

Towards the Bliss of Marriage

A collection of
articles and Fatwas
on Marital Issues

Mufti Siraj Desai



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INTRODUCTION

This book is the culmination of over 30 years of researching and answering Islamic questions and answers on marital issues, dealing with numerous marital disputes as well as articles by Mufti Siraj Desai on a range of marital issues.

Mufti Siraj completed his Aalim course at Jalalabad Darul Uloom, India as well as the Iftaa course under Moulana Maseehullah Khan Sahib rahimahullah. Mufti Siraj is the principal of Darul Uloom Abu Bakr in Port Elizabeth, South Africa and serves on several Islamic boards and organizations. These include, among others, the Eastern Cape and South African National Muslim Prison Board, Eastern Cape Ta'leemi Board, South African Board of Muftis, Board of Muftis of the South African National Halaal Association and adviser on Shariah-compliant banking.

Mufti Siraj is also the author of several books, treatises and articles on a range of Islamic subjects and is the editor of the Al Farouq Newsletter.

He has vast experience in answering Fatwas via mail, telephone, personal interaction, email, SMS (setting up the first mobile text message Q&A line in South Africa), fax, on several Muslim radio stations, from his website and through correspondence with other Muftis.

This book covers some of the articles and questions answered by Mufti Siraj.

May Allah Ta'ala accept this work and make it the first of many such.

1. RIGHTS OF THE MARRIAGE IN ISLAM

1.1 Husband's Rights

The wife has to compulsorily observe the following Islamic rights towards the husband:

1) Caring for his children. This includes Islamic education in the home and upbringing of children, especially the daughters.

2) Looking after his belongings and possessions during his absence.

1) Managing the affairs of the household. This comprises cooking, cleaning, and similar domestic chores.

2) Allowing the husband access to herself (for sexual relations) when the need arises. Further, to show inclination and pleasantness towards the husband in such matters.

3) Keeping herself clean and attractive for the husband.

4) Always speaking kind of him in his presence and during his absence. Not to degrade him because of looks or poverty.

5) Always assisting the husband in his Deen.

6) To provide comfort and solace when he is bereaved or heart-broken.

7) Protecting her honour and chastity in his absence.

8) Not to observe nafl fast and nafl salah without the permission of the husband.

9) Not to leave the home to go anywhere (even to visit parents) except with the husband's permission. (Emergencies are excluded from this ruling. For visits that are allowed see next section.)

10) Respecting his parents and family.

11) Not to demand an allowance that is beyond his financial capability.

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12) Not to allow anyone into the home without his permission.

13) Not to call him by name. Instead a suitable title or respectful address should be used.

14) To respectfully admonish him over any wrongdoing on his part. If he listens, well and good, if not, remain silent.

15) Not to complain to others about him, nor to divulge bedroom and marital secrets to other women.

16) Not to harbour bad thoughts about him, or to accuse him of infidelity.

1.2 Wife's Rights

The husband has to compulsorily fulfill the following Islamic rights towards his wife:

1) Payment of the mehr (dowry).

2) Providing food, clothing and shelter. Clothing means the necessary garments for summer and winter, as well as items such as blankets, bedding, to the extent of necessity. The house should accommodate the family adequately.

3) Providing a house in which no relatives of the husband reside. If the husband's parents are living with him, the wife should at least have a separate kitchen, bathroom and toilet. It will be preferable to provide completely separate quarters for her in view of the increased number of disputes with in-laws nowadays.

4) The house should not be so isolated as to represent a threat to the welfare of the wife in the absence of the husband. If so, suitable security arrangements should be set up, and/or a male mehram should be in attendance.

5) In food and clothing the financial status of both husband

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and wife must be taken into consideration. If both are rich, the food and clothing the husband provides must be of the standard found in wealthy homes. If both are poor, the standard of food and clothing for the wife will be according to that which is found in poor homes. If one spouse is rich and the other poor then the husband has to provide an average standard of food and clothing. (That is, below the living standards of the rich, but above that of the poor)

6) If the wife comes from a home which employs a domestic servant then the husband too has to provide her with a maid.

7) If the wife is ill then too, the husband has to make arrangements for a maid to assist in domestic work (even if previously they employed no domestic worker).

8) Providing the necessary furniture for the home, such as, stove, fridge, oven, beds, etc.

9) Purchasing meat, groceries, fruit, vegetables, and necessary toiletries. This means purchase and delivery to the house.

10) Paying for lights and water. Phone bills to be paid by whoever has taken out the contract with the service provider. If the other party uses the facility more, it will be permissible (not compulsory) to claim back the costs of calls made.

11) Fees of the mid-wife are for the account of the husband.

12) The husband is obliged to allow the wife one visit a week to parents, and one visit a year to other mehram relatives like brothers, sisters, uncles, and aunts. But she may not stay there, unless they live in another city. Similarly, parents must be allowed a weekly visit but may not stay, and other mehram relatives an annual visit but cannot stay, unless the parties are in different cities.

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13) Not to discuss marital secrets with others, nor speak of the faults of his wife to others. In the event of marital problems, the husband may discuss such matters with responsible, learned people, but strictly with a view to reconciliation.

14) To treat her with kindness, and to exercise extreme patience and tolerance in the face of unreasonable or unbecoming behaviour from the wife.

15) To educate the wife on Islamic matters as purification, prayers, fasting, etc. To impart other forms of Deeni advice, such as performance of salah, abstention from bid'ah and un-Islamic customs.

