

# **FATAWA ON MARRIAGE AND RELATED PROPERTIES**

## **I – DISTRIBUTION OF PROPERTY AT DIVORCE AND MINORS’ CUSTODY**

SUBJECT: Property division at divorce

Dear Br. Dr. Mohammad  
Assalamu Alaikum wa Rahmatullahi wa Barakatuh,

Br. Dr. Ahmad Sakr asked me to answer your question about division of property between husband and wife in case of divorce. Whether the share of a divorced wife includes “all property she brought into marriage, her earnings during marriage and her Mahr. And if she opted for an American-law division whether what she takes above what is permitted to her in Shari’ah is Halal or Haram. And whether it would be better for the divorced husband to give her the extra as a gift so it would become Halal for her should she opt for the American-law division of property.

My Answer:

Al Hamdu li Allah wa al Salatu wa al Salamu ala Rasuli Allah,

The question is very pertinent and very important. We Muslims in America live in a situation that does not allow us the benefit of an overall or umbrella Islamic law that makes our disputes solvable in accordance with the Shari’ah. The ultimate solution is only one that is to lobby for the enactment of a family law for Muslims in America that is compatible with the Shari’ah. We must work toward that objective, Muslim minorities in more than one country in the world have achieved it.

Until that happens, there will always be troubles regarding this and all other matters related to family and inheritance laws.... Wa Allahu al Musta’an.....

A temporary solution that helps a lot is to have pre-marital contract between the bride and groom that they want to apply Shari’ah for all their family matters (and they must count most titles of such matters) and to appoint an arbitrator (such as the ISNA Fiqh Council) or the Fiqh committee in a named Islamic Center, etc.) So that the determination of what is the Islamic position on an issue shall not be left to an American family court.

Coming now to the points you raised (please notice Br. Dr. Shafi, I followed the pattern set forth by the Prophet Yusuf, pbuh, when he started his answer with a general statement).

There are a few basic points in Shari’ah that need to be put forward clearly:

The marriage contract in Shari’ah does not provide for mixing or intermingling of properties of the husband and wife (nor for change of family name). This means that her property before marriage remains hers to the extent that if she was rich and he was poor she is permitted to pay her Zakah to him as a poor. A case happened at the time of the Prophet pbuh, and he advised Zainab, wife of Adullah bin Mas’ud that she can pay her Zakah to her husband even though she knew he was going to use the money to spend on the family including herself. The same independence and separation of properties applies

to the husband. The marriage contract itself provides for a transfer, from the husband to the wife, of certain property (or an amount) under the name of Mahr or Sadaq. This transfer may be immediate, at the time of the contract or delayed, wholly or partially to a to a specific due date or without a due date. When the Mahr is delayed it become a debt like any other debt, for instance it can be supported by a collateral or a lien and in case of bankruptcy it is treated like other debts. If no specific due date is mentioned in the marriage contract, it becomes due on the earlier of two incidences: death of either of them, or divorce.

Hence we have here three rules:

**NO PROPERTY MIXING BETWEEN HUSBAND AND WIFE AS A RESULT OF THE MARRIAGE CONTRACT;**

**THE MAHR IS HERS, WHETHER PAID IN FULL OR NOT; AND, EACH ONE OF THEM, ESPECIALLY THE WIFE (BECAUSE THERE IS CONFUSION ON THIS IN SOME MINDS) IS COMPLETELY FREE TO DISPOSE OF HER/HIS PROPERTY THE WAY SHE/HE PLEASES. NO PRIOR CONSENT, APPROVAL OR EVEN INFORMATION IS NEEDED FORM ONE TO THE OTHER.**

Some of the implications of these three rules are that if she used part or all of the Mahr to buy household furniture or any other property for family use, that property remains hers during marriage and after marriage and whatever she owned before marriage or as a result of the marriage contract also remains hers.

The Household expenditures are the sole responsibility of the husband. This is another effect of the marriage contract. This is implied in the qur'anic verses especially those that deal with spending in cases of divorce with child nursing and this is the prevailing opinion in the four schools of Fiqh, Very few Muslim scholars argues that if she was rich and he was poor, she is required to spend on him and the family. In my opinion this argument is weak and overruled by verses like (Let he who has plenty spend from his plenty and he whose means [Rizq] are limited must spend from what Allah has given him) and by the saying of Ibn Mas'ud and by several other texts and rules.

Hence rule No. 4 is:

**HUSBAND IS REQUIRED, SOLELY, TO SPEND ON THE HOUSEHOLD.**

When the wife spends on the household or gives any thing to her husband, if this giving came out of her voluntary decision, with no social pressure and out of her good self, then it is O K for the husband to take it. This is completely Halal, irrespective of whether this giving or spending comes from her Mahr or from any other source such as earnings, bequeath from her family, part of her property she had before marriage, gifts he or any other person gave her, etc. This is based on the verse 4:4 about the Mahr that means: After you give her the Sadaq with full ownership becoming in her hand if she gives any part of it to you out of her good self, you may eat it with full pleasure and full ease.

Hence we get rule No. 5:

**ANY THING GIVEN BY A WIFE TO HER HUSBAND OR SPENT ON HIM OR ON HIS BEHALF IS PERMISSIBLE AND IS CONSIDERED A GIFT PROVIDED SHE VOLUNTEERS IT OUT OF HER OWN GOOD SELF WITH COMPLETELY FREE DECISION.**

4- Now, let us apply these rules to divorce in America:

If there is a pre-marital agreement that stipulates the application of Shari'ah, each one gets what she/he owned before marriage, plus any and all increments resulted from the

investment or growth of these properties, and if they maintained separate bank accounts for each of them, each get what is in that account. Properties she bought before, after or during the arrangement of marriage are hers, her earnings and Mahr are also hers. She is not entitled for compensation of the wear and tear or amortization of properties she put for household use because she obviously put them to be used in the house. She could have, at the beginning of marriage asked for rent on such properties, but the fact she did not ask for rent means she volunteered it.

