

Equivalence in the Marriage
In the light of Qur'an and Sunnah

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Detail of book

Name: Equivalence in the marriage

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Pages: 97

Year of publication: 2019

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Foreword

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Marriage is a natural need that contributes to the continuation of human generation and provides a lawful way to satisfy the sexual desire, and it is the point where life enters its beautiful phase much coveted by every youth.

Every person has his own standard to choose an appropriate life partner. Some people prefer the wealth and prosperity and don't get worried about other things if they get married to a woman from wealthy family, while some others are concerned about the beauty of their life partner, and prefer the fair face over the fair character. There are some individuals who think that their wives must be of a family occupying the valuable position. However, some individuals are still there in the society, although they are few in number, who prefer a woman religious in nature and adherent to Islamic principles. In fact, all standards are temporal and volatile except for the

last one. Wealth is not permanent and so is beauty. And the posts and positions get transferred to others after every three generations as Ibn Khaldun said. And now it has been observed that this change takes place in every second generation.

The moral and religious values are inevitable to lead a happy family life. That's why Islam strongly recommends to prefer the religious aspect while looking for a life partner. Messenger of Allah (Peace be upon him) says: "When someone whose religion and character are pleased with comes to you then marry (her to) him. If you do not do so, then there will be turmoil (Fitnah) in the land and discord (Fasad)". (Tirmizi:3/395)

He (Peace be upon him) also says: "A woman is married for four things: for her wealth, for her lineage, for her beauty or for her piety. Select the pious, may you be blessed". (Bukhari: 5/1958).

Islam prefers character and religion over all standards even over lineal reputation, position and honor. There are ample examples from Prophetic era to justify it. Aaisha (May Allah be

pleased with her) say: “Abu Huzaifa Badri, who was son of Utbah bin Rabia bin Abd Shams, who had made Salim, a slave of Ansari woman, his adopted son and then married him to his Quraishi niece Hind bint Walid bin Rabia. (Sahih Bukhari:5/1957). A Quraishi woman Fatimah bint Qais got married to Usama bin Zaid who was son of slave. It was not a blemish in Prophetic era, rather Fatimah used to take pride in this marriage. (Sahih Muslim, 2/114). Father of Usama, Zaid bin Haritha was a slave, but the Prophet (Peace be upon him) married him to his cousin Zainab bint Jahash who later became one of the wives of Prophet (Peace be upon him).

Notwithstanding the Islamic laws based on equality, egalitarianism and humanism, we would have to accept the fact that not only in Indian subcontinent but in Arab world people generally prefer lineage and family reputation over other things when they want to marry somebody. Marriage relations are established often on the basis of occupation, position, and post. People consider it below their dignity to cross this artificial boundary. The pre-Islamic pride and

lineal vanity, crushed by Islam, still remain alive amongst us. The movements to abolish the evil customs of marriage such as dowry system were never to exterminate the caste and lineal system in the marriage. Scholars and orators severely criticize the dowry system, and they speak and write against it, but their voices become restrained on the issues of caste. Perhaps it is because all scholars support the caste system in this regard. Shafayi, Hanafi, and Maliky scholars unanimously agree that in the marriage lineage is a valid precondition. They only disagree on the point whether the lineage is only a precondition or a necessary part of marriage. It is surprising that despite the authentic and clear evidence from Qur'an and Sunnah scholars are agreed on such a thing that is against the very essence of Islam. It is more surprising that Hanafi Jurists have especially differentiated between old and new Muslim. They say: "A man, who is Muslim but his father is not a Muslim, cannot be equivalent to a woman whose father is also Muslim, and the person whose father is also Muslim cannot be equivalent to a woman whose father, mother and all ancestors

are Muslims.” (Annotation of Raddul Mukhtar by Ibnul Aabidin). Such arbitrary opinion and subtlety cause a person, newly converted to Islam, feel underprivileged in the Islamic society and gets trapped in various complications of society and sometimes it leads him to apostasy.

This opinion, agreed upon generally, needs to be analyzed critically to uncover the fact. This critical analysis has been carried out by a Saudi woman scholar Dr. Fatimah Umar Nasif. She belongs to Nasif family known for her great achievements in the academic and research field, especially this family has great contribution to the publication of stuffs related to Islamic heritage. The unwavering courage of Dr. Fatimah against the tribal vanity of Arabs really deserves appreciation.

The book opens with a preface in which the author describes the reason for writing down this book and highlights the significance of topic and practices prevalent in the Muslim society. The book mainly consists of three parts. First part deals with the arguments of the scholars who are against the equivalence in the marriage. Second

part critically deals with the arguments of those who support the equivalence in the marriage, and makes it clear that the evidences are not in their favor. The last part of the book illustrates the preconditions considered valid for the equivalence. They are six; religion and character, freedom, physical health, wealth and property, occupation and skills and lineage. First three preconditions have been taken by author as valid, whereas wealth and property, occupation and skill, and lineage have been rejected in the light of evidences.

At the end, the book emphasizes that the very basic thing in the equivalence is religion and character. In this context author refuses to accept an impious person as an equivalent to the pious person, and to substantiate it she briefly discusses the viewpoints of Hanafi, Shafayi and Hambali scholars. It is right that spouses should be equivalent to each other in terms of religion. Allah says:

وَالطَّيِّبَاتُ لِلطَّيِّبِينَ وَالطَّيِّبُونَ لِلطَّيِّبَاتِ

Good women are for good men and good men are for good women. (Surah Al-nur: 26)

Here the question arises whether an impious person can be equivalent to a pious woman? Before answering this question with no, we must know what is impiousness, what are the causes define it and its different degrees? The one who commits minor sin is impious as well as the one who commits major sin. If the marriage is abrogated on this basis, there are many impious husbands in our society whose wives are virtuous and pious but still they live as spouses. Can the Fatwa of marriage abrogation due to missing Salat be applied here? It is appropriate here to describe these points in the light of the opinions of jurists. Scholars are of some different views in this regard:

1. To marry an impious person is the right of woman and her guardians. If woman and her guardians do not exercise their right, it is lawful to marry an impious person. If either one of the two parties (woman and guardians) does not exercise this right, another will have the right to abrogate the

marriage. (Al-Fawakih Al-Dawani: 2/9). Abu Hanifah and Abu Yusuf are of this opinion. (Bada'i-us-sana'i: 2/320) and Maliki scholars also consider it preferable. (Bidayatul Mujtahid: 2/12). Hanafi and Maliki scholars have two logical arguments to attest their viewpoint:

- (A) In the marriage main authority is vested in the hands of woman and her guardians, so they are entitled to the right of equivalence. If they do not exercise their legitimate right and marry an impious person, the marriage will be lawful. (Alfawakih Al-Dawani: 2/9).
- (B) It is better to take pride in religion than boasting about the wealth, lineage and freedom. To humiliate anybody with his impiousness is the worst kind of humiliation. Woman and her guardians have to face this humiliation. It is up to them, whether they want to face it or not. (Bada'i-us-Sana'i: 2/320)

2. It is hateful to marry an impious person. If refusal to marry an impious person brings the danger of being involved in fornication, in such a situation it is lawful to marry an impious person. Shafayi scholars are of this view. (Al-Siraj Al-Wahhaj: 1/370). However, some shafayi scholars say that even if woman and her guardians did not exercise their right about a specific impious, still they will have the option to abrogate marriage. (Annotation of Al-Bujairami: 3/351, Rauzatut Talibin: 2/83).
3. To marry an impious person is unlawful at all. The consent from woman and her guardians will be considered invalid. This opinion has been proposed by Maliki scholars. (Annotation of Dasuqi: 2/249). Hambali jurists also consider it unlawful to marry an impious person. (Matalib Ulin-Nuha: 5/84). They attest their opinion with following evidences:

(A) الرَّانِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَالزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ ۖ وَحُرِّمَ ذَلِكَ عَلَى الْمُؤْمِنِينَ –

The fornicator does not marry except a [female] fornicator or polytheist, and none marries her except a fornicator or a polytheist, and that has been made unlawful to the believers. (Surah Al-Nur:3)

Fornicator man and woman are impious and cannot be equivalent to a chaste man or woman, but this verse cannot be taken as an evidence to make the marriage unlawful to all types of impious. This verse is especially for those who indulge in fornication, not for all sinners. Some scholars say that the word “Zalika” refers to fornication, not to marriage. It means that fornication is unlawful for believers. All scholars are of the view that to marry a fornicator is hateful (Makruh), and they substantiate their view with this Hadith: A man came to Prophet (Peace be upon him) and complained of his wife that she doesn't throw away hand of anybody who touches her. The Prophet (Peace be upon him) said:

Divorce her. He said: I love her. The Prophet (Peace be upon him) said: Then retain her.

(Sunan Al-Nasai: 3/270, Sunan Abu Dawud: 2/220, Tabrani said in Majma-uz-Zawa-id: 4/335, that the narrators of this Hadith are the narrators of Sahih. Ibn Hajar said in Talkhis Al-Habir: 3/225, that the chain of this Hadith is the most authentic. Imam Ahmad bin Hambal said that this Hadith has no root and Ibnul Jauzi has mentioned it in the list of fabricated Hadith)

- (A) It is not allowed to hang out with impious person and it is necessary to stay away from him. Hence, he cannot be an equivalent. (Annotation of Dasuqi: 2/249).
- (B) The leadership and witness of an impious person are rejected. It is a defect in his humanness. So, how a defected human can be an equivalent to just and perfect human. (Matalibu Ulinnuha: 5/85)

4. Among the Hanafi scholars Imam Muhammad is of the view that equivalence in religion is not valid. (Bada'i-us-Sana'i:2/220). He says that religion belongs to Hereafter and equivalence belongs to world. Hence, the precondition of religion in the marriage is not valid, unless the impiousness is extreme to the ridiculous extent. If the impiousness is coupled with other good qualities, it will not cause the abrogation of marriage.