16) To reprimand the wife with dignity, respect, politeness, and civility when she transgresses.

17) Never to raise his hand upon her, or cause physical hurt, or verbal insult.

18) To respect her parents and family members.

19) Not to divorce her until all efforts at reconciliation have been exhausted. And before issuing divorce, to refer to Ulema for help.

20) Not to accuse the wife of adultery, nor harbour such thoughts. However, pardah laws must be imposed.

(Extracted from the writings of Hazrat Moulana Ashraf Ali Thanwi (rahmatullahi alaihi))

2. ISTIKHARA AND MARRIAGE

Istikhaara for marriage has become a very common practice

nowadays especially among prospective brides. There seems to be a perception that Istikhaara for marriage is a sunnat practice, yet this is not the case. The matter has really gone beyond limits of Shariah, thus prompting us to highlight some common misconceptions in this regard.

Istikhaara is only made when there is no clear guidance from Shariah on a particular matter. Istikhaara means to seek the mashwera or counsel of Allah Ta'ala. So it is common sense that in matters where Allah Ta'ala has already provided guidelines, there is no need to seek counsel or shooraa. For example, Hajj has become faradh upon a person. It is, therefore, not permissible for such a person to make istikhaara to find out whether he should go for Hajj or not. The Shariah has already ordained Hajj upon that individual. However, it is allowed to make Istikhara with regards to the time one should leave for Hajj, or the duration of stay, or method and mode of transport.

As regards marriage, Rasoolullah ﷺ gave us very clear guidelines. For prospective husbands he advised that they should consider the religious life and piety of the girl as a criterion, not her looks, wealth, or family lineage. For females, he commanded that they, too, should take into consideration the religious life and character of the boy. Once these qualities have been ascertained, one is in a position to decide whether to accept the proposal or reject.

Nowadays our youth strike up affairs with the opposite sex. When they decide to go into marriage, they make istikhaara. This is fine. However, the problem is that they are still courting their girl or boy-friend. It is not possible to make istikhaara while still going out with the boy or girl. In such cases, one's istikhaara will not be a proper indication of the correct choice to make. How can one take counsel from Allah, when one is involved in haraam. In most cases, such 'istikhaara' is more influenced by the Devil than anything else. Another

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strange practice is for an Alim or learner person to make istikhaara on behalf of another. There is no basis for this in the Shariah. The person involved should make his or her own istikhaara.

3. WIVES AND MOTHERS-IN-LAW

It is extremely dismaying to observe the lack of respect shown by wives to their in-laws nowadays. There was a time in our wonderful history when wives regarded their in-laws as their own parents. They would afford the father and mother-in-law the same respect, reverence, and service as their own father and mother. That was an era of true marital bliss. Today, the story is entirely different. The culture of Muslims has changed to the extent that wives no longer have such respect and deference for their parents-in-law. And such cultural transformation has come about through the excessive interaction and influence of the West. It is believed that many of the soap operas shown on television are chiefly to blame for subversion of Islamic culture and erosion of marital respect and reverence. These movies that our young women watch, (studies have proven that the number of female soap viewers is higher than males) and even the types of novels and magazines they read (a famous past-time for young women) create a certain impression on their still young minds that influences cultural or identity change and causes shifting of values. These 'soaps' glorify the actions of actors and actresses who rebel against authority, throw tantrums and tirades, live frivolous lives, and display attributes of conceit, pride, and self adoration. All these characteristics are not in conformity to the akhlaaq or character taught by our beautiful Islam. It's time our Muslim wives cast off this kufr mentality and modern thinking and begin to realize that the

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makings of a good family lie in co-operating with her in-laws, showing respect to them, and living like a daughter would with her own parents.

This loss of mutual love and respect between wife and her in-laws is also largely responsible for marital ruin. A wife fails to understand that when she doesn't respect the husband's parents, such disrespect shapes the thinking and attitude of the husband towards her. He, too, in turn will lose respect for her, especially if he is one who loves and cherishes his parents. The wife needs to understand and appreciate that in order to win her husband's respect she must show the same to his parents. The maxim of the more respect given, the more earned applies very aptly to this situation.

Due to this lack of respect, a wife believes that her mother-in-law and father-in-law have no right to reprimand her or point out her faults. Then when this does happen, she expects her husband to stand up for her in opposition to his mother. This is totally unreasonable and un-Islamic. There is just no way that a man can reprimand or castigate his mother for anything she says or does, even if the mother is clearly in the wrong, neither should this be expected of him. As a son, he is bound to maintain silence and respect. When the husband maintains silence out of respect for his mother, the wife becomes annoyed and very agitated, and then makes very scathing remarks, such as referring to her husband as spineless or cowardly, just because he has not 'stood up for her rights.' But let it be made abundantly clear that this is never the right of the wife that her husband should reprimand his mother for telling off or being rude to his wife. Shariah has never stated this as part of the wife's rights. She needs to understand that the mother-in-law is akin to her own mother. If her own mother shouts or screams at her, what would be her attitude? Would she as a daughter be justified in taking offence at the scolding? Certainly not! The

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same attitude should apply to the mother-in-law. Clearly, the wife's failure in understanding this reality results in a strained and stormy marital relationship.

