabaa-ith haraam, i.e. substances that are dirty, filthy. Don't cigarettes fall under khabaa-ith?

A: The definition of khabaa'ith varies according to different Ulema. It is, therefore, not so easy to apply the definition of khabaa-ith to cigarettes. In the first place, cigarettes are made from tobacco which is a plant. That in itself is not something filthy or dirty. Tea is also made from plants, and we drink this in abundance. No one has ever considered tea as a filthy or dirty sub-

stance. In fact cigarettes are not consumed as tea; instead the smoke of the burnt plant is inhaled. *Per se*, it cannot be placed under khabaaith. Yes, once smoked, cigarettes leave behind a terrible odour, but that too, is not sufficient reason to call it khabaa-ith. Rasoolullah r prohibited people who ate raw onions and garlic from coming to the Musjid without removing the smell. Yet, the two vegetables are halaal and pure and are even mentioned in the Holy Quran. Yes, smoking will definitely be makrooh (disliked) because of the harm it causes to the body. But there is no Shar'ee evidence to classify it as haraam.

And Allah knows best.

4.6 Beef Bone Gelatine

Q: Is the ruling of beef skin gelatine also applicable to gelatine from beef bones?

A: Animals that are not slaughtered according to Islamic requirements are Haraam. This includes the meat, bones, skin, etc of such animals. Therefore, gelatine made from beef bones will have the same ruling as gelatine made from the skin. If slaughtered Islamically it will be Halaal, if not then it will be Haraam. If Halaal animals are mixed with Haraam animals then the whole lot will be considered as Haraam.

4.7 Eating Horse Meat

Q: I have heard that the majority of Scholars have permitted the consumption of horse meat and it is only Imam Abu Hanifa who prohibits it. It is claimed that the hadith cited by Imam Abu Hanifa in support of his view has been abrogated. If that is so, why did the Imam still cling to this view?

A: 1) According to Imam Abu Hanifa horse meat is not haraam but makrooh tahreemi.

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2) A hadith of Jaabir ؓ permits it, while a hadith of Khalid bin Walid ؓ prohibits it.

Thus, two hadith of equal strength contradict each other. Imam Abu Hanifa then made recourse to the Holy Quran for finality in the matter. There he found the following verses: *And Allah created animals for you; in it is warmth (for you) and other benefits and you eat thereof.* The animals referred to here are camels, cows, sheep, and goats. Then a few verses later Allah Ta'ala says: *And (He created for you) horses, mules, and asses so that you may mount them, and for fashionable display.* In this verse Allah Ta'ala does not mention eating as the purpose of creating horses and donkeys, as Almighty Allah did when he mentioned camels and sheep. Instead, Allah Ta'ala states that the purpose of horses is to mount them and to display their beauty. Imam Abu Hanifa deduced from these verses that Allah Ta'ala allowed the consumption of camels, oxen, goats, and sheep, but not horses and donkeys. The hadith that prohibits horse meat has, therefore, got support from the Quran Shareef.

3) Furthermore, he reasoned that horses were a means of jihad, so allowing its consumption would lead to a reduction in this important mode of jihad.

For the record, the view of Imam Abu Hanifa is also the view of Abdullah bin Abbas ؓ one the greatest Alims among the Sahaaba, and the view of Imam Malik (rahmatullahi alayh).

4.8 Bovine (Beef) Gelatine

Q: What is the ruling on bovine (beef) gelatine?

A: Beef gelatine or bovine gelatine is not halaal because it is manufactured from animals that were not slaughtered by Muslims. If it can be ascertained with certainty that the animals from whose skin this gelatine was manufactured were slaughtered by Muslims then it will be permissible to consume such gelatine.

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CHAPTER 5 DIVORCE

5.1 Using Make-up in Iddat (waiting period)

Q: Is a Shaafi'ee female allowed to wear make-up etc if she is in iddah after three talaq (divorces)?