If there was no pre-marital agreement, as normal in most Islamic marriages here and most couples who came from Muslim countries. Still Properties she brought to the household, personal properties (jewelry, etc.), Mahr, and earnings are hers if separated. But most couples do not separate cash and bank account and sometimes real properties. Here the best solution is a friendly agreement at the time of divorce, such an agreement should be based on generosity and forsaking on part of the husband.

c. If no agreement could be reached. The legal Shari'ah position is as follows: Since the usual practice of most Muslim couples is to have accounts in the names of the couple together, and to have titles to properties also in the two names together, also whatever they both earn, from work and from growth and investment of assets is mixed together and put in one account from which household spending is done. Working Muslim wives in America usually have the feeling that they participate in spending and they are partners in ownership of anything the couple own on a 50/50% basis, regardless of who earns more than the other, all these kept in mind, it means:

If the wife brought in marriage a property that still exists at time of divorce such as real estates, furniture, securities, these are hers at divorce. No compensation for use and wear and tear during marriage.

If she worked during marriage and they bought some properties as a result of her earnings (not reducing the importance of his contribution), they do not calculate savings of each and they share on the basis of half/half. This is because when the property was purchased this was their assumed intention that is revealed by the fact of putting the title in both names, this may be supported further if her take-home income was big enough to warrant the 50/50% sharing.

If the wife was not working and did not participate to purchasing the community properties except by the fact she was home, providing comfort for her husband as usually said in American courts. All that is not a sufficient ground to share the husband's properties in Shari'ah. She is required to provide comfort (this does not mean to serve in cleaning and cooking, which is an other issue that I do not intend to discuss here) by virtue of the marriage contract the same way as he is required to spend on her, give her the Mahr and provide her with comfort too.

If there are children and the divorced wife takes care of them, the husband is required to provide her and their children with all household needs including housing in accordance with the level of his income and living standard before divorce.

Finally, in all cases, dealing with a divorcee with generosity is recommended in Shari'ah, there are several indications in Qur'an that point out to this (bi al Ihsan). Obviously, if the husband thinks that an American court may give his divorcee more than what she is entitled to in Shari'ah and decided to give her that as a gift instead, so that it becomes Halal for her, he will be rewarded, Allah will, for that from Allah.

5- In specifics, to what you mentioned in your query, at time of divorce:

The divorcee is entitled to her Mahr and to properties she had before marriage, unless there is evidence that she intended to give that to her husband as a gift out of good self; She is not entitled to an amount equal to her earnings during marriage that she spent on the household unless she can prove that she did that as a loan to her husband; A working woman is entitled to one half of community property unless there is evidence on the part of the husband to prove other proportion. Relations between husband and wife, even at divorce must be based of generosity, forgiveness and forsaking especially from the husband.

Wa Allahu A'lam

Wassalam,

Sincerely,

Dr. Monzer Kahf

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SUBJECT: Distribution of property at divorce

From Live Fatwa Session on Islam on line, Aug. 1, 2001

Name dounia Profession

Question

Salam. What are my financial rights at divorce? I would like to add that after 7 years of marriage, he proposed to give me 5,000 \$, take my clothes and leave the house.

How does it work financially?

My Answer

Bismillah, Al Hamdulillah wa al Salatu wa al salaam ala Muhammad Rasuli Allah  
Marriage in Shari'ah is a civil contractual agreement in which the obligations and rights of the two parties are clear as stated in the Shari'ah, although each one is free at the time of the contract to negotiate any financial conditions.

Marriage ends by either of three actions: a) Divorce, b) Khul' or c) divorce imposed by a judge. In the case of divorce, the husband is required to pay any unpaid part of the Sadaq (Mahr assigned to the wife in the contract). He is also required to pay for the living and housing for the period of the 'Iddah, if the divorce is revocable (The first two are revocable and the third is final). If there are children and the wife chooses to take care of their upbringing (That is her right which she can refuse to take advantage of), the father is then required to provide her and the children with adequate housing and other expenses in accordance with his financial ability exactly as the provision during the 'Iddah is related to the financial ability and standards of the Husband. The Husband is not required to give or spend on a divorced wife beyond what is mentioned, unless there is a clause to that effect in the marriage contract.

Khul' come on request of the wife, who will negotiate with her husband an agreed compensation for bringing an end to their marriage contract. This is normally something like returning the paid part of the Mahr and or for giving up the unpaid part.

Divorce that is imposed by the judge comes normally on request from the wife because of

ill treatment by her husband. The court then decides on an adequate compensation in addition to payment of the unpaid part of the Mahr and the living expenses during the 'Iddah.

In specific answer to your question, the number of years of marriage is not important in determining your rights in the contract and an amount of 5,000 is equally irrelevant as what is due on him are provisions for the period of 'Iddah and the unpaid part of the Mahr. This is on the assumption that you do not own any community property in which your share comes either from your own income/wealth during and before marriage or from gifts he gave you when you purchased that community property (assuming that he paid for the property, but said that he would put it in both of your names together, that is a gift).

Wa Allahu A'lam  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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SUBJECT: Custody of minors and financial responsibility at divorce

From: From a Live Fatwa Session on Islam on line, Sunday March 23, 2003

Name of Questioner Nada Gender: Female

Question:

Divorce in an American court?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Nada

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

To give you a complete answer, we need more information, in the meanwhile here are a few points you need to remember:

1- According to Shari'ah, in case of divorce, your young children should be under your care, and financially under the guardianship of their father. If you get married the care goes to your mother, with unlimited visitation to you. Also by mutual agreement between you and your husband, he may give you the financial guardianship too.

2- Their father is required to financially support the children and the care giver (you or your mother) in accordance with the father's ability and standard of living. You have the right to refuse this support and take full responsibility of their livelihood needs. If you get married your support ceases and he is required to support the care giver, your mother, instead.

3- A divorce in Shari'ah does not need from the husband more than pronouncing the sentence "I divorce you." It can be pronounced in any place including a secular American court. Therefore a divorce pronounced in an American court is valid in Shari'ah. Upon divorce you are entitled to the delayed part of the Mahr (Sadaq) and to

support for three month. Since the Shari'ah does not mix the properties of the husband and wife as a result of marriage, there is no distribution of property upon divorce as is usual in the secular American laws.