The wife, how admirably, has made many sacrifices. She has left her parents home for the sake of her husband, and in the process disengaged herself from her beloved brothers and sisters; at times she has sacrificed the lap of luxury for a much lesser standard of living. We salute these young mothers of Islam, the future matriarchs of this Ummat. We beseech them not to spoil this lofty achievement by sullenness and petty bickering with in-laws. Embrace the marriage with a big heart; go into marriage with a view to influencing others with behaviour and morals, and not become the victim of negative influences. Insha-Allah, this positivity and proactive approach will yield positive and wholesome results. Sometimes, results seem to take ages to materialise, but with perseverance and dua, Allah Ta'ala expedites the cherished ideals of a Believer. The day our sisters realize that making this small sacrifice will solve most, if not all of their matrimonial miseries, will be the turning point in their married lives.

It is exceeding the bounds of Islamic morality when the wife stoops to the low level of insulting her mother-in-law, sometimes in the presence of her husband. Having committed this serious wrong-doing, she is not even prepared to ask for forgiveness or apologise. I personally have come across some wives who are prepared to sacrifice their marriages rather than seek the mother-in-laws pardon. There seems to be no cure to such pride and ego-worship.

While we acknowledge that some in-laws can be very difficult at times, and will act in a manner that exerts great strain on the marriage. Some of them will be totally inconsiderate towards the feelings and rights of their daughter-in-law. This, too, is the other ugly side of the coin. We will deal with this

in another article Insha Allah. But experience has shown that cases of daughter-in-laws ill-treating parents-in-law are far more

Another cause for the wife's failure to blend in with in-laws is conceit and pride. And this, unfortunately, is directly related to the upbringing of such a girl. At times it becomes very obvious that the recalcitrant wife was not schooled from a young age in mannerisms of obedience and humility. She was not taught obedience to elders, nor was she groomed in the art of establishing harmonious relationships. It is compulsory upon parents, when grooming their daughter for marriage, to teach her the art of living in harmony with in-laws. Selfishness, stubbornness, arrogance, etc. are all the ingredients of a spoilt and dysfunctional human being. Until these spiritually destructive qualities are not eliminated by spouses, this Ummat is still in for many decades of marital conflict.

4. ARBITRATION IN MARRIAGE

"And if you fear a breach between the two of them, appoint (two) arbiters one from his family and the other from hers. If they intend reconciliation, Allah will create the means for reconciliation between them. Surely, Allah has full knowledge and possesses all information." (Quraan 4:35)

The above verse of the Holy Quran exhorts a disputing couple to refer their marital dispute for arbitration. According to this verse the arbiters (or arbitrators) must be one family member from each side. The husband may select a family member from his side, and so can the wife.

THE FUNCTION OF THE ARBITERS

These two people, whom should be senior, responsible people and will not take sides, would then proceed to listen to

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each party's grievances. Thereafter, they will discuss the issue among themselves and deliberate on a decision. If need be, they will interview neighbours and associates of both spouses to confirm certain types of behaviour and corroborate information provided to them. Having made a thorough investigation of the matter, the arbiters would endeavour to arrive at a unanimous decision.

THE DECISION OF THE ARBITERS

For the arbitration to be valid and effective, it is imperative that they both concur in their verdict. Should the two be unable to reach consensus on the matter, the arbitration is rendered null and void. If they agree that one of the two parties has transgressed the rights of the other, they will pressurize the transgressor to desist from the same and fall in line. If in their opinion, both spouses are at fault, but there is hope for reconciliation, they will convey this to the two parties, instructing each to desist from harming the other and advising them to remain together while fulfilling each other's rights. If need be, the arbiters would personally monitor and supervise certain situations in the marriage to set the couple on the road to conciliation.

If, on the other hand, they see no future in the marriage, they will communicate this to both parties and advise the husband to divorce his wife in a kind and dignified manner. According to Hazrat Imam Maalik (rahmatullahi alayhi), the arbiters even have the right to annul the marriage. While this is not so in the case of the Hanafi Math-hab, there is scope to invoke the Maliki ruling when the matter gets really out of hand and there is perceived injustices from the husband's side. However, there are strict conditions before this principle of the Maliki math-hab may be employed by Hanafi Ulema.

To ensure that the arbitration is not rendered futile later on,

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it is preferable that each party sign an agreement to abide by the decision of the arbiters. The words "If they intend reconciliation" in the above verse may refer to the two arbiters, or it can mean the husband and wife. Preferably, we should consider its application to both groups. Should the spouses both desire peace and conciliation in the marriage, the arbitrators will be guided by Allah Ta'ala to issue a decision in that direction. Likewise, if the arbitrators set out with an intention of remedying the situation, for them too, Almighty Allah will create circumstances for such reconciliation. However, if the spouses themselves act with intransigence and obstinacy, and show no inclination to reconciliation then there is nothing much the arbiters can achieve except to seek a divorce from the husband.

In such an eventuality, the husband should be realistic and not spitefully withhold talaq in spite of knowing full well that everything is over bar the shouting. Such malevolent motives only serve to widen the rift.

5. DIVORCE IN ISLAM

IMPORTANT INFORMATION ABOUT A MUCH ABUSED PRIVILEGE

The abuse of talaq or divorce by husbands that is being currently witnessed has reached alarming proportions. This has prompted us to enlist some important rules of the Shariah regarding divorce so that husbands (present and future) may understand the significance and importance of this very sensitive and serious Shar'ee institution and acquaint themselves with the necessary laws. These rules have been taken from The Quran, Hadith, and books of Fiqah.