A: It is sunnat for a Shafi'ee lady not to use cosmetics and adornment during her iddat of three talaq. However, it is permissible do so and if she does use makeup and cosmetics, she will not be sinful. On the other hand, a woman who has lost her husband is prohibited from beautifying herself during the iddat. For her it is compulsory to abstain from all forms of adornment. (*Haashiyatul Jumal*)

5.2 Leaving Home During Iddat When Life is in Danger

Q: Can a woman leave her home at time of her iddat if her life is in danger?

A: If a woman observing iddat is in real danger of losing life or limb, or she suffers from acute fear when alone, then she may leave her home and stay in a safer place. (*Fataawa Hindiyyah; Al-Jauharatun Nayyirah*)

5.3 Iddat and Talaq

Q: If a woman was given one talaq and then sits in iddat, do the other two talaq fall automatically? If the iddat finishes, have the other two talaq fallen?

A: In the aforementioned cases the remaining two talaq do not fall automatically. The husband has to issue these talaq in order for them to take effect. Once the iddat is over after one talaq, the couple may remarry if they both agree.

5.4 Divorce and Community of Property

Q: My wife and I are divorced according to Shar'ee rites. However, at the start we had registered our marriage in community of property. Now, based on this law, my wife is demanding half a share of the house where she stayed before the divorce. Is this permissible in Islam, and am I obliged according to Shariah law to give her a half share of the house?

A: To register a marriage in community of property is un-Islamic and incorrect, since this leads to the abandonment and neglect of several Islamic injunctions, not the least being correct distribution of inheritance. We always advise married couples who resorted to this un-Islamic practice to annul such registration or change it to the ante nuptial contract. Even though you were married in community of property, since this is not recognized and accepted by Shariah, it will be haraam (forbidden) for your wife to claim and/or accept any money in lieu of so-called joint ownership of property. This is a western law which militates against Islamic teaching, hence haraam. When a legal claim or western law conflicts with The Law of Shariah, the former must be rejected in its entirety. According to Shariah your wife has no valid claim to any share of the property.

5.5 How to Write a Talaq (Divorce)

Q: How do I write a Talaq (Divorce)?

A: A talaq is written as follows:

Islamic Date

English Date

Husband's Name

ID No:

Address

I (Full name) the undersigned, of sound mind and body, hereby declare that I have given my wife (full name of wife) one talaq /

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or one talaq-e-baain (depending on which type of talaq the husband intends giving) as from the above date.

Signed:

.....

There is no need for witnesses. This is just the basic form of talaq. We advise husbands who intend to divorce that they consult with their local Ulema for more details.

5.6 Start of the Iddat 1

Q: From which day will the iddat start: 1) day of first talaq, 2) day of talaq baa'in?

A: Iddat will always commence from the first talaq, regardless of whether the husband issues one or more talaq thereafter, and regardless of whether the first talaq was raj'ee or baa-in.

5.7 Annulment of Marriage

Q: A Nikah (marriage) was performed between a boy and girl in different countries. A condition attached to the nikah was that the boy will move to the girl's country and will take up an Imamate post there. After the Nikah was done the boy refuses to fulfill this condition. On top of that he says he will never ever give talaq to the girl. The girl does not want to stay in the nikah, as the condition was not fulfilled. Is the nikah annulled, or does the girl have to get a divorce? The two are living in their respective countries, while the boy refuses to come over to her or to release her from nikah. Please advise.

A: This nikah is not automatically annulled, though it was wrong of the boy not to abide by the conditions, especially when this has caused much inconvenience to people. He should have made it clear before the nikah that he would not be able to come across to the girl's country. He has to give her talaq, especially since the

marriage was not consummated. Only then will the nikah be over. The girl is acting within her rights to demand that he come over to her country, since she retains the right over herself until the dowry has been paid or the marriage consummated. If he refuses to give talaaq after a while, then the local Ulema should be approached to do a proper annulment (faskh). They will have valid grounds for this.

5.8 Remarrying and Number of Divorces

Q: A man divorced his wife once and then separated from her. After three years the couple remarried, but in the interim this woman had been married to another person and got divorced from him. When she comes back to the first husband, does he have two talaaq left or are the three talaaq reinstated?