If you have any further question you may email me directly.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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## II – CUSTODY OF MINORS AND SPENDING RESPONSIBILITY AFTER DEATH OF HUSBAND

SUBJECT: Custody of minors and spending responsibility after death of husband

From: Islam on line

Date: 12/25/2001

Name of Questioner	Kareema	Gender	Female	Age	1-45
Education	Graduate	Date Submitted	12/13/2001	Email	
country of Origin		User Ref. No.	TKSC5Z	country of Residence	

### Question

Assalamu Alaikum I have a few questions. I did look through the Fatwa bank but did not find answers to my questions there. 1-I understand the division of property when a man dies and leaves parents, children and a wife. Is it normal to leave the division until the youngest child reaches maturity (18 years of age)? 2- Related to the delay of dividing inheritance. There is a bit of a problem as to what to do about my husband's car. I am using it to provide for my children but lately it has been costing a lot of money to maintain. I don't know if I can sell the car or trade it? 3-If a widow re-marries, do her children automatically get taken away from her? I have been told this is what will happen...an implied threat really. I am a revert living in a foreign country with no family support. My late husband's family has not been supportive or kind. Also if I do not remarry can my children still be taken away from me? 4-I was pressured to leave my husband's house after my period of Iddah. I thought that a widow and her children could at least stay for 1 year living in peace in my late husband's home?

### My Answer

Dear Sister Kareema

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Let me start, Sister, by praying for mercy and grace to the soul of your late husband and for help and support from Allah, Ta'ala, to you, your children and to us, all.

It is very unfortunate that we, in the United States, live under laws of property,

inheritance and minors' custody that are not compatible with the Shari'ah. Unless there is a clear and court-defendable Last Will and a Pre/Post Nuptial agreement between the couple that clarifies these issues, whenever the law allow for personal freedom, the matters become sometimes complicated.

#### Ownership upon death

In Shari'ah, the properties of a deceased become owned by the heirs the moment death occurred, obviously in the shares prescribed in the Qur'an. Shari'ah does not tolerate a concept of estate unless for a very very short period sufficient to pay the debts that may exist on the deceased. If both parents survive, they get one-sixth each, wife get one-eighth and the rest should be divided between the children giving the female half as much as the male. The rule is that owners must not be hindered from disposing of their properties the way they choose. This requires that if any of the heirs wants to dispose of her/his property, s/he must be enabled by having the actual division done in timely fashion.

In Muslim countries the court can impose such division on request from any heir if the heirs did not already do that on their own. But if no heir asks for actual division, estates may stay undivided for decades and any action related to them requires the approval of all heirs together. The fact that one of the heirs may be a minor does not have to delay division since minors always have their custodians or guardians who take care of the minors' interests and properties. This is the answer to your first question; there is no reason for delaying division because a child is still below 18 years old.

(Only when there is a fetus heir, division must be delayed until the fetus is born alive, even if its gender is known before birth. The fact is: even a fetus does not delay division because you can assume the highest share for it and divide the rest. When the fetus is born alive and she/he may deserve less than the amount left aside, such a remainder may then be divided again. )

Your second question is more difficult because the answer depends on three things: 1) who should be providing for your living expenses and those of the minors after the death of their father, and for how long 2) ownership of the car before the division of estate and 3) what country do you live in (you said foreign country, is it foreign to Shari'ah, meaning it does not apply Shari'ah in family matters, or foreign to the country you came from) and what kind of legal support do you have in this country.

#### Living Expenses

The Shari'ah rule, with a few variations from one Fiqh school to another, is: You are entitled to living expenses, including suitable residence and including needed transportation (even with the restriction on movement during Iddah) for the period of Iddah. And if you are caring for a minor you and the minor are entitled to the same until the minor reaches maturity. During the Iddah period, these living expenses are the financial responsibility of your adult children (if there are any) and of the father of your late husband.

During the ensuing period when you are caring for any minor child until they reach maturity, the living expenses of yourself and the child are the responsibility of:

1- your minor child if he/she can afford it, (considering he/she may have been enriched by the inheritance)

2- if the minor child cannot afford it, of any adult children you may have AND of the

father of your late husband.

It is not your responsibility even if you are rich before or after inheritance.

(This means, among other things, that there is no Shari'ah justification for pressuring you to leave the house, bequeathed by your late husband, after Iddah. See details below under "The House").

#### The Car

It seems that a car is your normal transportation you are used to when your husband was alive. If so you are entitled to a car. After the death of your husband, his car becomes owned by all the heirs in proportion to their respective shares, until the estate is actually divided.

#### Country and legalities

If you live in a Muslim country that applies Shari'ah in family matters, you cannot trade or sell the car before making actual division of estate; but if you live in a country with Latin-cum-Anglo-Saxon Laws you become, by law, owner of the car and you can dispose of it.

Since from Shari'ah point of view you are only a partial owner, i.e., you only own your inherited share, any action you take on the car must be either by permission from other partners in ownership or as a partner in what is called "involuntary partnership in property." your action must then be to the best interest of all owners of the said property.

While you are entitled to transportation, if the car is left with you as your means of transportation, that is considered as an implicit contribution towards fulfilling the responsibility of providing transportation, even if it means you are paying part of your transportation that should otherwise be paid in full by grandfather or adult children.

If the car is left with you after the expiration of your entitlement to a transportation this is a good gesture on the part of other owners you should be grateful for.

In either case, selling the car or replacing it requires a permission from all owners, and if your parents-in-law are not supportive nor cooperative, you may still replace it, if this is to the best interest of all owners (you said it has become uneconomical to run!) but keep records of its value to add it to the estate for actual distribution to heirs, when the division happens. At the same time, keep records of the cost of your transportation, for the period you are entitled to, to adjust this cost toward the share of the car value belonging to grandfather and adult children.