SOME SAYINGS OF RASOOLULLAH ﷺ ON TALAAQ

- 1) "The most detested of halaal things by Allah is divorce." (Hakim, Abu Dawood)
- 2) "Marry, but do not divorce (without a real need), for Allah does not love such men and women who taste a lot (i.e. they marry and divorce often)." (Tibraani)
- 3) "Women should not be divorced except for lewdness." (Tibraani)
- 4) "Marry, but do not divorce, for the Throne of Allah shudders over talaq." (Ibni Adee)
- 5) "Those women who contrive to get talaq, or force their husbands (by disobedience) to divorce them, are hypocrites (munafiqs)." (Nasaa-ee)
- 6) "If a woman seeks talaq from her husband without a pressing need then the fragrance of Jannat becomes haraam upon her. (Ahmad, Haakim)
- 7) Another hadith has it that the most beloved to Iblees from among his army of devils are those who create enmity and division between husband and wife. (Muslim, Ahmad)

RULES OF DIVORCE

Islam has vested the right to divorce with the husband only, and not the wife. This is so because of the weak nature and temperamental instability of the wife. However, it appears that even the husbands of today have lost their self-control and stability, hence this spate of divorces in the Muslim community. Lack of such control, erratic mood swings, impulsiveness, anger, etc. are the factors contributing to what Rasoolullah ﷺ described as one of the signs of qiyamat (i.e. increased divorce rate). Such husbands need spiritual (not marital) counselling and guidance to counter this spiritual de-

ficiency.

As stated above, the wife cannot divorce the husband.

The Arabic for divorce is talaaq. Whether one uses the Arabic word talaaq or the English term divorce, the result is the same.

Divorce in the Shariah is only there to fulfill a need, and that need is to terminate the nikah when it (the marriage) has irretrievably broken down and there is no means of conciliation, and this after all efforts to bring the parties together again have failed.

The husband has been made the owner of three talaaq. But this does not mean that he must issue three and only then will the nikah end. Only one talaaq is enough to do the job. Since the purpose of talaaq is to fulfill a need as a last resort, the husband only has to pronounce talaaq once, and the nikah will be over. It is a gross misconception on the part of people to believe that only when three talaaq are issued does the nikah break.

After talaaq has been given, the wife must sit in iddat, which is normally three menstruation periods. After this iddat the nikah is over and she may marry another man of her choice.

If the husband has issued one or two talaaq, he has the right to take the wife back without making a new nikah while she is still in the iddat mentioned above, irrespective of whether she wants to come back or not. In this particular case the wife has no say at all.

The husband may take her back in the iddat by saying verbally: "I have taken my wife back" or by a sexual advance such as kissing or sexual intercourse, etc. It is preferable, not compulsory to say he is taking her back in front of two witnesses.

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But after the expiry of the iddat, (when 1 or 2 talaq were given) the husband and wife can only get back together again by making a new nikah with a new dowry. And this is if the wife agrees to come back. If the woman does not agree to come back after the iddat, no one can force her because the moment the iddat ends, she is no longer his wife. In this case the woman has got a choice of her own (whether to come back to her former husband or not).

IF THE HUSBAND ISSUES ONE TALAAQ, HE HAS TWO LEFT, EVEN IF THE TWO PARTIES CAME TOGETHER AGAIN. AND IF HE GAVE TWO TALAAQ, HE HAS ONLY ONE LEFT, EVEN IF THEY RECONCILED DURING THE IDDAT OR AFTERWARDS (THROUGH A NEW NIKAH). So remember, once a talaq is given, it is deducted from the total sum of three which the husband initially had.

THREE TALAAQ

□ If the husband gave his wife three talaq then the nikah breaks immediately and there is no way the two can get back together again. This is the strongest form of talaq. The wife is now forever haraam upon the husband.

Our menfolk should therefore be very, very careful in the utterance of talaq. So often the husband blurts out three talaq in anger, sometimes to spite the wife, or to frighten her, or punish her. Little do we realise we are spiting none but ourselves. We are only punishing ourselves. It is a classical example of cutting off the nose to spite the face. After such a rash utterance, only then does the severity of the matter hit home. By then it is too late to change anything. We referred earlier to impulsive behaviour, to anger and rashness. This, plus ignorance of the laws of talaq is what propels the husband to make such utterances which he rues for the rest of his life. Take note of the following laws.

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□ For a divorce to be effective it is not necessary that it must be in writing. A verbal talaq, be it one, two, or three is effective and enough to sever the bond of nikah. It is wrong to believe that only a written talaq is valid. The law of the Shariah clearly states that a talaq uttered with the tongue is valid and takes effect.

□ Similarly, the husband does not need to have the Imam who made his nikah in his presence when divorcing his wife. Even in the absence of such an Imam the divorce is still binding.

□ There is no need for witnesses when issuing talaq. When the husband utters a divorce, even if no witnesses are present, such a divorce is valid and effective according to Shariah.

□ There is no need for the wife to be present when giving divorce. A talaq issued in the absence of the wife is valid and effective according to the Shariah.

□ Many people believe the above items are requisites for a divorce, hence they feel justified in blurting out a talaq to "scare" the wife. They falsely think that since there are no witnesses, or nothing has been given in writing, or the Imam is not present, the divorce cannot take effect. But this is a highly erroneous and dangerous belief, one that has already lured many a husband into marital misery. We reiterate, a divorce uttered with the tongue is valid, even if the wife is not present, or has not heard the words of divorce, or the talaq was not given in writing, or there are no witnesses who heard the divorce being uttered. All these are not conditions for the validity of talaq.