A: In this case the first husband has two talaaq left. The interim marriage had no effect on the number of talaaq.

5.9 Leaving Home in the Iddat

Q: Can a woman who is in iddah of talaaq leave the home for any reason?

A: Whilst observing the iddah after talaaq, a woman may not go out of the confines of her home except in cases of emergency. Emergency refers to life and death situations. The husband is supposed to support his wife during her iddah, hence there is no need for her to leave the home. However, a woman who is observing the iddah of wafaat (demise of her husband) may leave the home between sunrise and sunset.

5.10 Start of Iddat 2

Q: If a man gave his wife talaaq, does she have to start iddat immediately?

A: The iddah of a woman starts immediately after talaaq has been uttered by the husband.

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CHAPTER 6

INHERITANCE

6.1 Distributing Wealth in Lifetime

Q: My mother has 4 kids: 2 daughters, one son and also 1 daughter from her ex-husband. All the 4 kids are married and she wants to distribute her property now. How she should do this? Is there any advise for her?

A: The Ahadeeth of Rasoolullah ﷺ on distribution of wealth to children teach us that we should give them equally, whether the children are male or female. During one's lifetime one will not distribute wealth among one's children according to the laws of inheritance, but will give them equal shares. This is not considered inheritance because the giver is still alive; instead this will be regarded as a gift. Gifts should be distributed equally amongst children. Although it is permissible to give more to one than the other, the Ahadeeth discourage us from doing so. (As Sunanul Kubraa)

6.2 Four Brothers and Two Sisters

Q: We are 4 brothers and 2 sisters. Our parents passed away. How do we share the property between us?

A: The division of the estate of your parents should be as follows: Make the whole estate into 10 shares. Each of the four brothers will get two shares, and each sister will get one share. In other words, each brother will get 20 percent of the estate, while each sister will get 10 percent.

6.3 Two Sons, Two Daughters and Wife

Q: What will be the share of 2 sons, 2 daughters and 1 wife when the inheritance of R800,000 is distributed?

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A: Wife: R100,000.00 (one eighth)

Each son: R233,333.32 (2 shares each)

Each daughter: R116,666.66 (one share each)

6.4 Zakaat on Inheritance Money

Q: How should zakaat be calculated on inheritance money which one receives. The money was only received several years after the deceased had passed away. Should it be calculated from the day that the deceased passed away or from the time the money was received? Will there be a difference if the estate was wound up immediately upon death or if it was wound up a few years later?

A: There is no Zakaat on inheritance that has not yet been paid out. Once the heir receives his/her share, the Shar'i year will be calculated from that point onwards, provided the sum received is equivalent to Nisaab. (*Fataawa Hindiyyah*)

6.5 Car as Bequest before Death

Q: Before my sister passed away my brother-in-law was using her car for more than 2 years. She said before several witnesses that he could have the car when she passed away. She has since died and the car was never put into his name, as she could not find the ownership papers. Is the car considered his or does it form part of the estate?

A: By brother-in-law we assume you mean the husband of your deceased sister. When your sister said that her husband could have the car after her death, it meant that she had made a Wasiyyat (or bequest) in his favour. And according to Shari'ah one cannot make a Wasiyyat for an heir (*Al Jauharatun Nayyirah*). The spouses inherit from each so they are not permitted to make a wasiyyat for each other.

If she had given him the car during her lifetime, he would have become the lawful owner, in which case the car would not form

part of her estate after her death. Because she had not done that in her lifetime, now the car will be regarded as part of the estate. All heirs will have shares in the vehicle.

6.6 Daughter and Brother

Q: What is the share of daughter if a Muslim dies leaving behind a daughter and a real brother?

A: The share of one daughter is normally 50% (half of the entire estate) So if a parent dies leaving behind one daughter and a brother, and NO OTHER HEIRS, then the daughter will get half the estate while the brother will receive the other half.

6.7 Brother, Nephews and Nieces

Q: A man died leaving behind the following relatives: 1 Brother, 7 nephews, 3 nieces (all from different brothers and sisters); grand-nieces and nephews. Which group from among these will receive the inheritance?