If you sell it after the expiration of the period of the grandfather's and adult children's financial responsibility, this latter situation requires you to estimate the value of the car at the end of that period because the value of the car then must be distributed to all the heirs. Therefore, the answer to your second question is: it is better to take permission of other heirs before replacing the car. If your parents-in-law are not cooperative, your action in selling must be to the best interest of all owners, remember you and your children own two-thirds, and you need to keep records of shares as explained, you are also entitled to cost of transportation and other living expenses as explained above, records of it should also be kept to be charged to whoever is responsible for them when you make the division.

#### The house

Remember, you and your children (majors and minors) together own most of the estate of your late husband and you cannot be removed from a house and other properties--you own two-thirds of them!

During Iddah and while you care for a minor child, you are also entitled to residence of the same level you were living in before the death of your husband, and the same house is obviously the most qualified residence to that level.

The answer to your fourth question is that you cannot be removed from the house left by your late husband. After the Iddah and the period in which you are raising minor children, if any, you will owe your parents-in-law rent for 'their' shares in the house.

#### Custody and guardianship of children

In Shari'ah, minors have a right to be provided guardianship/custody. This is the right of the minor, not something "belonging to" any body else, including the mother. Here are the basic principles of custody and guardianship, to give you the big picture:

Minors have a right to be with their parents if they are alive and living together.

At divorce, minors have the right to be with the Muslim parent because they have the right to be exposed to the religion of Fitra (created nature) and a non-Muslim parent may negatively influence this Fitra as the Prophet, pbuh, mentioned in an authentic Hadith. If both parents are Muslim and one of them dies (your situation), Minor children have the right to be with a caring blood-related female under a blood-related male as head of family. The list of relatives with custodial priority is given by the Prophet, pbuh, as follows:

1. the mother if not married, or married to a brother of the deceased;
2. the mother's mother, provided she is not married to a man not related by blood to the children;
3. the father's mother, provided she is not married to a man not related by blood to the children;
4. The children mother's sister, then their father's sister, with the same condition.
5. When none of the above are available (they do not exist or are mentally or behaviorally unqualified), the court assigns foster parents by returning to this same list of priorities and using the first one available even if they are married to an unrelated man, then going to others on the ground of what is best for the minors.

Let us apply these principles to your case. If you remain unmarried, or if you marry a brother of your late husband, your minor children remain with you.

Since you don't have a Muslim mother or sister, if you marry an unrelated man, custody would go to the minors' paternal grandmother, as long as she is still married to the paternal grandfather (or widowed).

#### If you don't get married, Shari'ah does not permit them to take a minor from you.

There is a little problem though with the definition of a minor child. Fiqh Schools differ on the age limit that determines who is considered a minor child. For instance, if you live in Saudi Arabia, grandparents can take a girl at the age of 9 (probably even at 7, I am not sure) and a boy at puberty as this comes from the Hanbali school. If you are in Egypt, both can stay with you until puberty (I am not sure too, probably until marriage for the girl and until 18 for a boy). There are countries that allow minors to select their guardian after a certain age.

All these views are accommodated in the text of Ahadith, and apparently, it must depend on the other circumstances.

Also important: There is a distinction between financial custody and care-providing custody or guardianship. Financial custody --the responsibility for managing the minor's property--rests with the paternal grandfather, even while the mother is the care-providing

custodian, the one who actually raises the children. But from Shari'ah point of view, you are qualified to be your minor children's financial custodian. If you are in a Muslim country that applies Shari'ah in Family matters (most Muslim countries do, only exception may be Turkey and to some extent Tunisia and may be Indonesia, on the other hand India applies Shari'ah for Muslims there) you have to fight for it in court and prove that you are a better financial custodian than your father in law. And you can get it.

Wa Allahu A'lam  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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SUBJECT: Spending on divorcee/ minor's care provider and child custody

From: islamonlinenet@hotmail.com

Sent: Thursday, August 15, 2002

Name of Questioner	Gender	Age
Education	Date Submitted: 8/2/2002	Email
Country of Origin	User Ref. No.: BJF6CC	country of Residence

#### Question

Assalamu Alaikum, Dear Brother, I have two questions. I married my wife in Jordan. Then we moved to the US. Then we moved to United Arab Emirates (UAE). My wife came back to the US for her citizenship. I came this summer to visit them in the US. We had a lot of problems in our life. So I decided that we should get divorced. I still live in United Arab Emirates and she wants to stay in the US with our two boys (4 years and 3 years). 1. Should I give her the "nafaqa" (child support) based on laws in Jordan, or UAE, or the US? How much should I give her based on Shari'ah? 2. Since she wants to live in the US and I am living in UAE, is it better for the children to stay with her or with me? If they stay with her, till what age should they stay with her? What about if she gets married? Jazakum Allahu khairan. Wassalam. Ahmad

Notes: I am now in the US for the summer. I cannot read email in Arabic

#### My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Ahmad

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Your question has a Shari'ah facet and a legal facet of implementing the shari'ah directives. Because unless very carefully prepared through a prenuptial agreement, before the marriage contract was done, it is very difficult to have the courts in the USA to accept the Shari'ah points of view on certain issues. Let me please take them on a piecemeal manner:

Custody in the sense of care giving to minors (i.e., they live with her under her care) is the right of the mother provided she is Muslim, non married, mentally and physically

capable and willing to take it. When we deal with divorce, i.e., the father is alive, if she gets married she loses care giving right, this right moves to her mother under same conditions, then to father's mother, then mother's sister, then father's sister. In Shari'ah care giving is the right of the Child, not any of the child's parents, and the Shari'ah defends the child's rights.

Custody in the financial sense goes to the father, it can go to the mother by mutual agreement.

There is no definite age limit on both care and financial custody. It can continue until majority for boys and even until marriage for girls, as there are different Fiqhi opinions among the different schools of Fiqh to accommodate that much range.

If there is a fear on the religious upbringing of the children in America, i.e., if the mother is not religious and exposes them to negative influences that may deprive them from finding the true and righteous way of life, leaving them to live in USA becomes prohibited from the Shari'ah point of view. Notice that this point and the case if she gets married will never pass an American court. Therefore, unless you solve them by mutual agreement.

