

Marriage

THE PROHIBITED WOMEN (MAHAARIM)

Introduction

Allah mentions most of the categories of women in the following verses: “And do not marry those [women] whom your fathers married, except what has already occurred. Indeed, it was an immorality and hateful [to Allah] and was evil as a way. Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your father’s sisters, your mother’s sisters, your brother’s daughters, your sister’s daughters, your [milk] mothers who nursed you, your sisters through nursing, your wives’ mothers, and your step daughters under your guardianship [born] of your wives unto whom you have gone in. But if you have not gone in unto them, there is no sin upon you. And [also prohibited are] the wives of your sons who are from your [own] loins, and that you take [in marriage] two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever Forgiving and Merciful. And [also prohibited to you are all] married women except those your right hands possess [i.e., slaves or war-captives who had polytheistic husbands]. [This is] the decree of Allah upon you. And lawful to you are [all others] beyond these, [provided] that you seek them [in marriage] with [gifts from] your property, desiring chastity, not unlawful sexual intercourse...” [Quran 4:22-24]

Some prohibitions, according to the Holy Qur’an and the Sunnah, are of perpetual nature which is based on the ground of consanguinity, affinity, fosterage; while others are of temporary nature interdicted by certain relationships or conditions which are susceptible of termination and these prohibitions exist so long as the relationship or condition exists.

1. THOSE WHO ARE PERMANENTLY FORBIDDEN IN MARRIAGE

This category includes those whom one is forbidden to marry due to a blood relationship as well as those who are forbidden due to fosterage or marital relations:

1.1. Those Permanently Forbidden due to Blood Relations

1. Descendants due to a relationship with a woman, regardless of how far (a man's daughter, granddaughter, etc.).

2. Ascendants of women, regardless of how far (mother, maternal and paternal grandmother, etc.).
3. Descendants from a man's parents, regardless of how far (sisters, half-sisters, sister's children, etc.)
4. Siblings of male and female ascendants, regardless of how far (paternal and maternal aunts, great aunts, etc.).

One may notice that of these, the grandmother was not explicitly mentioned in the verse. This is because frequently in Arabic and in the Quran (as in some of the verses on inheritance), the term 'mother' includes the grandmother and all her ascendants.

1.2. Those Permanently Forbidden due to Marital Relations

1. Wives of ascendants, regardless of how far (the father's wife, grandfather's wife, etc.). Consummation is not a condition; the mere completion of the marriage contract makes this marriage forbidden forever.
2. Wives of descendants, regardless of how far. Again, the mere marriage contract is what is considered here with or without consummation.
3. Ascendants of wives (such as the mother-in-law), regardless of whether the marriage was consummated or not.
4. Descendants of wives (step-daughters and their children) only if the man consummated the marriage with the wife in question. The phrase (which means) '...Under your guardianship...' was mentioned here only to portray the usual case and not as a condition. The ruling holds whether the step-daughter was ever under his care or not. This is the opinion of the majority of scholars.

1.3. Those Permanently Forbidden due to Breast Feeding

The verse actually mentions 'mothers' and 'sisters' by breast feeding. From these two, others can be derived based on the Hadeeth (narration) of the Prophet (may Allah exalt his mention): (Breast feeding makes forbidden what is forbidden through blood relations.) [Muslim]

The Prophet (pbuh) was asked to marry the daughter of his uncle Hamzah, may Allah be pleased with him, but his response was to say: (She is not permissible for me. She is the daughter of my brother through breastfeeding. And breastfeeding forbids what is forbidden through blood relations.) [Al-Bukhari & Muslim]

The brother of a woman who had breastfed 'Aa'ishah, may Allah be pleased with her, came to visit her. She refused to let him in until she asked the Prophet (pbuh) if it was permissible to do so, and he said: (Give him permission, for he is our uncle.) [Al-Bukhari & Muslim]

1.3.1. The Minimum Requirement for Breast Feeding

There is a wide variety of opinions on how many 'sessions' of breastfeeding create the prohibition including one, three, five, seven and ten sessions. A common opinion is that the child must have nursed on three separate occasions; this is based on the Hadeeth: (The prohibition is not established by one suck or two.)

The strongest opinion is that of Imaams Maalik and Abu Haneefah and 'Ali bin Abu Taalib, 'Abdullaah bin 'Umar, and 'Abdullaah bin 'Abbaas, may Allah be pleased with them, and others, which is that a single session is sufficient. This is the strongest opinion because it is consistent with the apparent meaning of the word Ridhaa'ah (breastfeeding) in the above-mentioned verses as well as the related Hadeeths; also, the above Hadeeth could be easily taken to refer to 'sucks' and not 'sessions.' So, in other words, if the baby merely sucks once or twice, it does not count unless the baby completes the 'session', drinking to satisfaction.

1.3.2. Women Included in this Category

1. One's female ascendants through nursing. This includes the woman who nursed him and her mother, etc. The husband of the wet nurse is considered the 'cause' of the milk involved. So, for example, if a girl is nursed by a woman, that woman's husband becomes forbidden to her just as her own biological father is.
2. Descendants through nursing. The man who is the 'cause' of the milk is forbidden from marrying the one his wife nursed or their children, etc.
3. Descendants of 'parents' through nursing, (i.e., the 'sisters'). One cannot marry any of the children (either by blood or nursing) of the wet nurse or her husband.
4. Siblings of ascendants by nursing (i.e., brothers and sisters of the wet nurse or her husband). This does not include their children ('cousins' by nursing).

Note: the following important point as stated by Shaykh Ibn 'Uthaymeen: "The relatives of the child that is nursed, except for his/her children, have no relation to the breastfeeding mother [or her husband] and

there is no effect on them from that nursing. So, it is allowed for a boy's blood brother to marry his brother's wet nurse or her daughters. However, the children of the child who was nursed will become like the children of the wet nurse and her husband in the same way that their father (the one originally nursed) was a 'child' (by nursing) to those two."

2. THOSE FORBIDDEN FOR TEMPORARY REASONS

The second category of women a man is forbidden to marry consists of those forbidden for temporary reasons. If the reason ceases to exist, marriage between them becomes lawful. They include the following:

1. While being married to a woman, a man cannot marry her sister or any of her aunts (paternal or maternal). The first was mentioned in the verses previously mentioned and the second is mentioned in the following Hadeeth:
(The Prophet (pbuh) prohibited joining (in marriage at the same time) a woman and her paternal aunt or a woman and her maternal aunt.) [Al-Bukhari & Muslim]
2. If a person divorces his wife three times, it is not allowed for him to marry her again until and unless she marries someone else (but not as a trick in order to marry him again), consummates that marriage and that marriage is subsequently legally ended.
3. Any woman if a man already has four wives.
4. Marrying a slave girl when one is already married to a free woman.
5. Marrying a woman who is already married or who is in 'Iddah (waiting period). A woman in 'Iddah due either to her husband's death or divorce is not allowed to marry until it is finished.
6. A woman upon whom a man has made Li'aan, unless he confesses to having made it up. Al-Li'aan in Arabic is when the husband accuses the wife of adultery but cannot bring witnesses, so he swears that it occurred and the two are separated after the wife swears that she is innocent. He can never marry her again unless he confesses that he was lying about it.
7. A woman who is neither Muslim nor Jewish nor Christian.