(Bada'i-us-Sana'i:2/220)

After sifting through all these four viewpoints and their evidences I came to this conclusion that in the marriage piousness of husband, his virtues and noble qualities are solely the right of wife, and her guardians have no right in this regard. All the virtues and evils of husband directly affect his wife. That's why if any woman willingly gets rid of her legitimate right and marries an impious person, she should be permitted to do so. However, if husband is a fornicator, she will

not be allowed to marry him until he repents. With this thorough discussion, now it is crystal clear that lawfulness and unlawfulness in marrying an impious person largely depends on the foresight of woman. But I completely agree with Dr. Fatimah Umar Naseef on this viewpoint: “Piousness, fear of God and steadfastness on provisions of religion and noble characters are the pillars on which the noble mansion of matrimonial life stands, and they assure of sustainable love and long-lasting affection between spouses.”

This valuable book has been rendered into Urdu language by my dear student Shaikh Saifur Rahman bin Hifzur Rahman. He is a virtuous and noble scholar with serene thoughts. The fine translation of the book is enough to tell that he is equally well-versed at both Arabic and Urdu Language. Translation is so lucid and fully aligned with original text. Dear Saifur Rahman is bound with our future hopes. May Allah bless him with long life and valuable academic

achievements, and accept his good deeds. Amin.

This book addresses very critical contemporary issue. This useful book needs to be published at large scale to let Urdu speakers get benefitted and liberate themselves from the shackles of caste, lineage and family pride.

Preface

All praise and thanks be to Allah who created (man) in a perfect way and set the destiny and guided (him), and peace and blessings be upon the best of all creatures Muhammad bin Abdullah who was sent as mercy for entire universe and upon his family and all companions.

The strong adherence to the customs and traditions of Jahilia (Pre-Islamic age) that I observe in some of the Islamic societies and that are highly detrimental, the tribal prejudice that is responsible for the class and racial discrimination and taking pride in family and lineage are some of the motives that inspired me to carry out this research.

The humanitarian teachings of Islam uprooted the prejudices of the age of ignorance and made the **fear of Allah and good deed** a parameter to decide the merits between people. Allah said:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ
لِتَعَارَفُوا ۚ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ ۚ

O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. ¹

The instructions were given as well by the Prophet (Peace be upon him) to emphasize on this verse. Abu Huraira (May Allah be pleased with him) narrates that the Apostle of Allah was asked “Who are the most honorable of the people?” the Prophet replied: “The most honorable of them in Allah’s sight are those who keep their duty to Allah and fear Him”. ²

¹ Surah Al-Hujrat: Verse: 13

² Al-Bukhari, Kitabu Ambiya, Section: Creation of Adam. 4/111

Thus, the Prophet (Peace be upon him) with his verbal and practical Sunnah inculcated the high humanitarian principles and doctrines, and the principle of equality is the most important among them. He (Peace be upon him) said: “Your lord is one and your religion is one. Your father is Adam, and Adam was created from dust. So, neither an Arab has supremacy over a non-Arab nor a red has supremacy over a black except by fear of Allah”. ³

Islam fought the prejudice and exterminated it for its negative effects that immensely hurt Muslim Ummah individually and collectively. Muslim relates in his Sahih that Messenger of Allah said: “Among my people there are four characteristics belonging to pre-Islamic period which they will not abandon, boasting of high ranks, revealing other people’s genealogies, wailing and seeking rain by stars”. ⁴

³ Majma’uz zawa’id Mablaghul Fawa’id, Hafiz Al-Haithami 8/9840

⁴ Sahih Muslim 6/235

Abu Hurairah narrates that Apostle of Allah said: “Allah has removed from you the pride of the pre-Islamic period and its boasting in ancestors. One is only a pious believer or a miserable sinner. You are sons of Adam, and Adam came from dust”. ⁵

Imam San’ani said commenting on this Hadith “The attention to genealogy has been considered the pride of pre-Islamic period, then how a believer can consider it valid to infer a lawful act from it”.

Imam San’ani wants to tell Muslims to stay away from taking pride in their ancestors and forefathers.

The prejudice is raising its ugly head nowadays, and people have started to flaunt their lineage and family prestige. Everybody is bigoted to his respective nation, country, land, language and people. Muslims have been divided into several sects and schisms scuffling each other and

⁵ Al-Tirmizi 5/691

violating the important teachings of their religion and the basic doctrines of their tenets based upon the pillar of brotherhood for the sake of Allah that stems from the saying of Allah:

إِنَّمَا الْمُؤْمِنُونَ إِخْوَةٌ

The believers are brothers.⁶

وَإِنَّ هَذِهِ أُمَّةً وَاحِدَةً وَأَنَا رَبُّكُمْ فَاتَّقُونِ –

And indeed this, your religion, is one religion, and I am your Lord, so fear Me." ⁷

This religion is based on monotheism and unity that cannot be separated from each other. Members of this Ummah are like a single body as the Prophet (Peace be upon him) said: "The blood of them are equal, and they are like one hand against their enemies, the lowest of them is entitled to give protection on behalf of them"⁸. He (Peace be upon him) further says "The believers in

⁶ Surah Al-Hujrat, Verse: 10

⁷ Surah Al-Muminun: Verse: 52

⁸ Aunul Mabud, commentary on Abudawud 12/260

their mutual kindness, compassion and sympathy are just like one body. When one of the limbs suffers, the whole body responds to it with wakefulness and fever".⁹

Where is this Islamic essence in our daily life? The prejudice of Jahiliyah(pre-Islamic age) has exterminated the values and doctrines of Islam. Women were of those who were hit by this prejudice and fell prey to it. When the tribal bigotry prevailed, women were not allowed to get married to another tribe, and it ultimately culminated in the defunction of the universal marriage system that is based on social and natural need and on the Prophetic Sunnah as well. Messenger of Allah (Peace be upon him) said: "And I marry women, and he who turns away from my Sunnah, he has no relation with me".¹⁰

Islam is a religion of nature that treats man according to his natural limitations and genuine

⁹ Sahih Muslim 16/140

¹⁰ Sahih Muslim 9/175

needs. The One Who created man has made the marriage indispensable part of his nature like other living things in the universe. Allah said:

وَمِنْ كُلِّ شَيْءٍ خَلَقْنَا زَوْجَيْنِ لَعَلَّكُمْ تَذَكَّرُونَ –

And of all things We created two mates; perhaps you will remember. ¹¹

Then Allah wanted to make husband and wife two separate parts of single soul so that they complement each other. Allah said:

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا

O mankind, fear your Lord, who created you from one soul and created from it its mate. ¹²

Family is an exalted and valuable foundation of human life to make him the most honorable creature in the world and it is the very source of

¹¹ Surah Al-Zariyat, Verse:39

¹² Surah Al-Nisa, Verse:1

human society to provide it with means of growth, flourishing and sustenance, and above all it equally gives to both of man and woman peace, protection, cover and tranquility and sets their hearts and nerves at rest. Allah says:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً

And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy.¹³

He also says:

هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ

They are clothing for you and you are clothing for them.¹⁴

Many family chiefs strictly subscribe to extreme lineal norms in marriage that bring hindrances in

¹³ Surah Rum, Verse: 21

¹⁴ Surah Al-Baqarah, Verse: 187

finding out suitable spouse and sometimes they cause many women remain as single for lifetime. Marriage relation between Muslims makes strangers the close ones and makes different communities, tribes and clan brethren to each other. Allah the Exalted One said:

وَهُوَ الَّذِي خَلَقَ مِنَ الْمَاءِ بَشَرًا فَجَعَلَهُ نَسَبًا وَصِهْرًا ۚ وَكَانَ رَبُّكَ
قَدِيرًا –

And it is He who has created from water a human being and made him [a relative by] lineage and marriage. And ever is your Lord competent [concerning creation].¹⁵

Today woman is looking for a way to get out from this conundrum created by the misconception of family chiefs about the equivalence in lineage stated by some jurists as an essential aspect of marriage neglecting the principle of Islamic creed. I thought that this issue needs to be examined and studied critically to explain what has been made

¹⁵ Surah Al-Furqan, Verse: 54

ambiguous for Muslims. That's why I made the strong resolution and sought the help from Allah and guidance from His book and Sunnah of His Prophet (Peace be upon him) to study this issue critically and comprehensively in the light of Qur'an and Sunnah, the two great light sources by which the jurists, Companions and followers of this religion got enlightened, in the later age four prominent Imams, who followed companions and followers, and to whose school of thought masses of Muslims subscribe, also borrowed the light from these two sources. All their efforts and Fatawa were based on the arguments deduced from Qur'an and Sunnah, they rejected all the ideas contradictory to Qur'an and Sunnah, no matter how great the ideologist was. The saying of the apostle is highly super and his way is authentic and the ultimate source in all regards.