□ The moment a husband thinks of divorcing his wife, we suggest that he goes to the Ulema for advice on how to go about it. We appeal: Please do not be hasty in issuing a talaq until you have consulted the Ulema. If the man contem-

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plates divorce for whatever reason, consult Ulema on which type of divorce to issue. In so doing you will safeguard your Deen and your nikah as well.

□ Should the marriage reach a point where talaaq is the only way out then let the husband follow this simple and safe procedure:

Issue only one talaaq. And then leave the wife to sit in her iddat. He must separate himself from her by not sharing the bed and not mixing, but they both may stay in the same house. The wife must spend her iddat in the house provided for her by the husband. After a few days or weeks (before the iddat ends) should the couple wish to make up, they may come together again as explained overleaf. If the iddat expires and they then wish to reconcile, a new nikah can be made and the couple may live happily ever after. But by issuing three talaaq, all hope of reconciliation is destroyed.

□ One talaaq is therefore enough. Some wives (or in-laws) insist and impose upon the husband to issue three. And the husband, like a fool, goes and does exactly that! There is absolutely no such thing. One talaaq is enough and will break the nikah.

□ Three talaaq are valid even if they are uttered in one sentence, in one phrase, or in three different sentences, or they are uttered in one gathering or on three separate occasions. It makes no difference.

EXAMPLES OF THREE TALAAQ:

[Talaaq, talaaq, talaaq] [I divorce you thrice] [I give you three talaaq] [I divorce you, I divorce you, I divorce you] [I give you talaaq, I give you talaaq, I give you talaaq] [You are divorced] (repeated thrice) [You've got three talaaq]

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IN ALL THE ABOVE THE WIFE BECOMES FOREVER HARAAM UPON THE HUSBAND.

If a husband issued one talaq and took his wife back, there are now two talaq left. After some years he issues another talaq; there is now only one left. Another five years later, for example, he divorces his wife again. Now he has used up all three talaq and everything is finished between him and his wife. They cannot come back to each other again. So the lapse of time between the different occasions of talaq does not make any difference. Eventually they all add up.

6. THE UGLY FACE OF FEMALE ABUSE IN THE WEST

Independent, Thursday 17 February 2011

Italian women have had enough. At the weekend, hundreds of thousands demonstrated against their Prime Minister, a man whose sexual manners would disgrace a Sky TV sports show. Silvio Berlusconi appears to regard his office as an opportunity to make crude jokes and hold alleged "bunga bunga" sex parties. Now he's facing criminal charges, including one of paying for sex with an under-age girl.

Anti-Berlusconi protesters have adopted the slogan "If not now, when?" from the distinguished author Primo Levi. I don't imagine for one moment that David Cameron or Nick Clegg has ever attended a "bunga bunga" party, but they do have serious questions to answer in regard to the Government's treatment of vulnerable women.

Every year, thousands of women flee violent relationships, and Home Office figures suggest that two women are killed each week by current or former partners. Often they take their children and face an immediate housing crisis, as well as needing counselling, medical treatment and assistance to find new jobs. At the same time, thousands of trafficked for-

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eign women are “working” in brothels and massage parlours, controlled by beatings and threats against their families at home. When they are rescued, they face months of uncertainty while decisions are made about whether they are genuinely victims of trafficking, as well as needing medical care for injuries and sexually transmitted diseases.

So why is the UK one of only two EU member states which haven’t signed up to the European directive on human trafficking? Only last summer the Government was accused by the Anti-Trafficking Monitoring Group of failing to meet its current obligations to victims, and the directive gives victims more rights and makes it easier to prosecute traffickers. Now the organisations that care for these women have themselves been thrown into crisis. One of the acknowledged leaders in the field – Denise Marshall, chief executive of Eaves, which runs the renowned Poppy Project for victims of trafficking – has decided to return her OBE to Cameron in protest.

“I’ve worked in this sector for almost 30 years. I don’t want to sound melodramatic but I don’t think I have ever felt as depressed and desperate as I do now,” Marshall said yesterday, just a day after Eaves had an unproductive meeting with government officials. From the end of March, Eaves will no longer be able to provide 54 beds in London for trafficked women, and it will also have to close one of its two refuges in Kensington and Chelsea for victims of domestic violence.

This is nothing short of a catastrophe, and workers in the field say they’re hearing similar stories up and down the UK. Women’s groups in Devon launched a campaign earlier this year when the county council proposed to scrap funding for its domestic-violence support services, but local organisations are still having to absorb a 42 per cent cut.

What’s happening to Eaves isn’t just about cuts. It’s sympto-

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matic of a government which mouths platitudes but wants to provide services on the cheap: Eaves has pulled out of the tendering process after being asked to reduce what it spends on each sick, raped or beaten woman by 75 per cent. Eaves doesn't believe that can be done, and a huge question mark is hanging over the women it's currently helping. It's hoping to keep open 11 beds for trafficking victims, using funds from its reserves.

Perhaps the most significant accusation against the Government is that it is failing to help victims of crime. Trafficked women are often brought to this country with false promises of jobs in bars and restaurants, then forced to "service" British men as prostitutes. Women who are running away from violent men are often victims of repeated assaults, including rape.