The Nafaqa is always your responsibility, no amount is determined but it is determined in accordance with the following factors: your income and wealth, your standard of living during this marriage and after divorce, the cost of living in the area where the children and their mother live. The Nafaqa covers housing and living expenses for the children and their care giver, and medical and education of the children, not the care giver. The determination of the amount of Nafaqa can be by mutual agreement or by the court where the children and their care giver live, even if it were to be a non Muslim judge. Any free-will agreement between the divorcees on the amount of Nafaqa is accepted from Shari'ah point of view because the care giver can even forsake it completely if she so chose.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

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### **III – PARENT'S INTERFERENCE WITH CHILDREN'S PROPERTIES**

**SUBJECT:** Parents' interference with children's properties

**From:** Islam on line

**Date:** 2/11/2002

**Name of Questioner** Rizwana

**Gender** Female

**Age** 21-30

**Education** Diploma

**Date Submitted** 1/25/2002

**Email**

**country of Origin** United Kingdom

**User Ref. No.** 5R1MGM

**country of Res.** UK

### Question

Salam. Please help me with my problem. I have some money saved and I don't have any plans for them but my parents constantly pressurize me about them. I work part time and I save most of it and when my parents tell me to withdraw money from the bank I have to. If I refuse they call me a spoiled brat and they also say that my husbands going to take it off me anyway so I might as well hand it over. They keep my bank books and I also fear that my father may ask me for it because he is looking for a bigger house. He might need it for the deposit. I feel so pressurized I just don't know what to do anymore. Sometimes I feel like giving it all to him but then I'll have nothing. Please help. Thanks a lot.

My Answer:

Dear Sr. Rizwana

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

The Fiqh part of your question is: 1) your parents, if they need can take from your assets, without notifying you and without your permission. This applies to parent child relation, i.e., it doesn't matter father or mother, and daughter or son. It is not because you are female. 2) When you get married your husband has no right whatsoever to take any of your property. This is absolute even if he is in need even to spend on you and your household. Your property is completely independent from his and he alone is the one who is required to spend on you, the children and the household.

3) If your parents, or any of them, are not in need, giving them is better, but not obligatory. I advice you to be always kind to your parent and to please them as much as you can, when you grow up your children with then do the same to you and Allah Ta'ala will reward you InShaAllah, in this life with more income and wealth and in the life after with Jannah.

If you decide not to give them, and they don't need your help for their living, you will have to very kindly resist their asking and do not expose your finance to them.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

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### **IV - WIFE'S WORK, EARNINGS AND HUSBAND INTERFERENCE WITH HER PROPERTIES**

SUBJECT: Wife's Work and Her Earnings

From: Islam on line

Date: 2/16/2002

Name of Questioner

Gender Female

Age 21-30

Education Graduate

Date Submitted 1/28/2002

Email

Question:

Al Salam Alaykum I am married and working. In the past, I used to save my salary and my husband used to buy me my needs including clothing and even lets me drive his car. Bearing in mind that my husband gets a good salary (4 times what I get) masha'allh and we are working in a Gulf Country. But after his parents visited us, his father told him that from the religious point of view, since I am working I should provide all my needs including paying for transportation, clothing, and the baby sitter's salary. So now I am providing for myself, and I am not even asking a Dirham of him now. But it's not a problem of money. I can provide for myself, but I don't feel my husband's supremacy or his dominion any more. Anyway, what is the right Islamic way in my situation? Thank you

Notes: I would like to thank you for your site. I really get to know many things I didn't know about before by just reading the answers to the frequently asked questions. God bless you.

My Answer:

Dear Sr

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

Your question is huge, it needs an essay or a book. I will try to put main ideas in points as follows:

1- The marriage contract in Shari'ah is a civil contract; it defines the responsibility of the two parties, as specified in Shari'ah. It is essentially an exchange contract, you give some and you get some. By the Way, it does not provide for "supremacy" of husband. **YOU EXCHANGE YOUR AVAILABILITY FOR HIM FOR THE MAHR AND SPENDING ON YOUR LIVELIHOOD NEEDS.**

Some contemporary Fuqaha tried to include home service as a duty on the wife. **THIS IS INCORRECT AND HAS NO EVIDENCE** in the Fiqh of marriage contract in Shari'ah.

2- Whatever you own/earn, from inheritance, gifts even from your husband, work, growth and investment of your wealth is **YOURS ONLY**. Husband has nothing to do with it.

You can do what pleases you with it and you are not required to spend any single Dirham from your property/income on your livelihood expenses, transportation, baby-sitter, and what not.

3 You may **VOLUNTEER** to spend on yourself and the household and even your husband and whatever you volunteer is considered a gift from you; you will be rewarded for it in the Life After InShaAllah; your husband must be grateful for it and you have no right to claim it later (because you spent on matters of his responsibility).

4- Unless you made it a condition in the marriage contract, even verbally, he may (or may not) give you permission to work and unless it is in the contract such a permission may be withdrawn at any time. Such permission may also be given conditional, and conditions may be added to continue the permission. Such conditions may include any compensation for the permission such as: spend on yourself, on the baby-sitter, on transportation, even on him, even give him a given amount every month, even he will marry a second wife.

Etc (BTW, marrying second wife does not need your permission). Such conditions cannot

be retroactive, i.e., they may not apply on the past. With or without permission, what you earn is yours only and he has no right to interfere with your use of it.

Obedience at home is "bi al Ma'ruf" it is not a servitude, it applies especially in sex matters, add only normal behavior of co-living. Home service should always be shared unless he (at his expense) employs a home maker/cook. Yet our middle eastern and Arabic customs and traditions must not be completely overlooked, If you are not working and he is, it may become fair that most, not all, of housework become yours.

Finally, what your In-law said is incorrect, but don't go and fight with him. Unless your working was in the contract, your husband can prevent you from it and can add conditions for continuing the permission at any time.