Here are some sayings uttered by Imams with regard to following sunnah. Abu Hanifah says "When the Hadith is authentic, my opinion will get

altered”.¹⁶ Imam Malik says: “I am a human, sometimes I get the right point and sometimes I may be wrong. So, look into my opinion. Accept what is in accordance with Qur’an and Sunnah, and reject all opinions that are not in alignment with Quran and Sunnah.”¹⁷

Imam Shafai had uttered many things in this respect. Some of them are as follows:

“No individual can claim a holistic comprehension of Sunnah. There must be something he may be missing. So, whenever I say something, or make any rule against the saying of Prophet. My saying will be rejected and Prophet’s (Peace be upon him) saying will be regarded authentic one”.¹⁸

¹⁶ Footnote of Raddul Mukhtar by Ibne Adnan 1/63

¹⁷ Jame By Ibne Abdul Barr 2/139

¹⁸ A’lamul Muwaqqi’ien 2/363-364

“When you come across something in my book that is against Sunnah, accept the Sunnah and reject what I said”.¹⁹

Imam Ahmad was more firmly adherent to Sunnah as compared to other Imams. He said: “The opinions of Auza’i, Malik and Abu Hanifah are similar to those of mine. They all are equal to me. The only source of evidence and argument is the Hadith”.²⁰

These were some utterances of Imams with respect to adherence to the authentic Sunnah and preventing people from blind conformity.

This is a matter of crucial significance to which I tended to draw attention as not to let anybody think that this study contains something in contrast with four reliable schools of thought. The adherence to what is justified by Sunnah, even if it is not in accordance with the opinion of some

¹⁹ Al-Majmu by Nawawi 1/63

²⁰ Al-Jame by Ibne Abdul Barr 2/139

Imams, is not synonymous with turning away from their opinions, rather it is something underpins their opinion. To reject the proved Sunnah only because it doesn't comply with opinion of Imams is really against their utterances mentioned in the aforementioned lines.

That's why we find that some disciples of renowned Imams opposed their masters in some matters. for instance, Abu Muhammad and Abu Yusuf opposed their teacher Abu Hanifah. These matters include some provisions based on inauthentic Hadith or seemed to be based on weak hadith in comparison to more authentic one.

This is the prime motive that prompted me to look into the evidences that substantiate the opinions of scholars about the equivalence in marriage and lineage to confirm their authenticity. If their evidences are authentic, their opinions are correct, if not so, they are invalid.

This is the main issue discussed in this research. This issue is central to all disorders in social

system, marriage provisions and obstruction of getting married. I touched this issue with my personal observation during the course of my practical life when I came across many problems every day. May Allah make the way out from dilemma and sorrow and this work may sincerely get dedicated to His Noble Face.

Research Scholar:

Dr. Fatimah Umar Nasif

The equivalence in marriage

The chief motive of jurists in making the equivalence mandatory in marriage was to look for the harmony and equality between the spouses in order to provide them a conducive psychological environment in which the family can play its positive role in society and life. But is the equivalence really mandatory in marriage? What are the valid conditions to be followed? And what are the things not to be taken as valid? Is it ok to consider lineage, occupation and wealth valid in this regard? I would try to address all these issues in my research Insha Allah.

Definition of Kafa'ah (Equivalence).

Kafa'ah literally means equivalence and equality. It is said in Arabic "Fulanun Kuf'un li Fulanin" that

means someone is equivalent to someone.²¹ The word kuf'un means counterpart or equivalent, as it is described in this verse:

وَلَمْ يَكُنْ لَهُ كُفُوًا أَحَدٌ –

Nor is there to Him any equivalent. ²²

As Hadith says:

الْمُسْلِمُونَ تَكَافَأُوا دِمَاؤُهُمْ وَيَسْعَى بِدِمَتِهِمْ أَدْنَاهُمْ

The blood of every Muslim is equal. The asylum offered by the lowest of them in status applies to them (all). ²³

Terminological meaning of Kafa'ah:

Terminologically it means that husband should be equal to his wife. This equality is considered valid in particular things. A man should be equal to his wife in her qualities and he should not be less than his wife.

²¹ Please consult the dictionary Lisanul Arab 269/ letter kaf

²² Surah Ikhlas

²³ Narrated by Ahmad, Nasai and Abu Dawud

Is equivalence mandatory in marriage?

Jurists have two different opinions in this regard.

First opinion: Some jurists such as Abul Hasan Al-Karkhi and Jassas from the Hanafi school of thought,²⁴ Sufyan Thauri and Hasan Basri²⁵ completely negate the equivalence in marriage. They describe it neither as a condition to validate the marriage nor as an essential thing for marriage.

They attest their opinion with the following evidences:

Allah says:

إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ

Indeed, the most noble of you in the sight of Allah is the most righteous of you.²⁶

²⁴ Sharh Fathul Qadeer by Imam Kamaluddin Abdul Wahid 3/186-188

²⁵ The previous reference

²⁶ Surah Al-Hujrat, Verse: 13

The messenger of Allah (Peace be upon him) says:

الناس سواسية كأسنان المشط لا فضل لعربي على أعجمي إلا بالتقوى

"All people are as equal as the teeth of a comb. There is no virtue (nothing better or superior) to an Arab over a non-Arab except by the fear Of God" ²⁷

Allah says:

وَهُوَ الَّذِي خَلَقَ مِنَ الْمَاءِ بَشَرًا

And it is He who has created from water a human being.

These are the evidences to substantiate the absolute equality between people. ²⁸

The Prophet (Peace be upon him) ordered Banu Byadha to marry their daughter to Abu Hind who was a cupper and he (Peace be upon him) said: "O

²⁷ Subulus Salam 3/1007. Albani Said it is very weak Hadith

²⁸ Surah Al-Furqan verse: 54

Banu Bayadha, marry Abu Hind (to your daughter) and ask him to marry (his daughter) to you. ²⁹

Bilal (May Allah be pleased with him) asked some people of Ansar for marriage and they denied to marry their daughter to him, then Apostle of Allah (Peace be upon him) said to Bilal, say to them: Messenger of Allah orders you to marry her to me.

³⁰

The Prophet ordered them to marry their daughter to Bilal (May Allah be pleased with him) irrespective of the absence of equivalence. If the equivalence was mandatory the Prophet had not ordered them. Hence, it is not compulsory to look for the equivalence in the marriage.

They also have substantiated their arguments with the provisions of crimes ³¹, they say that bloods are equal. The noble would be killed for

²⁹ Narrated by Abu dawud with authentic chain 2/570

³⁰ Narrated Abu Dawud with authentic chain 2/570

³¹ Sharh Fathul Qadir by Imam kamaluddin 3/186-188

killing an ordinary person and a literate would be killed for killing an illiterate individual. Same is true with marriage, and the inequivalence in marriage would be based on the criminal provisions. So, if the equivalence is not valid in crimes, it should not be valid in the marriage more obviously.

The second opinion is that the equivalence is mandatory in the Marriage:

Although all the jurists unanimously state the equivalence as mandatory,³² there are some minor differences in their opinions. Some of them consider it as an integral part of marriage, where as some of them describe it as the condition for the authenticity of marriage. Hambali scholars according to their authentic narration don't describe the equivalence as condition for marriage.

³² Al-Mughanni by Ibne Qudama 7/30 and annotation of Raddul Mukhtar by Ibnul Abidin 3/83 and commentary on Fathul Qadir by Abdul Wahid 3/177 and Almajmu by Nawawi 16/184

Their arguments are as follows:

1. Prophet (Peace be upon him) says: “Be aware, only the guardians should marry the women (to anyone) and they should get married only to their equivalents.”³³
2. Aisha (May Allah be pleased with her) relates that the Prophet (Peace be upon him) said: “Seek the best for your semen and marry the equivalents”.³⁴
3. Hadith of Ali (May Allah be pleased with him) that the Prophet (peace be upon him) said “All three are not to be delayed: Salat when its time comes, a funeral when it (a prepared body) is present, and (the marriage of a)

³³ Narrated Darqutni, and Abdul Barr said it is a weak hadith with no root, so it cannot be presented as an argument. Albani said in his book Irwa’ul Ghalil it is a fabricated Hadith. 6/264

³⁴ Sunan Ibne Maja 1/633. It has been described in Zawaid in the chain of this Hadith there is a narrator named Al-Harith Bin Imran Al-Madini about whom Abu Hatim said that he is not an authentic narrator and his Hadith has no root. Dar Qutni said that it is an abandoned Hadith.

single woman when there is an equal for her.”³⁵

4. Imam Muhammad narrates in “Kitabul Aathaar” from Abu Hanifah that a person narrated that Umar bin Al-khattab said: “I would definitely prevent the women of noble family (from getting married to anybody else) except to their equivalents”.³⁶
5. They also substantiate their argument with this episode in the battle of Badra:

Utbah bin Rabi’ah, Shaibah bin Rabi’ah and Walid bin Utbah came out to fight. When Auf and Mu’az, sons of Afra and Abdullah bin Rawaha came forth to face them, they asked them: “Who are you?”. They replied: “Individuals from Ansar”, then they said: “You all are of course descendants of nobles, but we

³⁵ Sunan Tirmizi 3/387 Abu Isa said: This Hadith is Gharib and its chain is not connected.