The Government says that protecting these women is at the forefront of its policies. Like those brilliant protesters who flooded Italian streets at the weekend, the question I'd like ministers to answer is this: *se non ora, quando?*

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CHAPTER 7 MARRIAGE ISSUES

7.1 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 although this is permissible, but 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.

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

aameen.

7.2 Marital Conflict and Seeking Advice

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).

7.3 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, 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, renew your Nikah (marriage) with her. During this period of trying 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.

7.4 Husband Sucking Wife's Breasts and Drinking Breast Milk

Q: Can a husband suck the milk of his wife's breast and does

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it effect the Nikah (marriage)?

A: If the husband sucks the wife's breasts and drinks the breast-milk, the Nikah is not affected in any way. The wife does not become haraam upon the husband. However, even though the nikah remains intact, it is not permissible to drink the wife's breast-milk. (*Qaadhi Khan and Fataawa Rahimiyah v.2 p.112*)

7.5 Adulterer Marrying a Chaste Woman

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

A: If one has repented from zinaa and wished to marry a chaste woman or a virgin, this is totally permissible; there is nothing stopping that person from doing so. The nikah will be valid and there is no sin of any sort.

7.6 Kissing and Secretions from Private Parts

Q: While husband and wife are simply kissing 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 thickish 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.

7.7 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: "As regards the verse: 'And do not marry polytheistic women (mushrikaat)', marriage to women of the Ahle-Kitaab have been excluded therefrom, for such women are halaal for Muslim men. However, Muslim females have been prohibited from marrying their (Ahl-e-Kitab) men. The same fatwa has been narrated from Imam Hazan and Imam Mujahid, and it is the view of Hanafi and Shaafi'ee Scholars. (*Tafseerul Aaloosi v.2 p.216*)

7.8 Too Much Sex from Wife

Q: How can I stop wanting too much sex from my wife?

A: The hadith states: "Verily, your body has a right over you." Over-indulgence in sex leads to physical and mental weakness, and subsequent failure to fulfill acts of worship

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and other important social activities. You should spend more time in recitation of the Qur'aan, Zikr of Allah, and reading Deeni books, etc.

Although sex with the wife is absolutely permissible, there must be a balance in these matters. Make an effort to wake up daily for tahajjud, for this ibadat (act of worship) has a great effect on the carnal desires.

7.9 Using Sex Aids

Q: Is it permissible for married couple to use sex-aid like a vibrator?

A: It is not permissible in Islam for a female to insert anything into her private organ, and more so if this is done for sexual pleasure. Masturbation is haraam for both male and female. However one spouse may do this to the other and vice-verse but without the use of these aids.

7.10 Valid Reasons for Contraception

Q: Please explain the circumstances under which contraception is allowed in Shariah (Islamic Law). Can a Muslim man use condoms with his wife if they don't want children? And can they use some type of medicine to stop having children.

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.

7.11 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, hence 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.

7.12 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.

7.13 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 if he desires her.

7.14 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.

7.15 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 stipulate any amount of mehr as long as it is more than the minimum mehr.

7.16 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.

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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 Muslim male should act as her representative for nikah in the Masjid.

7.17 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 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 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.

7.18 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.

7.19 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 inform her of whatever information you have about the person she intends marrying, especially since she is courting that person as well. This is not gheebat or scandalising, provided your information is correct.

7.20 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' (no-Bareilvy) boy will be valid. However, experience has shown that a nikah wherein husband and wife are compatible lasts

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longer and has less problems. It is clear that Bareilvys and non Bareilvys 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, rather long term compatibility and harmony should be the deciding factors.

7.21 Anal Sex

Q: Can a man have anal sex with his wife?

A: Anal sex is totally prohibited in Islam. It is counted among the major sins. The vagina has been created for sexual gratification and not the anus. Sayyidina Abu Hurayrah (Radhiyallaahu Anhu) narrates that Rasulullah ﷺ said: Accursed is that person who enters the anus of his wife. (Abu Dawood). He narrates another Hadeeth: Allah will not look at that person (with mercy) who has anal sex with his wife. (Ibni Maajah)

A person who commits this Haraam act will be accursed and will deprive himself of the mercy of Allah.

7.22 Seeing Husband's Private Part

Q: Can a wife see her husband's private part?

A: Although it is permissible to view each others private

parts, modesty demands that husband and wife cover themselves, even at the time of sexual relations. This is advice in the Hadeeth (*Musannaf Abdur Razzaaq Vol 6 P194*). This Hadeeth says that when going to the wife (to fulfill one's desire), do not be naked like asses.

It is mentioned that viewing each others private parts causes forgetfulness.

7.23 Oral Sex

Q: Can a husband or wife perform oral sex on the other spouse?

A: Among other purposes, the mouth has been created for the Zikr of Allah Ta'aala, recitation of Qur'aan, recital of Du-rod, etc. It has not been created for the purpose mentioned in the question. Sucking of the private organ is an animalistic quality.

Usually during arousal, the organ secretes a fluid called Mazi. This fluid is Najis (impure) and Haraam to take in the mouth. This act must be avoided. Sperm (Mani) is also Najis.

7.24 Bridegroom Changing Surname

Q: Is it possible that at the time of nikaah (marriage) the surname of a bridegroom changes?

A: Usually after Nikah the girl adopts the surname of the husband. The surname of the bridegroom does not change.

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In fact it will not be permissible for the bridegroom to change his surname if he has a legitimate father. He must maintain his father's name.