A: According to the Holy Quran, when a man is survived by just one brother or sister, that brother or sister will inherit his entire estate. This is explained in the following verse of the Holy Quran: *If a man dies and has no children but has a sister then for her is half of what he has left behind; and he (the brother) shall inherit her (the sister's) whole estate if she has no children, (Quran 5:120)* This rule applies to the estate of the brother as well, as mentioned in the books of tafseer. Therefore, the nephews and nieces will not inherit in this estate.

6.8 Heir Dying before getting Share

Q: In the above case the brother died before he could receive his inheritance, but is survived by two daughters. Are these daughters entitled to the estate of their late father?

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A: Yes, the two daughters will now inherit equally in the estate of their late father. Since he died before receiving his inheritance, his share will devolve on his children whom in this case are just two daughters. So each one will receive 50 percent of the entire estate.

6.9 Widow Using Children's Inheritance

Q: Can a widow, who does not have any income use her children's share of inheritance to look after them and also to invest for their education? The children are minors.

A: Yes, it is permissible for her to do so.

6.10 Inheritance and Extending a Property

Q: When a father has passed away and the son has extended onto the father's property with his own money and lived on the extended property, does the son have a claim from the inheritance for the portion he extended onto the property? The Will only reads that inheritance is according to shariah.

A: Since the son did the extension with his own money he will own the building that he erected, but the land will belong to all the heirs. He will have to pay them the value of their shares in the land. You need to evaluate the current cost of the extension, then deduct this amount from the value of the entire property including the land. The result will be the sum that has to be divided among the heirs.

6.11 Grandchildren Inheriting

Q: My brother passed away before my father. Do my late brother's children inherit from my father?

A. As long as children are alive, grandchildren will not inherit. Since you survived your father and will inherit from his estate,

none of the grandchildren will inherit; not your brother's children, nor your own children.

6.12 Claiming Money from Estate

Q: My mother is one of the heirs to her late father's estate (long deceased), the executor being her brother. As I, one of the sons, am in considerable debt, would it be permissible and advisable for me to request any monies from the estate (being an advance which I cannot claim for later)?

A: If your grandfather had passed away a long time ago then his estate should have been wound up and distributed long ago. By virtue of being an heir your mother can ask for her share to be paid out. You can then make a request to her for money to settle your debts, which she is at liberty to accept or refuse. If any money is forwarded in advance, it will be deducted from her share when it is eventually paid out.

6.13 Child Born Two Months before Marriage

Q: Will a child who was born two months before nikah (marriage) inherit from his dad?

A: He will not inherit from his dad. He will inherit from his mother only. (*Raddul Muhtaar*)

6.14 Two Wives and Children

Q: I am an only son from my father's first wife. I have 2 brothers and 3 sisters from my father and his second wife. What are the shares when my father passes away?

A: Assuming the husband has died and the only heirs are his two wives in his marriage at the time of his death, as well as his one son from his first wife and three daughters and two sons from his second wife, the shares will be as follows:

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One eighth (12.5%) will be shared between the two wives while the remainder will be shared between the all his sons and daughters on a 2:1 ratio i.e. the sons will get double the share of the daughters.

6.15 Children from Two Marriages and Inheritance

Q: A lady has a boy and girl from her first marriage and ten years later she has a girl and two boys from her second marriage. Is it permissible for her to make a calculation of her own estate. (a number of properties which are let and some cash) and settle the inheritance of the older children from her first husband, and keep the rest of the estate for the children of her current marriage till a deferred period or death?

A: The first thing she should do is to settle the inheritance of her first husband. The son and daughter inherit from him, along with their mother. She must give them their shares from that estate. Thereafter, whatever her share of the estate is, may be kept for her other children for a fixed period of time.

However, if she dies before giving the second husband's children anything of her estate, then all her children will inherit from her; the children of the first **and** of the second husband. Now whatever property she owns becomes part of a joint estate in which all her children will share.

Therefore if she wishes to dispose of her assets she must do so in her lifetime , or else the laws of inheritance will automatically apply at the time of death.