³⁶ Transmitted by Dar Qutni as Hadith no: 415 through the chain of Ishaq Bin Bahlul as well as Baihaqi in volume 7 page no: 133 with the weak chain.

want our equivalents from Quraish. Then Prophet (Peace be upon him) said: They are alright, and he (Peace be upon him) ordered Hamza, Ali and Ubaidah bin Al-Harith (May Allah be pleased with them) to face them.³⁷ Hanafi scholars have attested their arguments with this episode and said “When the equivalence is valid in the battle which lasts only few hours, then it should be valid in the marriage more obviously that lasts for lifetime.”³⁸

6. They also substantiate their argument with logical evidence and say: “Things get arranged normally between the spouses generally when they are equivalent, because

³⁷ This episode has been described in the book “Assirah Al-Nabawiyah” by Ibne Hisham 1/195 and in the book “Arrahiqul Makhtum” by Safiur Rahman Mubarakpuri 240

³⁸ Commentary on Fathulqadir by Imam Kamaluddin Abdul Wahid 3/185-186 and the connotation of Raddul Mukhtar 3/84

a noble woman is not likely to share bed with a person lower than her in nobility.”³⁹

Guardians of woman also do not like to have marriage relation with those who don't have the nobility equal to that of theirs, so, they get ashamed, and it results in weakness or disorder in relations. Husband is not likely to get affected by customs and traditions. In contrast, customs and traditions have more adverse and greater impact on wife.

Comparison and preference

After discussing the arguments of those who consider the equivalence in marriage mandatory, the following points can be summed up:

³⁹ The previous reference

1. All Hadiths taken by them as evidence are too weak to substantiate their argument as Imam Kamal bin Al-Humam remarks “All theses Hadiths strengthen each other, and there are multiple hadiths that share the same degree of authenticity make them the valid evidences and upgrade them to the degree of Hasan. That’s why it is more probable that they must have been authentic and narrated from the Prophet (Peace be upon him).⁴⁰ But when weak Hadiths, as it is a well-known fact in the field of Hadith, get upgraded to the degree of Hasan by the similar Hadiths and named as Hasan Li Ghairihi (Good by virtue of another Hadith), then it is necessary that they are not contrary to more authentic and stronger Hadithes and even to the Hadith that is called Hasan lizatihi (Good on its own virtue). These Hadiths are not fit to this criterion, because all the authentic Hadiths are contrary to them as I

⁴⁰ The previous reference

am to describe them in the end to invalidate them as evidence.

2. As for their argumentation with the episode in the battle of Badra, it is logically invalid. The battle is characterized with properties and circumstances different from those of marriage. And also, the equivalence in this episode was only to support Islam. The Prophet (Peace be upon him) subscribed to their demand because it was prevalent in the age of Jahiliyah (Pre-Islamic age) to fight with counterparts and equals, as well as he (Peace be upon him) did so only not to let them think that Muslims are weak and coward and not to let Muslims think that Prophet (Peace be upon him) is reluctant to send his family and dear ones to fight them. If the enemies had not put such demand, the Prophet's (Peace be upon him) choice would have been different.

3. Their argumentation with logic relies on the custom. But when the custom is to be valid and invalid, and what are the conditions to classify

them as law. As it is one of the well-known principles of Islamic jurisprudence when the custom is in accordance with Shariah, it is acceptable, and when it is in contrast with doctrines and principles of Islam, it won't be acceptable, as it has been described in the books of doctrines; "The valid custom is what people are introduced to and not contradictory to any Shariah evidence and neither makes an unlawful thing lawful nor abrogates any compulsory provision. The invalid custom is what people are introduced to and contradictory to Shariah, and makes an unlawful thing lawful or abrogates any compulsory provision." ⁴¹

Hence if we accept the custom in this respective issue, it would be contrary to the authentic Hadiths that attest the argument of scholars who do not consider the equivalence valid for marriage. So, the custom would be invalid in this respect, and the first opinion would be preferable,

⁴¹ Ilmu Usulil Fiqh by Abdul Wahhab Khallaf 89-90

for its argument has been proven and attested by authentic Hadiths.

Preconditions stated by jurists as mandatory for equivalence

Multiple preconditions have been stated by jurists for the equivalence. Holistically they can be summed up as follows:

Religion, freedom (from slavery), lineal reputation (position and honor) wealth (prosperity) occupation (skill), to be free from defects (condition).

Allamah Hamawi has arranged them all in these poetic lines: ⁴²

ست لها بيت بديع قد ضبط	إن الكفائة في النكاح تكون في
حرية وديانة مال فقط	نسب وإسلام كذا حرفة

⁴² Annotation of Raddul Mukhtar by Ibnul Aabidin 3/86

The equivalence in the marriage is valid only in six things, and they have been arranged in this fascinating couplet:

Lineage, Islam, occupation, freedom, piousness and wealth.

Hanafi scholars propose that equivalence is valid in all aforementioned things except for the soundness (to be free) from defects. ⁴³

According to **Shafa'i scholars** equivalence is valid in all things, however, they disagree with the condition of prosperity.⁴⁴

Maliki scholars consider the equivalence valid only in terms of religion, freedom and condition (to be free from defects). ⁴⁵

Hambali scholars are of two different opinions: ⁴⁶

⁴³ The previous reference

⁴⁴ Almajmu by Nawawi 16/182, Umdatul Salik wa Iddatunnasik by Shahabuddin Misry 22

⁴⁵ Bulghatussalik Liaqrabil Masalik by Shaikh Ahamad Assawi Al-Maliki 1/398

⁴⁶ Almughni by Ibne Qudama volume 7, Kitabunnikah 26

1. It is in all the aforementioned things except for the free from defects.
2. It is only in the religion and position

Here I am to go through a detailed analysis of the opinions and arguments of jurists and thoroughly discuss them to reach out precisely valid and invalid preconditions by scrutinizing them in the light of Quran and Hadith.

First precondition:

Freedom: It is the antonym of slavery and it means that husband should not be a slave. **Shafa'i scholars** are of the view that a slave is not equal to an independent woman, because Allah says:

ضَرَبَ اللَّهُ مَثَلًا عَبْدًا مَمْلُوكًا لَا يَقْدِرُ عَلَى شَيْءٍ وَمَنْ رَزَقْنَاهُ مِنَّْا رِزْقًا حَسَنًا فَهُوَ يُنْفِقُ مِنْهُ سِرًّا وَجَهْرًا ۖ هَلْ يَسْتَوُونَ

Allah presents an example: a slave [who is] owned and unable to do a thing and he to whom We have provided from Us good provision, so he spends from it secretly and publicly. Can they be equal? Under a slave husband an independent

woman is vulnerable to some sort of disgrace that results in the inequivalence between them. When Barirah (May Allah be pleased with her) was set free, she was given the option by the Prophet (Peace be upon him). From the perspective of this Hadith if a slave woman is given the option, then a free woman is more entitled to exercise it when she wants to get married, because when a slave will marry, he will have to be responsible for the expenditures of his wife and family which a slave cannot fulfill as a free and independent individual does. ⁴⁷

Hanafi scholars add some details to the precondition of freedom; they say: A slave cannot be equivalent to a woman originally independent (whose parents are also independent), and a liberated man cannot be equal to such woman as well. A man whose father got liberated cannot be equal to a woman whose father and mother both got liberated. It is because the slavery is one of the

⁴⁷ Almajmu by Nawawi 16/182-188

signs of disbelief that brings some sort of disgrace.”⁴⁸

Shafa’i scholars agree with them and say: “slavery, be it partially or wholly or in the form of Mukatab (slave who is to be liberated after paying a fixed sum of money in installments) cannot be equivalent even to a liberated woman. A liberated man is equivalent to a liberated woman, he cannot be equivalent to a fully independent woman, because he is below her rank in this regard.” ⁴⁹

Hambaly scholars elucidate: Freedom is one of the conditions of the equivalence. A slave man cannot be equivalent to an independent woman. It’s because Brirah was given option when she was married to a slave by Prophet (Peace be upon him). When the option has been validated by Hadith in the case of temporal independence, then it should be valid in the case of genuine

⁴⁸ Kitabul Mabsut by Sarkhasi 5/24

⁴⁹ Mughnil Muhtaj Ila Marifatil Alfazil Minhaj by Sharyini 3/165

independence more obviously. Because the slavery brings tremendous loss and great detriment. When a husband is enslaved, the rights of his master divert him from the rights of his wife, rather he is in oblivion of himself, however, the slavery has nothing to do with the validity of marriage. It's because the Prophet said to Barirah (May Allah be pleased with her): "Why don't you return to him?" She said: "Do you order me to do so?" He (Peace be upon him) said: "I only intercede for him." She said: "I am not in need of him."⁵⁰ The return in this Hadith means to begin with a new marriage, because as soon as Barirah (May Allah be pleased with her) was given the option she was no more married and her marriage got abolished, and also, the Prophet's (Peace be upon him) intercession to get married to slave denotes that the marriage will be considered valid."⁵¹

⁵⁰ Fathul Bari commentary on Sahih Bukhari 9/ Kitbut Talaq 405

⁵¹ Al-Mughni By Ibne Qudama 7/27

Thus, Hambali scholars agree with Hanafi and Shafa'i scholars in the precondition of freedom, however, the absence of this precondition is not effective in the validity of marriage. On the other hand, Shafa'i scholars state that the freedom should be genuine. That's why they say: "A liberated man cannot be equivalent to a genuine and fully independent woman, because he is below her rank." The ingenuine freedom brought by liberation is not enough to make a man equivalent to a genuine and fully free woman. Imam Subki said: "What the author said with surety that a liberated slave cannot be equivalent to an independent woman is neither attested by custom nor Shari'ah, so it's better not to say anything in this respect."⁵²

All the aforementioned evidences are sufficient to prove that the freedom is an indispensable factor for marriage. That's why Barira (may Allah be pleased with her) was given the option by the

⁵² The previous reference

Prophet (Peace be upon him), and it is because after she got freedom her husband was no more equivalent to her.