7.25 Muslim Man Marrying a non-Muslim Lady

Q: Can a Muslim man marry a non-Muslim woman (Jewish), and then she becomes Muslim in the future?

A: It is not permissible for a Muslim male to marry a non-Muslim female of any religious following. This is the Fatwa of Hadhrat Abdullah bin Umar (Radhiyallaahu anhu). When he was asked about the permissibility of a Muslim male marrying a Jewish or Christian female, he responded by saying: "The Statement of Almighty Allah in the Holy Qur'aan is quite clear: 'And do not marry Mushrik women until they become Muslims;' (*Surah Baqarah, verse 221*) And I do not know of a greater form of shirk (polytheism) than to proclaim Eesa the son of Maryam or any servant of Allah as one's Lord and God." (*Ahkamul-Quran of Jassas*) This is the statement of a Sahaabi of Rasulullah ﷺ who was among the Fuqahaa of his times and a man very strict upon the Sunnah of Nabi Mohammed ﷺ. According to most of the scholars such a Nikah or marriage is abominable due to the threat that faces the Imaan of Muslims.

The basis of their ruling is that when Hadhrat Umar bin Khat-taab (Radhiyallaahu anhu) heard that Hadhrat Huzhaifa bin Yamaan (Radhiyallaahu anhu) had married a Jewish woman in Madaa-in, he commanded him in a letter to divorce her

immediately. He wrote: "There is no chastity and honour among their (Jews and Christians) women. So I fear this may be the cause of lewdness and immorality developing within your homes." Imam Mohammed bin Hasan Shaybaani narrates this incident from Imam Abu Hanifa in his Kitabul-Aathar (page 156) and states that the exact words of Hadhrat Umar's reply to Hadhrat Huzhaifa bin Yaman were: "I make it obligatory upon you that you shall not put down this letter of mine until you have released that woman from your Nikah, for I fear that other Muslims may follow you in this act and give preference in marriage to women of the Ahle-Kitab because of their beauty. And this in itself is a great Fitnah for Muslim women."

We also have to take into account the circumstances surrounding the verse of The Holy Quran wherein Allah Ta'ala gave permission to marry Jewish or Christian women. That particular verse applied to those countries that are governed and ruled by strict Shariah Law. In such a country, and under such Shar'ee Rule, a Muslim male may go ahead and marry a Jewish or Christian female, because then the dominant religion will be Islam.

When those circumstances are not found, as in today's times when a large percentage of Muslims live under kuffar domination and in countries that are ruled and governed by non-Muslims, the permission for such marriages will not apply. Under such circumstances Islam will not be dominant, so there will be no safeguard to the interests and values of Is-

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lam. There is no guarantee that the children will be reared as Muslims. If the children in such a marriage decide they would like to follow the religion of their Christian mother, there is nothing anyone can do to stop them in a non-Muslim ruled country. So the verse in question has got a special application and is not a blanket or open licence for Muslim men to marry Christian women. In our context, marriage to a Jewish or Christian women is not permissible unless the woman converts to Islam.

7.26 Breastfeeding Nephew

Q: If a woman breast-feeds her own daughter and at the same time she breast-feeds her brother's son; is it haraam for any of her brother's sons and daughters to marry this woman's sons and daughter?

A: In the case you mentioned, the other sons of her brother can marry her daughter, and also the daughters of her brother can marry her sons. But the brother's son who drank her milk cannot marry any of her daughters.

7.27 Mu'tah

Q: I have recently heard about Mut'ah marriage. Can you please shed more light on this?

A: Mut'ah means to 'marry a woman' for a prescribed period of time, and this is forbidden and Haraam according to all the four Madhabs. This type of 'Nikah' is invalid. Rasulullah (Sallallaahu Alayhi wa Sallam) did give permission for this at

the time of a certain battle which took place a great distance from Madinah Shareef, but later on totally forbade it. The Sa-haabah (Radhiyallaahu Anhum) are unanimous on its prohibition. There are many narrations stating the prohibition of Mut'ah. Certain sects among the Shi'as believe that Mut'ah is still permissible, but such a view is totally false. Mut'ah is akin to prostitution. (*Fat'hul Qadeer*)

7.28 Status of Waleemah (Wedding Feast)

Q: There is a couple that are planning to make Nikah (get married) next month, but do not wish to have a Walimah as the boy has just converted to Islam and has no Muslim family to help with the Walimah. What advice could be given to the couple regarding the Walimah?

A: The Waleemah feast is Sunnah and not a compulsory act. If it is left out, no sin will be incurred. It is a misconception to think that a Waleemah has to be a lavish feast, with many people invited. The alternative is that two or three people are invited with the intention of Waleemah and something simple is served, e.g. a few glasses of milk, or tea and biscuits, etc. Issues such as venue, amount or types of food are immaterial. We advise the boy gives a simple Waleemah by inviting a few Muslim friends and a few members of the girls family. The latter may assist in preparations etc.

7.29 Seeing a Potential Bride

Q: How does Islam permit us (women) to show ourselves to potential grooms during a marriage proposal?