Wa Allahu A'lam  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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SUBJECT: Woman's income  
From: islamonlinenet@hotmail.com  
Sent: Monday, September 23, 2002  
Name of Questioner: samim                      Gender: Female                      Age: 21-30  
Education: Graduate                                      Date Submitted: 9/2/2002                      Email  
country of Origin: U K                      User Ref. No.: 2WT97                      Country of Residence: U K

Question:

Assalamu Alaikum I wrote you a post about a problem but I have not heard form you. I specified for it not to be made public and i preferred a personal reply to my email. Maybe you sent me a reply and it got sent to the junk folder or perhaps I used a different account. So my problem is that I have worked a while and saved a lot of money, enough money to put a deposit on a house or buy a car. I have almost sixteen thousand pounds. The thing is that I finish InShaAllah my degree next year and my parents aren't too keen on me doing a post graduate coz they want me to marry. As I won't be able to work after I get married coz my parents said no, I want to keep the money I have earned. I have looked at what women's rights are but they won't acknowledge them. They say I have to spend it on a deposit and on house equipment but those are not my responsibilities so I don't see why I should. I always say to them nicely but now I have given up. I have earned that money and I want to keep it for my own children. They say my husband will take it off me so I should spend it, he will demand me and I get the impression that I am not allowed to have any sort of independency after marriage. I even offered to give three quarters so I can have a little bit for my self. But even that was a no. I have scrimped and saved that money. I go without a lot of basic things which is why I have done well on savings. Now they want me to buy a hundred thousand pound house and I have not even seen it. It's like everything gets decided for me and I don't want such a big mortgage coz I am still studying and I can't cope with everything. My studies and housework are basically fulltime and I ant do that many hours at work coz of that. But they want me to get a mortgage and I don't think i can cope with it as I have enough to do please advice.

Jazaka Allah kairan

Notes: Please do not make this public

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. samim

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Your earned money is certainly yours and no one has any right to interfere with it or what you do with it. Your parents have a right on you to treat them kindly and be always nice and obedient to them without forsaking your rights. Husbands have no financial rights whatsoever on their wives, nor do they have any right to interfere with the decision their wives takes with regard to their own properties whether such properties are inherited, earned or even given as gifts from the husband or from any other person.

It is unfortunate that many of the well-established-in-Shari'ah women rights and especially wives' rights are ignored in the Muslim societies in the Arab countries and in the Pakistani/indo/Bangladeshi culture.

I am sending you a draft that is still in the initial stage of preparation of a format of a marriage contract that I prepared for Muslims women and men who are getting married. Please read it carefully it shows most of the point, may be all, that relate to financial relations between husband and wife in accordance with Shari'ah. Please if you have any question, after your read it, do not hesitate in writing me again.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

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SUBJECT: Disposal of property of a married woman

From: Islam on line

Sent: Tuesday, May 07, 2002

Name im ibrahim abdullah

Gender Female

Age 15-20

Education

Date Submitted 4/22/2002

Email

country of Origin

User Ref. No. 48MD7Z

country of Residence

Question

Assalamu Alaikum I am a married sister living with my husband, and his family and I would like to ask about my rights to have my own property. When I got married, my husband's family gave me gold jewelry as a present. A few weeks ago when all the fighting began in Filasteen, I made the intention to give the gold a Sadaqah. However, I did not have a chance to go to the Masjid and give it because very often my husband is not able to take me with him to the Masjid. Today, I accidentally hit my brother in laws car when I was backing out of the driveway. I swore to myself that I would pay for the damage out of my own money (the gold is the only money that I have --neither I nor my

husband work) and I wanted to go sell some of the gold to pay for the damage and still give the rest as Sadaqah. However, my husband will not allow me to sell my gold for either reason and I informed him that it is part of my right as a Muslim woman to sell, buy, or run transactions with my own property. He told me that he knows that it is my right and he willingly is not going to let me practice it and that he will divorce me if I sell the gold. My husband has no money to fix the car and I want to give my brother in law his Haqq as soon as possible and still give Sadaqah. Please help me...I have not made my husband give me any of my other rights that just involve me personally and I would like to make him give me this right because it involves a third person. Please help me.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. im ibrahim

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Your right to do whatever it pleases you with your property is unquestionable and unequivocal. You do not need your husband's permission or approval to dispose of your property the way you want and he no right to interfere or even ask about what you do and what you did with your own property and if the jewelry is given to you as a gift, it is fully yours and no body else including your husband has any right to restrict your action in this regard.

I like to add two other things: 1) your husband might be thinking that your are taking an unwise decision, do you want him to have such a feeling? and wouldn't such a feeling affect your family life? and if he threaten to divorce you, which he should have not done, wouldn't you consider in your own mind that this may not be because you want to do what you want with your property but because you feel that this is a very wrong decision that you are making, keeping in mind that you have no job or income? May be he want to reconcile with his brother in a different way and may be pay him later, especially if the car is drivable with its damage.... 2) the Prophet, pbuh, advices that Sadaqah must be given out of richness and at one time a poor person who was living on charity gave a Sadaqah and the Prophet, pbuh, ordered him to take it back because he needs it. If this is the only thing you own and you have no income nor job, I thing you may like to reconsider you decision to in the light of the teaching of the Prophet, pbuh, and make Du'a for the Mujahideen and the deprived in Filisteen instead of giving your jewelry, especially that you know that when you sell jewelry it goes as gold metal for melting and looses a big amount of its value, that part related to the artisanship in making it.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

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SUBJECT: Legally-given subsidies to wives

From: [dialogue@islam-online.net](mailto:dialogue@islam-online.net)

Date: 8/8/2001

Name of Questioner Ummu Saleh      Gender Female      Age 31-45  
Education Diploma      Date Submitted 7/18/2001      Email  
country of Origin Netherlands      User Ref. No. ZRNHH9      country of Res. Netherlands

Question:

I have a question about taxes. In the Netherlands we face a new tax-regulation which leads to some difficulties in some Islamic families. The case is taxes are withheld from de salary of the husband. This amount of money plus about 175 guilders extra will be put on the bank account of his wife. According to Dutch law this money is hers. Some husbands however force their wives to use this money for groceries etc., so she is not able to safe it for other purposes. The reason the men give is because it is not a ruling according to Islam. But, on the other hand, they work in a non-Islamic country. Do they have to abide by the rulings of the country or not? Jazakumullahu khairan, was Salamu Alaykum wr.wb.