Second Precondition

Wealth that has also been synonymously called prosperity by some jurist.

Wealth is explained as the financial condition of husband. Some Hambali scholars according to a narration, and some Shafa'i and Hanafi scholars describe this precondition with some more details.

Shafa'i scholars disagree with the precondition of prosperity as it has been described in the "Majmu": "Our scholars have different opinions about the prosperity. Some of them say that it is valid, and a poor cannot be equivalent to a rich woman on the basis of what has been narrated by Samurah (May Allah be pleased with him) that

Messenger of Allah (Peace be upon him) said: “Being honorable is wealth, and noble character is piety.”⁵³ It is valid because the expenditure of a poor is less than that of rich. Some of them say that the wealth is not a valid precondition, because it is something that is perishable and temporary, and the individuals of high morality do not take pride in wealth.⁵⁴

Hanafi Scholars point out that the wealth refers either to richness or to expenditure and Mahr (Bridal money). According to Abu Hanifah and Muhammad (May Allah have mercy on them) the equivalence is valid in terms of richness. Hence, a prosperous woman cannot be equivalent to person who only can afford Mahr (bridal money) and expenditure. It is because people take pride in prosperity and consider poverty humiliating. On

⁵³ Transmitted by Tirmizi in Kitabut Tafseer, Hadith No: 3267, and said this hadith is Hasan Gharib, we only know this hadith from the hadith of Salam bi Abu Muti and it has been narrated by Ahmad in Musnad volume:5, page: 10 and Ibn Maja, Hadith No: 4219 and classified as Sahih by Albani in Irwa’ul Ghalil, 6/270

⁵⁴ Al-Majmu by Nawawi 16/182

the contrary, Abu Yusuf (May Allah have mercy on him) do not subscribe to their opinion and say: “Wealth is not to be valid for the equivalence, because it is something that has no consistency and keeps fluctuating.”⁵⁵ They also say that the wealth is valid for equivalence in terms of having enough to pay Mahr (Bridal money) and bear the expenditure, as Zahirur Riwayah (overt meaning of narration) suggests. Hence, who does not have enough to pay Mahr (bridal money) and bear expenditure will not be considered equivalent.⁵⁶

Imam Ahmad (May Allah have mercy on him) have two different opinions in this regard:

First: It is a valid precondition for the equivalence on the of basis the Prophet’s (Peace be upon him) saying: “Being honorable is wealth”⁵⁷, and his

⁵⁵ Commentary on Fathul Qadir 3/192-193

⁵⁶ The previous reference

⁵⁷ See the footnote no: 54

saying “This wealth is the source of honors among people in this world.”⁵⁸

The Prophet (Peace be upon him) said to Fatimah Bint Qais when she informed him that Mu’awiyah has proposed to her: “Mu’awiyah is impoverished and has no wealth.”⁵⁹

Wealth is valid condition because the poverty of husband leads a prosperous woman to miserable condition.

Second: The wealth is not valid for equivalence, because the poverty is honor in the Islam as the Prophet (Peace be upon him) said: “O, Allah cause me to live poor and cause me to die poor.”⁶⁰ And because the poverty is not a permanent thing. It is

⁵⁸ Narrated by Nasayi and classified as Hasan by Albani in the book “Irawa’ul Ghalil” 6/372

⁵⁹ Musnad Ahmad bin Hambal 6/412

⁶⁰ Narrated by Tirmizi, Ibn Maja and Hakim and classified by Albani as Sahi in the book “Irawa-ul-Ghalil” 6/272

similar to sickness and health. The wealth is valid only in terms of affording the expenditure.⁶¹

Discussion and preference

When we go through the arguments of those scholars who consider the wealth (prosperity) necessary for the equivalence, we come across the following points:

1. The hadith and the Prophet's description of Mua'wiyah was not to describe the precondition for equivalence, rather it was only for suggestion, and Prophet (Peace be upon him) wanted to marry her to somebody who can afford her Mahr (bridal money) and expenditure. It is true, the Hadith is not in contrast with the first opinion but supports it.
2. As for the hadith "being honorable is wealth", I don't think that Prophet (Peace be upon him) would have made the wealth a criterion to decide the level of honor among people and it

⁶¹ Al-Mughni by Ibn Qudama. 8/29

has never been seen from the him. In fact, he (Peace be upon him) tended -Allah knows best- to explain that the wealth is considered by people a parameter to decide the level of honor among themselves, it is not a parameter determined by Shariah as it has been further explained by this Hadith “This wealth is a source of honor among people in this world.”

3. The custom upon which jurists lay the foundation of their opinion and say that people try to excel each other by wealth, is not an acceptable criterion. The wealth cannot be an accepted parameter to decide the excellence, so the custom is invalid, because Islam does not humiliate anybody for his poverty. The Prophet (Peace be upon him), who was the best of all creatures, spent his life as poor, and his armor was mortgaged. The poverty was never looked down as a blemish. The Prophet (Peace be upon him) used to supplicate: “O Allah cause me live poor and cause me die poor.”

Hence, it can be surely said that the wealth is not a valid precondition for the equivalence.

Third precondition: The occupation: Alternatively named by Hambali scholars as skill. It refers to every work practiced by man to earn livelihood such as agriculture, business, craft, etc.

The equivalence in terms of occupation means that husband's occupation should be equal or similar to the occupation of his wife's father.

This precondition has been described by Shafayi scholars, and by Hambali scholars as well according to one of their narrations, and Hanafi scholars have different opinions among themselves.

Shafayi scholars clarify when they outline the conditions of equivalence: "A man with a lower occupation can not be equivalent to a man of higher occupation, so a sweeper, cupper, guard can be equivalent enough to marry the daughter

of tailor, a tailor cannot be equivalent enough to marry the daughter of a businessman or cloth merchant, as the cloth merchant and businessman cannot be equivalent enough to marry the daughter of a judge or scholar.”⁶²

Hambali scholars have two different opinions in this regard:

First: The occupation is a valid precondition. So, whoever practices a lower occupation such as the weaver, cupper, guard, manual scavenger, sweeper and broker cannot be equivalent enough to marry the daughter of a person who practices the higher occupation such as business and construction, because the lower occupation is considered by people somehow humiliating, so it is as if it lacks the Nasab (family honor) as the Hadith says: “Arabs are equivalent to each other except for the weaver and cupper.”⁶³ Imam

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63 Narrated by Baihaqi and Albani said that it is a fabricated Hadith. Irwa-ul-ghalil, 6/268

Ahmad (May Allah have mercy on him) was asked: “How do you take this Hadith as an evidence while you have categorized it as a weak Hadith?” He replied: “People act upon it.” It means that this Hadith is in accordance with the custom.

The second: The occupation is not effective in equivalence. ⁶⁴

Abu Hanifah says that in fact, the occupation is not valid in this regard. On the other hand, Abu Yusuf consider it a valid precondition. Hence, a weaver, cupper and manual scavenger cannot be equal enough to marry the daughter of cloth merchant and perfume seller.⁶⁵

Discussion and preference

After thoroughly discussing the arguments of those who consider the occupation a valid precondition, the following points can be summed up:

⁶⁴ Al-Mughni by Ibn Qudama, 7/25

⁶⁵ Kitabul Mabsut by Sarkhasi, 5/25

1. The Hadith on which Hambali scholars rely, cannot be taken as an evidence, because it is a fabricated Hadith.
2. The custom that is taken as an evidence to prove the occupation valid for the equivalence is wrong and not worthy to be acted upon because of its contradiction with Shariah. Shariah never categorized the occupations as higher and lower, it is something the ignorant people got accustomed to in modern and ancient time. Islam respects every kind of occupation as long as it is lawful and does not lead to any sinful act. The Prophet (Peace be upon him) has praised the manual crafts and occupations saying: “No food is better to man than that which he earns through his manual work. Dawud (May Allah have peace on him), the Prophet of Allah, ate only out of his earnings from his manual work.”⁶⁶

⁶⁶ Sahih Al-Bukhari, 4/259

Prophet Dawud (May Allah have mercy on him) was an ironsmith and most of prophets practiced some kind of occupation.

Prophet Zakariyya and Isa (May Allah have peace on them) were carpenter and our Prophet (Peace be upon him) tended the sheep and said: "Every prophet has tended sheep." These occupations did not lower their value and hurt their social position, and even the Prophet (Peace be upon him) abolished what pre-Islamic people were accustomed to, and ordered Bani Bayadha to marry their daughter to Abu Hind who was a cupper, as it has been previously discussed. It was to change their vision about this occupation with his practical and verbal Sunnah.

So, what Abu Hanifah said and what Ahmad bin Hambal (may Allah have mercy on them) has opined, is more valuable in this context, i.e. in considering the occupation invalid for equivalence. It is because there is no authentic

Hadith to verify it, rather the authentic Hadith goes against it.

Fourth precondition

To be free from defect: described by Maliki scholars as condition or situation.

It means that husband should be free from such physical defect that is detrimental to his wife such as leprosy and mental disorder. Such types of defects have been taken as precondition by Maliki and Shafayi scholars.