A: The potential bride is allowed to only expose her face and hands in the presence of the potential groom. He is only allowed to see that much. The rest of her body should be covered. There should be a Mahram present with her when he views her. It is forbidden for two strangers to be alone, even for the purpose of marriage. (*Raddul Muhtaar V26 P 392, 398 and 400*)

7.30 Sexual Intercourse and Halaalah

Q: Is sexual intercourse necessary for the purpose of halaalah?*

A: Sexual intercourse is necessary in this case, i.e. entry of the male private part into the female private part, although ejaculation is not a condition. (*Fataawa Hindiyyah V1 P473*) Although the second Nikah is valid and after receiving Talaq from the second husband and spending the Iddat, she can marry the first husband again, it is a sin if the second Nikah of the lady has taken place just for the purpose of Halaalah, Rasulullah (Sallallaahu Alayhi wa Sallam) has cursed people who marry solely for the purpose of Halaalah. (*Ibni Maajah V1 P622*)

** Halaala is the process through which a woman who has been given three talaq, becomes halaal for her ex-husband by getting married to another man and then being divorced by that second husband. As stated earlier, the condition for the halaala to be valid is that the second husband has sexual relations with the woman whom he married, and then divorces her.*

7.31 Marriage in Iddat

Q: I married a woman who was divorced 3 times by her husband. After 10 months of our marriage, she has suddenly informed me that the 3 divorces were given just a month before our marriage (nikah). This means that I married her in her waiting period (iddah)! My questions are: how long does she have to wait before she can marry me or anyone else? How many iddat does she have to spend? What if she married another man after only 1 month of separating from me; will her nikah be valid?

A: You had indeed married the lady whilst she was in the iddat of her first husband. The ruling for such a situation is that firstly the two of you have to separate immediately. You may not continue living together. Upon this separation the wife has to observe two iddats. One is the the iddat of the first husband who divorced her three times, and the other is the iddat that eventuated from your liaison with her. Marrying a woman who is in iddat is regarded as nikah-e-faasid (invalid nikah), and if the couple had slept together in such a nikah, an iddat becomes necessary upon separation. Hence we are speaking of two iddats. Until you are not separated, the new iddat (the second one) would not have begun.

There is also a case where the two iddats can run concurrently, but that won't apply to your situation because of the lengthy period that you were together. You must separate from her in order for her to commence her second iddat. Living together like this, as you surely know, is haraam.

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The iddat for a menstruating woman is three haidh or menstruation cycles.

If the wife had already experienced three haidh from the time she got divorced till the time that the two of you separated then those three haidh will be counted as her first iddat. In that case, when you separate she must observe another three haidh as the second iddat. Thereafter you may marry her by making a completely new nikah with a new dowry.

Both of you should repent and ask Allah for forgiveness, especially the wife for misleading you or withholding this vital information from you at the time of nikah.

7.32 Several Husbands and Paradise

Q: If a woman was married to several men during her lifetime and then got divorced or lost a husband due to death; with which husband will she be in the hereafter?

A: The answer to this appears in a hadith of Rasollullah ﷺ. The noble wife of Our Messenger, Ummu Salma (radhiyallahu anha) once asked this question from Rasoolullah ﷺ, to which he replied:

“Such a woman will be given the option to choose the husband she would like to be with in Jannah, and most certainly, she will choose the one who had the best character. She will say to her Allah: ‘O My Lord! This man has shown the best

character in the world, so make him my partner in Jannah.’ Rasoolullah (sallallahu alayhi wasallam) then said further: “O Umme Salma! Good character has captured the good of both worlds!” (*Majma’uz-Zawaaid vol. 7 page 255*)

7.33 Reward for Domestic Work

Q: We always hear of the rewards men achieve in fulfilling certain tasks. But what reward is there for us women, who have to toil hard at home doing domestic and family work?

A: A great question indeed! Well, read what the hadith says on this issue. Rasoolullah ﷺ once addressed women and said: “Does it not please you that when a woman falls pregnant through her husband and he is happy with her falling pregnant, she will receive a reward equal to a person fasting in the path of Allah? When she experiences labour pains, the bounties that are kept in store for her (are countless) and which will provide her with comfort for all those in the heavens and earth. Thereafter when the child is born, for every drop of milk it drinks and each time it sucks her breast, one reward will be recorded in her favour. When the mother has to wake up at night on account of the child, she will receive the reward of freeing 70 slaves in the path of Allah. O Salaamah! do you know who these women are? They are those who, despite being pious and delicately brought up, are obedient to their husbands and are not ungrateful to them.” (Salaamah was the name of the lady asking the questions from Allah’s Messenger ﷺ) (*Tabarani in Owsat and Ibni Asaakir*) (*Bahishti Zewar from Kanzul-Ummal*)

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Rasoolullah ﷺ also said that the reward a woman receives from the time that she falls pregnant until she delivers the child and commences breast feeding is equal to that person who is guarding the borders of the Islamic State and who has to be ever ready to wage jihad. If this women dies in the course of this period she will receive the reward of a shaheed (martyr). (*Bahishti Zewar from Kanzul-Ummal*)

Rasoolullah ﷺ also said: "When a women breast feeds her child, the reward for every drop is equivalent to giving life to a dead person. When she commences breast feeding an angel taps her on the back (as a congratulatory gesture) and says to her: "All your past sins are forgiven. Now, whatever you do will be recorded from the start." That is, the sins that she may commit will be written for the future. Here sins mean minor sins. However, even this is no small feat.

What remarkable achievements! The above activities are considered routine duties that every mother cherishes doing. I believe that even if there were no rewards for any of these responsibilities, our sisters would continue fulfilling them with alacrity and great relish. Yet Almighty Allah has shown such mercy towards our women that he rewards them even for doing what is normal and natural. It is only Islam among other religions, that has conferred such honour upon its female adherents.

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