My Answer:

Dear Sr. Ummu Saleh

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Al Hamdu li Allah wa al Salatu wa al Salam ala Rasuli Allah.

This is an interesting case. If I were the government of Netherlands I would place certain restrictions on withdrawal from this account by the wives. Otherwise, what is really the purpose of it in a country that has reasonably high percentage of wives working outside their homes and earning their own income?

If the amount taken from husbands is a tax collected by law and the amount given to married women is given by virtue of the law, I should say this money is hers and her husband has no right, in Shari'ah, to force her out of it, whether for household needs, her own clothing and other personal needs, groceries or any spending on him, the children or her normal and customary personal expenses.

The reason for my opinion is the following: We, Muslims, who live under non-Muslim Laws recognize these laws as laws of the land. Laws of the land can impose taxes and can give subsidiaries. What is taken as a tax is gone to the government and no one has a right to recover part or all of it by forcing some other person out of her money.

On the other hand, what is given to a married woman is given to her from the government. The government can do that, like any other subsidy. Here again no one has a right to force the owner out of her property. That is her money given to her by a legal authority and with legal procedure. The husband cannot claim that it is his by any means. And Shari'ah does not allow husbands to dispose of their wives money except by due course of free consent. If it is given to the husband by free consent, as the Qur'an describes it "if they give it to you with their soul pleased" then you may take it with joy and eat it with right good cheer, (see Verse 4:4)

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

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## V- MARRIAGE STATEMENT AND CHANGE OF NAMES

SUBJECT: Marriage statements and Name Change

From: Mimi

Sent: Tuesday, March 18, 2003

Question:

Dear Dr. Kahf: Aslamo Alikom: would you kindly tell me what a man says when get married same what women say in answering him. I know that the Imam says I marrying you both on Sunnah Allah W Rasullah. What is Sunnah Allah W Rasullah in details?? My daughter is getting married to A Canadian young man who converted to Islam recently. She is Canadian Born, and She is A professional carrier young Lady. I am against adding her future husband's last name. My reason is her future husband's grandfather (last name) is non Muslim and she should not carry non Muslim last name. I feet strongly it is HARAM?? Would you please help me and let me know if my feelings are right??.

GAZAK ALLAH KIRN.

Mimi

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Mimi

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

A marriage contract in Islam requires four components: Offer from A groom, Acceptance from a Bride, a Mahr which is an agreed upon amount given by the groom to the bride that can be paid at the time of the contract or delayed wholly or partially by mutual agreement, and using the word Marry or marriage. The majority of Shari'ah scholars add a fifth requirement the approval of the closest male relative of the bride (in sequence: father, grandfather, brother, son)

Using the phrase "on Sunnah Allah W Rasullah" is not part of the marriage contract.

However, to use a Term like "in accordance with the Book of Allah and the Sunnah of Rasul Allah" is always good. It means that this marriage is done in Accordance with the Qur'an and the tradition of the Prophet, pbuh. Please read and consult the form that is proposed as a "Prenuptial agreement," especially the form of marriage certificate at the end of it, on my website [www.kahf.net](http://www.kahf.net)

Changing family name of the wife to the husband's family name is not part of the Shari'ah or a tradition in All the Muslim countries. According to our religion, a Muslim wife preserves her name, property and independent personality and finance. However, it is not forbidden to change name of either husband or wife if both chose that. The husband may change his family name to his wife's or the wife may change her family name to her husband's, both are permissible in Islam, though there is no reason for any as

I just mentioned. If one wants to change one's name (whether given name of family name), one should select a name that has a good meaning, some word that expresses either submission to God like Abdullah or AbdurRahman, or a sense of moral or physical beauty like Hasan, Yaman, Yasir or Nura, Noma, Habibah. Muslim names don't have to be Arabic, they can be in any language like Mercy, Daisy and John.

If a person becomes a Muslim, after being in another religion or without religion, one doesn't need to change one's name unless if the meaning of the non-Muslim name is bad like Dog, or it refers to a religious meaning of the past false religions like Abd al Masih or Christian. Otherwise if the name is neither bad nor religious one may keep the birth name after one becomes Muslim.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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From: Shereen  
Sent: Sunday, March 30, 2003

#### Question

Salam. My name is Shereen Hassan. My mother gave me your email address because I have a question about the religion. My question is: if a woman is marrying a muslim man who does not have a muslim name, can she change her name to his last name when they marry, or can she hyphenate to combine her original last name with his? I am wondering what the religion says about this. Thank you for your help with this matter. I hope to hear from you soon. Shereen

#### My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in  
Dear Sr. Shereen

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The Islamic principle is that marriage does not affect or require any name change for either the bride or the groom. When a Muslim girl marries, certainly it is prohibited to marry a non-Muslim man, she doesn't need to change her name whether the groom has a Muslim or non-Muslim family name. However, it is permissible for any person to change her/his first name or family name at any time. A husband may change his name to his wife's or a wife to her husband's at any time if either so desires. What is necessary is to observe the following three rules:

1- A Muslim, male or female, must not take a name that indicates belonging to other religion such Christian or that indicates worshipping of idols or historic persons, even Prophets.

2- Best names, as the Prophet Muhammad, pbuh, told us are Abdullah and AbdurRahman, he also liked names with good meaning. You know he named his too

grand children himself and chose for them Hassan and Husain. These two words mean good and smaller good. Names that are not Arabic may be good too. You cannot call a name non-Islamic if it is in a foreign language. There are many English names that have either good meanings or they are names of Prophets, All such names are Islamic names even if they are not Arabic.