Shafayi scholars outline their conditions as follows:

Husband should be free from such defects that give the option to wife to end marriage, so whoever is affected by such disease such as mental disorder and leprosy cannot be equivalent to a woman who is free from such diseases. Because people hate to be in company of such

person who is affected by such diseases. So, it would spoil the very purpose of marriage.⁶⁷

Maliki scholars say that to be free from defects is mandatory, be they of defects that give option to women or not. The purpose behind it is to equate the qualities of husband with those of wife.⁶⁸

Hambali scholars opine that to be free from defects is not of the preconditions of marriage, for there is no disagreement with the opinion that marriage doesn't become invalid if the husband is not free from defects, however, it gives option to woman (to invalidate the marriage), not to her guardians. ⁶⁹

I think Hambali scholars are more apt in their opinion when they say that it should be left up to woman whether she wants to accept or reject, because it's she who would have to cope with

⁶⁷ Mughnil Muhtaj by Sharyeeni 3/165

⁶⁸ Annotation of Dasuqi 2/326

⁶⁹ Al-Mughni by Ibne Qudama 7/29

such defects. That's why the option should be given to woman not to her guardians.

This opinion is more preferable, for those who are against it they don't have any evidence from Quran and Sunnah to substantiate their opinion. Hence, the opinion of giving option to woman becomes more preferable.

Fifth precondition

Lineage: named by Hambali scholars as position and reputation.

It refers to the relation of human to his fathers and ancestors. All jurists consider it necessary for equivalence except for Maliki scholars on the basis of custom that makes lineal reputation a source of flaunting, boasting, stigma, praise and derogation.

Shafayi scholars say that non-Arab is not equivalent to an Arab woman, neither a non-Quraishi can be equivalent to a Quraishi woman, nor a non-Hashmi or non-Muttalibi can be equal to a Hashmi or Muttalibi woman. They consider

the lineage necessary for equivalence. The lineage of woman should be higher than that of man, for Arabs take pride in their lineal honor. The lineage of father will be valid in this regard. Hence, if anybody is non-Arab from his paternal side and Arab from the maternal side, he cannot be equivalent to a woman who is Arab from her paternal side and non-Arab from the maternal side. It is because Allah has given Arabs preference over non-Arabs, and He has made Quraishi much better than other Arabs. That's why a non-Quraishi cannot be equivalent to a Quraishi woman, and this Hadith supports this notion: "Let Quraish be excellent and do not excel them."⁷⁰

A non-Hashmi and non-Muttalibi cannot be equivalent to a Hashmi and Muttalibi woman such as Banu Abd Shams and Banu Nuafal although they are the brethren of Hashimites, as it has been enshrined in Sahi Muslim "Indeed Allah has

⁷⁰ Narrated by Shafayi from Zuhri with an incomplete transmission and it has been classified as Sahih by Albani in the book "Irwa-ul-ghalil" 2/295

chosen Kinanah from Arabs and chosen Quraish from Kinanah and chosen Banu Hashim from Quraish.”⁷¹ ⁷²

Hambali scholars take the Hadith of Umar (May Allah be pleased with him) as an evidence to attest their argument “I would definitely prevent the women of noble family (from getting married to anybody else) except to their equivalents, the narrator says that I asked Umar who are equivalents? He replied: Who they are equal in honor and reputation.”⁷³ And they also argue that Arabs consider the equivalence in lineal reputation valid and think it derogatory to marry their daughter to slaves and consider it a blemish

⁷¹ Tirmizi has narrated this Hadith in his Sunan with these words: “Indeed Allah has chosen Isma'il from the children of Ibrahim, and He chose Banu Kinanah from the children of Isma'il, and He chose the Quraish from Banu Kinanah, and He chose Banu Hashim from Quraish, and He chose me from Banu Hashim.” And He (Abu Isa Al-Tirmizi) said: This Hadith is Hasan (good) and Sahih (authentic). 5/544

⁷² Mughnil Muhtaj by Sharyini, 3/165

⁷³ Transmitted by Dar Qutni, Hadith no: 425 from the chain of Ishaq bin Bahlul and so did Baihaqi, 7/133 with a weak chain

and stigma. Equivalence must be precisely applied to what is popular among people. ⁷⁴

Imam Ahmad (May Allah have mercy on him) had two different viewpoints in this regard:

First: “A Quraishi cannot be equivalent to a non-Quraishi woman and a Hashimite woman cannot be equivalent to any other else, some Shafayi scholars are also of the same opinion. They substantiate their argument with this Hadith “Indeed Allah has chosen Isma'il from the children of Ibrahim, and He chose Banu Kinanah from the children of Isma'il, and He chose the Quraish from Banu Kinanah, and He chose Banu Hashim from Quraish, and He chose me from Banu Hashim.” And also, the Arabs have been given preference over all communities by the Messenger of Allah (Peace be upon him), especially Quraish are more entitled to this preference among all Arabs, and

⁷⁴ Almughni by Ibne Qudama, 7/27

Hashimites are more privileged to this preference than Quraish.

Second: Arabs are generally equivalent to each other and non-Arabs are equivalent to each other.⁷⁵

In the first opinion he proposes that nobody can be equivalent to Quraish, and in second one he opines that nobody can be equivalent to Arabs. Hence, according to both notions the lineal reputation has been stated as a valid precondition by them for equivalence.

Hanafi Scholars are of the opinion that equivalence is a valid precondition, because things get arranged normally between the spouses generally when they are equivalent and because a noble woman dislikes to share bed with a lower person. Hence, it is imperative to consider the lineal reputation a valid precondition. Unlike man if a woman chooses a man who is not equivalent

⁷⁵ Previous reference

to her in terms of lineage, her guardians can separate her from her husband in order to wash out their lineage of the blemish. If a man does so, he will not be separated by his guardians, because he chooses the wife out of his will. The equivalence is valid in terms of lineage, for it is something to be proud of. Hence, a Quraishi can be equal only to a Quraishi woman and an Arab to an Arab woman on the basis of this Hadith: “All branches of Quraish are equivalent to each other, and all the tribes of Arab are equivalent to each other, and all the slaves are equivalent to each other.”⁷⁶ ⁷⁷

Discussion and preference

I mentioned above all the opinions of scholars about the equivalence in terms of lineage. When

⁷⁶ I couldn't find this Hadith with the same words. Albani said in “Irwa-ul-ghalil” that this a fabricated Hadith, 6/270. This Hadith has been transmitted by Baihaqi from the chain of Hakim and said that it is disconnected Shuja and Ibn Juraij who is Mudallis (deceitful), 7/174

⁷⁷ Commentary on fathul Qadir by Imam Kamaluddin Abdul Wahid, 3/187

we thoroughly discuss them, the following key points are inferred:

First: The Hadith (Let Quraysh be excellent and do not excel them), from general perspective it means the excellence in leadership and caliphate, it doesn't mean at all the equivalence in marriage in terms of lineage.

Second: The Hadith (Allah has chosen kinanah from Arabs...). It means that Allah has chosen Kinanh, then Quraish to choose the Prophet from them. Allah says:

اللَّهُ يَصْطَفِي مِنَ الْمَلَائِكَةِ رُسُلًا وَمِنَ النَّاسِ

Allah chooses from the angels messengers and from the people.⁷⁸

Messengers are sent by Allah in the most honored lineage of their people. The precondition of equivalence in the lineage cannot be deduced from this Hadith. Imam Shaukani says describing the equivalence for marriage that Imam Baihaqi

⁷⁸ Surah Haj, verse: 75

says that the equivalence in lineage is necessary on the basis of the Hadith (Allah has chosen Kinanah from Arabs..). This Hadith is authentic and narrated by Imam Muslim, however, I am doubtful about deducing something from this Hadith.⁷⁹

Third: Hadith of Umar (May Allah be pleased with him) (I would definitely prevent the women of noble family...) is a weak Hadith, so it cannot be taken as an evidence. Imam Shafayi (May Allah have mercy on him) says that there is no Hadith to substantiate the argument that equivalence in the lineage is necessary.⁸⁰

Forth: Hanafi scholars opine that a noble woman dislikes to share bed with a lower man. So, what is the parameter to declare a person lower or noble? Can one be declared noble or menial with the parameter set by people and custom, even if it is

⁷⁹ Nailul Autar by Shaukani, 6/146

⁸⁰ Al-Majmu by Nwawi, 16/184

in contrast with the parameter set by Islam? Or the parameter of Islam would be considered instrumental to evaluate people? The parameter that declares all people equal, as it has been pointed out by Bukhari in his Sahih. He describes this verse of Quran in the chapter of equivalence in the religion:

وَهُوَ الَّذِي خَلَقَ مِنَ الْمَاءِ بَشَرًا فَجَعَلَهُ نَسَبًا وَصِهْرًا

And it is He who has created from water a human being and made him [a relative by] lineage and marriage..⁸¹

Then he describes the Hadith that Abu Huzaifah married Salim (his slave) to his niece (the daughter of his brother).⁸²

The very essence of Islam is to invite people to equality and to fight the racial discrimination in order to uproot pre-Islamic traditions. Allah says:

⁸¹ Surah Al-Furqan, verse: 54

⁸² Fathul Bari commentary on Sahih Bukhari, chapter of equivalence in the religion. 9/131, Hadith no: 5088

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ
لِتَعَارَفُوا ۚ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ

O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you.⁸³

The righteousness has been made the parameter of excellence. This is what Sufyan Thauri says: “The equivalence in terms of lineage is not valid, for people are equal on the basis of Hadith (People are equal....).⁸⁴

Fifth: Now coming to what Shafayi scholars says that the reason to make the lineage necessary is (that Arabs highly take pride in their lineage) and what Hanafi scholars say that (the equivalence in terms of lineage is valid, for it is something to be proud of). Should we let Arabs boast about their

⁸³ Surah Al-Hujrat verse: 13

⁸⁴ Commentary on fathul Qadir by Imam Kamaluddin Abdul Wahid, 3/133

lineage as they want? Or it becomes imperative for them to get rid of what they used to take pride in when they were in Jahiliyah (age of ignorance), such as the positions and lineal reputations. Shouldn't they hasten to the commandment of Allah when He prevented them from boasting, laughing at one another, and calling each other by offensive nicknames. Allah says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَسْخَرُ قَوْمٌ مِّن قَوْمٍ عَسَىٰ أَن يَكُونُوا خَيْرًا مِّنْهُمْ وَلَا نِسَاءٌ مِّن نِّسَاءٍ عَسَىٰ أَن يَكُنَّ خَيْرًا مِّنْهُنَّ ۚ وَلَا تَلْمِزُوا أَنْفُسَكُمْ وَلَا تَنَابَرُوا بِالْأَلْقَابِ ۚ بِئْسَ الْإِسْمُ الْفُسُوقُ بَعْدَ الْإِيمَانِ ۚ وَمَن لَّمْ يَتُبْ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ -

O you who have believed, let not a people ridicule [another] people; perhaps they may be better than them; nor let women ridicule [other] women; perhaps they may be better than them. And do not insult one another and do not call each other by [offensive] nicknames. Wretched is the name of disobedience after [one's] faith. And whoever

does not repent - then it is those who are the wrongdoers.⁸⁵

This verse prohibits as well as warns of the consequences of such acts of boasting and insulting people by calling them with such a nick name that they don't like. Every person hates to be labelled with blemish and meanness. Every person considers himself better than others, and every tribe think that they are much better, noble and excellent. unfortunately, this trend has become predominant and popular. This is one of the Jahiliyah phenomena that has been strongly prohibited by Prophet (Peace be upon him) when he says: O the Muslim community! Fear Allah, would you stick to Jahiliyah while I am alive, despite you have been guided to Islam by Allah, got honored by it, dragged out from Jahiliyah and given the deliverance from disbelief, and Allah put the love in your hearts for each other.⁸⁶ The

⁸⁵ Surah Al-Hujrat verse: 11

⁸⁶ Biography of Prophet by Ibne Hisham 1/555-556

Prophet uttered these words when the dispute broke out between Aus and Khazraj and they started to boast about themselves, and the war was likely to break out between them because of the conspiracy of a Jew named Shas bin Qays. If the people are given the right to decide the position of people as they want, all the standards will get dismantled, as Allah says:

وَلَوْ اتَّبَعَ الْحَقُّ أَهْوَاءَهُمْ لَفَسَدَتِ السَّمَاوَاتُ وَالْأَرْضُ وَمَنْ فِيهِنَّ

But if the Truth had followed their inclinations, the heavens and the earth and whoever is in them would have been ruined.⁸⁷ The truth always remains truth as Allah wants. The Prophet (Peace be upon him) used to give instructions to the companions in order to change pre-Islamic status quo and alter that bent of mind and parameters set by people to evaluate each other that they inherited from Jahiliyah. Bukhari narrates that Sahl bin Sad said: “A man passed by Allah's Messenger (Peace be upon him) and Allah s

⁸⁷ Surah Al-Muminun, verse: 71

Apostle asked (his companions) "What do you say about this (man)?" They replied "If he asks for a lady's hand, he ought to be given her in marriage; and if he intercedes (for someone) his intercession should be accepted; and if he speaks, he should be listened to." Allah's Messenger (Peace be upon him) kept silent, and then a man from among the poor Muslims passed by, an Allah's Apostle asked (them) "What do you say about this man?" They replied, "If he asks for a lady's hand in marriage he does not deserve to be married, and if he intercedes (for someone), his intercession should not be accepted; And if he speaks, he should not be listened to.' Allah's Messenger (Peace be upon him) said, "This poor man is better than so many of the first as filling the earth."⁸⁸

Thus, the Prophet (Peace be upon him) fixed the widely introduced wrong traditions of Jahiliyah and even what have been introduced nowadays in the modern Jahiliyah that have to be rectified and

⁸⁸ Fathul Bari commentary on Sahih Bukhari, 9/110-111

altered, such as judging people with their appearances, position, post and wealth. The Prophet (Peace be upon him) made it clear that all these shallow phenomena have nothing to do with evaluation. The fear of Allah and piousness are the only things to be taken as criterion to evaluate people. It was a significant Prophetic instruction to Muslims to adhere to fear of Allah and get rid of all phenomena prevalent in the society when he (Peace be upon him) uttered with emphasis while asked: Who is the most honorable of people? “The most honorable of them is the most pious of them.”⁸⁹

Sixth: The Hadith (Quraish are equivalent to each other....) that has been taken as an evidence to prove the equivalence in the lineage is not really uttered by Apostle of Allah (Peace be upon him), but it is a fabricated Hadith with no authentic chain. So, it cannot be taken as an evidence. Imam Kasani (May Allah have mercy on him) says after

⁸⁹ Fathul Bari commentary on Sahi Bukhari, 6/481

describing and explaining this hadith: (But the Sharia has made this excellency invalid in terms of marriage, as the act of Prophet (Peace be upon him) and general consensus of Companions tell us).⁹⁰

The Prophet (Peace be upon him) married his two daughters to Uthman (May Allah be pleased with him), and married his daughter Zainab (May Allah be pleased with her) to Aas bin Al-Rabi. Uthman and Abul Aas, as it is known, were from Banu Abd Shams. ⁹¹

Ali (May Allah be pleased with him) married his daughter Umm Kulthum to Umar (May Allah be pleased with him) who was from Banu Muttalib and Umar was from Banu Adi.⁹²

The Prophet (Peace be upon him) married his cousin Zainab bint Jihash, who was a Quraishi

⁹⁰ Bada'i-us-sanae, 1/319

⁹¹ Tahzeebut Tahzeeb 7/127 and Tabqat Ibn Sad, 7/20

⁹² Hayatus Sahaba, 2/670. Shazatuz Zahab, 1/29

woman, to Zaid bin Haritha who was a slave.⁹³ Usama bin Zaid was married to Fatima bint Qais who was a Quraishi woman. Sana'ni says (Fatima was from Bani Fahr, a branch of Quraish, and she was sister of Zahhak bin Qais. She was of those who emigrated early and was beautiful, talented and skilled)⁹⁴

Abu Bakr (May Allah be pleased with him) married his sister Ummu Farawah to Ash'ath bin Qias who was a Kindi.⁹⁵

Imam Bukhari writes in his Sahih in the chapter (the equivalence in the religion) while describing Zaba'a bint Zubair that she was married to Miqdad bin Al-Aswad. Ibne Hajar says: He is Miqdad bin Amra Al-Kindi who was ascribed to Abd Yaghuth Al-Zuhri who had adopted him. He was under the alliance of Quraish and married to Zaba'a, a woman from Bani Hashim. If the lineage was a

⁹³ Hilyatu Auliya, 2/52, Isaba Fi Tamyizis Sahaba, 1/546

⁹⁴ Subulus Salam by Imam San'aani, 3/1008

⁹⁵ Al-Isaba Fi Tanyizis Sahabah by Imam Asqalani, 1/66. Tahzibut Tahzib, 1/359

valid precondition for the equivalence, he could not have been able to marry Zaba'a who was of a higher lineage.

It was condemnable among Arabs to marry a Hashimite woman to a man who is below her lineage and value, then what about person who is adopted. We can observe here far-reaching impact of Islam in anchoring new values and bringing about radical changes in the social relations. Ibn Hajar further says: (Who consider the lineage a valid precondition for equivalence may say that Zaba'a and her guardians were agreed with marriage, so here they got deprived of their right of equivalence. It would have been a right answer if the equivalence in the lineage had been proven). That's why we can say that it is an argument with no authentic evidence.

Hala bint Auf, sister of Abdur Rahman bin Auf, was married to Bilal (May Allah be pleased with them).⁹⁶

After discussing all the arguments and analyzing them, it becomes crystal clear that lineage is not a valid precondition for the equivalence because of inauthenticity of the evidences. Ibn Taimiyah explains it saying: “There is no authentic Hadith from the Prophet (Peace be upon him) in this regard, but he (Peace be upon him) said: (Allah has removed from you the pride of pre-Islamic period and its boasting about ancestors. People are only of two types; pious believer or miserable sinner)⁹⁷

In Sahi Muslim a Hadith says: (Among my people there are four characteristics belonging to pre-Islamic period which they do not abandon: boasting of high ranks, slandering one’s lineage,

⁹⁶ Al-Isabah fi Tanyizis Sahabah by Imam Al-Asqalani, 4/421

⁹⁷ Sunan Al-Tirmizi, 5/691

wailing and seeking rain by stars).⁹⁸ ⁹⁹ These words of Ibn Taimiyah (May Allah have mercy on him) are all enough for elaboration.

Hence, the religion is the only valid precondition that is preferable, because it has been attested by this Hadith of Prophet (Peace be upon him): “When someone whose religion and character are pleased with comes to you then marry (her to) him. If you do not do so, then there will be turmoil (Fitnah) in the land and discord (Fasad). They said: Messenger of Allah, what if there is something about him? He said: When whose religion and character are pleased with comes to you then marry him.”¹⁰⁰ He (Peace be upon him) said it three times.

⁹⁸ Sahih Muslim, 6/235

⁹⁹ Majmu Fatawa Shaikhul Islam Ahmad bin Taimiyah, 19/28-29

¹⁰⁰ Narrated by Tirmizi and he said this is a good and unfamiliar (Ghrib) Hadith, and Narrated by Ibn Maja and transmitted by Albani in Irwa-ul-Ghalil, 6/266, and he said that this is a good (hasan) hadith from the chain of ibn Hatim al Muzani, Abu Hurairah and Abdullah Ibn Umar

Religion refers to piousness, fear of God and steadfastness on provisions of religion and noble characters. These are the pillars on the noble mansion of matrimonial life stands, and they assure of a sustainable love and long-lasting affection between spouses. They function as fences to protect family from disintegration and diversion. It is the only precondition on which all jurists have unanimous consensus.

Shafayi scholars say: (An impious person cannot be equivalent to a chaste woman)¹⁰¹

Hanafi scholars say: (The impious person is not equivalent enough to marry the daughter of pious person).¹⁰²

Hambali scholars say: This verse is an evidence to consider the religion a valid precondition:

أَفَمَنْ كَانَ مُؤْمِنًا كَمَنْ كَانَ فَاسِقًا ۚ لَا يَسْتَوُونَ –

¹⁰¹ Al-Majmu by Nawawi, 16/182

¹⁰² Annotation of Raddul Mukhtar by Ibne Aabidin, 3/89

Then is one who was a believer like one who was defiantly disobedient? They are not equal. ¹⁰³

An impious person is unreliable and condemnable, his witness and Hadith is unacceptable, he is not trustworthy about property and soul, he has no right to guardianship (Wilayah), he is imperfect to Allah and His creature and wretched in this world and Hereafter as well. So, he neither can be an equivalent to a chaste woman nor a counterpart to her. ¹⁰⁴

As opposed to all scholars, Hanafi scholars consider it necessary for fathers of women to be Muslim and say: {A man, who is Muslim but his father is not a Muslim, cannot be equivalent to a woman whose father is also Muslim, and the person whose father is also Muslim cannot be

¹⁰³ Surah Sajdah, verse: 18

¹⁰⁴ Al-Mughni by Ibn Qudama, 7/26

equivalent to a woman whose father, mother and all ancestors are Muslims}¹⁰⁵

This argument has no evidence to substantiate it, but there are ample evidences to declare that Islam refines all the pre-Islam sins and flaws, as Hadith says that Amra bin Aas said: (Didn't you know that Islam washes out all the misdeeds committed before Islam)¹⁰⁶ To enter into Islam is all enough to be noble. Hussein bin Ali (May Allah be pleased with them) says: (With this Islam Allah has elevated the mean to the high esteem, perfected the imperfect one and made a dishonored person dignified. So, there is no disgrace on a Muslim, i.e. When a Muslim declares his Islam, he is no more disgraceful and humiliated). ¹⁰⁷

¹⁰⁵ Annotation of Raddul Mukhtar by Ibn Aabidin, 3/87

¹⁰⁶ Sahih Muslim, Kitabul Iman 1/324

¹⁰⁷ Uyunul Akhyar, 4/8

It is unanimously agreed that a Muslim woman cannot be lawfully married to a disbeliever, because Allah says:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا جَاءَكُمُ الْمُؤْمِنَاتُ مُهَاجِرَاتٍ فَامْتَحِنُوهُنَّ ۚ اللَّهُ
أَعْلَمُ بِإِيمَانِهِنَّ ۚ فَإِنْ عَلِمْتُمُوهُنَّ مُؤْمِنَاتٍ فَلَا تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ
ۚ لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لِهِنَّ

O you who have believed, when the believing women come to you as emigrants, examine them. Allah is most knowing as to their faith. And if you know them to be believers, then do not return them to the disbelievers; they are not lawful [wives] for them, nor are they lawful [husbands] for them.¹⁰⁸

Finally, by the authentic Sunnah of Prophet (Peace be upon him) it has been justified that only the religion will be fully and comprehensively valid for the equivalence. Hence, neither a Muslim woman can be married to a disbeliever nor a chaste woman to an impious one. Except for religion nothing else has been stated by Qur'an and

¹⁰⁸ Surah Al-Mumtahinah, verse: 10

Sunnah as valid precondition. Islam has made it unlawful to marry a Muslim woman to a rascal fornicator, and has not considered lineage, occupation and richness of valid preconditions.

Conclusion

All praise and thanks be to Allah Who is the Lord of Aalamin (mankind and jinn and all that exists), and Peace and blessings be upon the one who is the master of all messengers and Last Prophet and upon his family and all Companions.

It was my research carried out according to the principles of academic research to reach out to the scientific and methodological conclusions. They can be summed up as follows:

1. The only lawful way laid out by Islam to bind men and women in relation is marriage that is to build up a family and to contribute to the upliftment of people from the marsh of animalism and bottom of pre-Islamic period to the bright, radiant and pure pinnacle.

The marriage, from the Islamic perspective, is a natural and social need, as well as a

divine system. Allah explains the divine logic in this verse:

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً

And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy.¹⁰⁹

Hence, the only way to that tranquility is marriage that leads to steadfastness, purity and persistence. Except for the marriage all other ways are only for the desire fulfillment and lust gratification coupled with carnal sensuality and obscenity. With lawful marriage method Allah wants to purify humans and take them into a system well arranged and characterized with comfort and ease. Dismantling the marriage system results in destruction of society and escalation of corruption. The One Who has

¹⁰⁹ Surah Al-Rum, verse: 21

created human has made the duality an intrinsic part of his nature like every living being in the universe. Allah says:

وَمِنْ كُلِّ شَيْءٍ خَلَقْنَا زَوْجَيْنِ لَعَلَّكُمْ تَذَكَّرُونَ –

And of all things We created two mates; perhaps you will remember.¹¹⁰

Then Allah wanted to make the both spouses two segments of a single soul and said:

خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا

He created you from one soul and created from it its mate.¹¹¹

This divine system is to make one function as a complement to his mate and build up the family, a cell to provide both segments of soul (Man and woman) with gratification, peace, covering and safeguard.

¹¹⁰ Surah Al-Zariyat, verse: 49

¹¹¹ Surah Al-Nisa, verse: 1

2. In legislation Islam only relies on its root that is Qur'an and Sunnah. Whatever is not based on this root is absolutely invalid. All the provisions and opinions that do not stem from this root are invalid as well with all their values, ideas, standards, customs, rules, principles and doctrines.

When jurists refer to custom with regard to any matter and consider it as a Shariah root, it will not be accepted. Shariah is based only on Qur'an and Sunnah of Prophet (Peace be upon him). The custom can only be considered valid when it is in alignment with Shariah. Traditions and customs are not to be taken as Shariah.

Imam Malik (May Allah have mercy on him) says: (I am a human, sometimes I get the right point and sometimes I may be wrong. So, look into my opinion. Accept what is in accordance with Qur'an and Sunnah, and reject all opinions that are not in alignment

with Quran and Sunnah).¹¹² Imam Abu Hanifah, Shafayi and Ahmad (May Allah have mercy on them) all of them have said same thing. Ibn Taimiyah (May Allah have mercy on him) says commenting on the equivalence in the lineage: [It is of the matters that need jurisprudential interpretations which are to be examined on the parameter of Qura'n and Sunnah. What is in accordance with Qur'an and sunnah will be accepted, for there is no disagreement on Qur'an. No opinion can be taken as an evidence against Allah and His Prophet (Peace be upon him)].¹¹³ This is what I relied on, when I got to look into the evidences on which jurists have based their opinions.

3. All the Hadiths they relied on in describing the equivalence in lineage as a valid

¹¹² Al-Jame by Ibn Barr, 2/32

¹¹³ Majmu Fatawa Shaikhul Islam Ahmad bin Taimiyah, 19/28-29

precondition are weak. It has not been justified by Qur'an, authentic and clear Sunnah, and practical and applicable examples of Prophet's life and his companions'. Some scholars have expressed their opinions in this regard:

Ibn Taimiyah says: [There is no clear and overt Hadith from the Prophet (Peace be upon him) in this regard)]¹¹⁴

Imam San'ani says: [People are of very odd and different views in this regard based only on pride and boast. I wonder! There are many Muslim women who remain unmarried due to the pride and vanity of their guardians. O Allah, I seek refuge in You from a precondition that stems from desire and grows out of pride. The master of mankind Prophet Muhammad's (Peace be

¹¹⁴ Previous reference

upon him) words are in contrast with their opinions.]]¹¹⁵

There are many guardians who stick to the precondition of equivalence in terms of lineage and many other preconditions that do not rely on authentic Hadith, and it results in dismantling the marriage and cause many women remain single for lifetime.

O Allah, I ask you to guide guardians to right things and open their breasts to act upon Your Book and the authentic verbal and practical Sunnah of your Prophet (Peace be upon him), so as not to let any man or woman remain unmarried, and to curb the corruption and revive the Sunnah of Messenger of Allah (Peace be upon him).

¹¹⁵ Subulus Salam commentary on Bulughul Maram, 3/1008