3- the general rule for names is to give indication to one's fathers and forefathers. The Qur'an (33: 5) tells us: call them by the names of their fathers. For instance, my family name links me to any person who carries the same family name. We are now spread from Damascus to the four corners of the world including several cities in each of the Arab world, Europe and the USA. This is a family name that we all carry for the last three centuries at least. You know it is stylish these days for married couples to keep their names (certainly provided both of them are acceptable names). Actually my daughter and four daughters in law all kept their own family name, they range in age between 18 and 35 years. In brief, you can do any thing you like as long as you observe the guidance of the three rules mentioned above.

Wa Alhamdu li Allah Rabbi al 'Alamin  
Wa Allahu A'lam  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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## **VI - SPENDING, COMMUNITY PROPERTY AND CUSTODY CLAUSES IN POST NUPTIAL AGREEMENT**

SUBJECT: Spending, Community Property and Custody Clauses in Post Nuptial Agreement

Sent: Monday, March 10, 2003

To: Dr. Monzer

Question:

As-Salaam-Alaikum

I read the Pre Nuptial Agreement on your website and have a question about these two sections:

“2- However, if by her own will and desire and without pressure from her husband the wife \_\_\_\_\_ decides to pay for any of the household and personal needs and expenses, this is considered a voluntary contribution from her, rewarded in the Hereafter, God willing, and appreciated by her husband in this worldly life. In such a case, she has no right, at the time she spends or at any future time to claim, seek and or ask for any material or monetary compensation for such voluntary payments whether from her husband, his agent, his guardian or personal representative, or from his estate.”

“ARTICLE III: INHERITANCE

3. Wife hereby waives and releases any share in the joint and community property and in the personal property of her deceased husband she may otherwise be entitled to by

laws of the state in which her husband dies, or where the estate property or any part therefrom may then be located, in favor of the distribution in accordance with the Islamic inheritance system as mentioned in section 1 regardless of whether the Islamic distribution allows her bigger or smaller share.”

What is a wife to do if she had children from a prior marriage and those children are not provided for by their father and then she remarries? In essence working is the only option to provide for them. The new husband does not really accept that he is to provide for them. He is just to provide for her.

She has purchased a home and the husband moves into it after marriage. Does it make him entitled to it if he did not contribute to the house purchase?

If my children need something that I can't afford he loans me the money and I have to pay him back. What are Islamically sound expectations?

I understand that my children can never be his children but what can I honestly expect of him in regards to them?

There are many things I realize now that I did not cover in my Prenuptial Agreement. I want to set up a Post Nuptial agreement. Must it be signed by an Imam?

Qadara

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br./Sr. Qadara

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Please excuse me first because from your name I could not tell whether you are a female or male.

1 - According to the Islamic Law (Shari'ah) the children's father is responsible to provide for them and for their mother if she is devoted to providing them with her care. If she gets married, care provision is shifted to her mother and the children's father is still responsible. For Muslims living in the Western countries this is most likely not available. If the father escaped his responsibilities and the mother gets married, at the Marriage contract she can make a condition that the new husband should provide for her children from a former husband. A case like this happened with no less than the Prophet, pbuh, himself. When He wanted to marry Umm Salamah, she told him among other things that she has children from her martyred husband and he accepted to take them as part of his dependent household. The other option is obviously to spend on them from her wealth and/or income. Unless he volunteered or it is put as a condition in the prenuptial agreement, the new husband's responsibility is to spend on her only not on her children from previous marriage. If the marriage takes place in America, without any prenuptial agreement, the new husband may be considered, from Shari'ah point of view, responsible for the provision of these children because he must have known that the law of the land requires him to do so; this kind of knowledge may be considered as an alternative to a stipulation in the prenuptial agreement. This is of course unless the former husband was providing for them and then stopped after the new marriage.

2 - Again according to Shari'ah, if the wife allowed her husband to move into her owned house, he remains a "guest" in the house since living in it does not make him a co-owner

no matter how long he lived in it and at any time she can ask him to pay her rent for the whole house (i.e., that she and he use together) because it is his responsibility to provide her with adequate housing.

3 - If the wife needs any money for matters that do not fall under the responsibility of her husband (e.g., spending of her children from a former marriage, giving substantial gifts to her family and friends, making substantial Sadaqah, paying Zakah on her properties, etc.) she can borrow from her husband and vice versa. The property ownership of each of them is completely independent, although she is authorized to spend from his money on the family and for Sadaqah (charity), with or without his knowledge, as long as she does that within usual and customary reasonable limits.

4 - You certainly expect from your husband to be kind to you and your children from a former marriage and to treat them as close as possible to his own children in all matter even financially. This is part of the Islamic ethics and morals, no doubt about it. After consummation between you and him, female step children are forbidden for marriage to him for ever, the same way as his male children from a former marriage are forbidden in marriage to you for ever. But you can't blame him if he did not contribute financially because he is not obligated to unless it is in the marriage agreement. When they grow up, please notice that your children from a previous marriage and his children from a previous marriage are not brothers and sisters at all and they can marry each other. This is the riddle that is known as "she is a (half) sister of my (half) brother but she is not my sister"

5 - A post nuptial agreement needs not be signed by nor witnessed nor even shown to a local Imam. What you need to do is to draft one the way you want it to be, certainly with the help of a lawyer because there are many legal requirements in post nuptials, and consult a Shari'ah expert (unfortunately most local Imams don't have such expertise). I am attaching a revised version of a post nuptial, you may benefit from some of what is in it but certainly do not take it as a legal advice since I am not a legal expert.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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SUBJECT: Assigning a given periodical amount for wife's expenses

From: Islam on line

Sent: May 11, 2002

Name of Questioner	shareen	Gender	Female	Age	21-30
Education	High School and Below	Date Submitted	4/27/2002	Email	
country of Origin	United Kingdom	User Ref. No.	8JZ27M	country of	
Res.	U K				

Question

Dear Scholars, is it necessary from Islamic point of view for my husband to give me a fixed amount of money every week/month for my personal use, even though we have

joint bank account and i have full access to it and he has no objection as to how much and where i spend the money. I am asking this question because few of my friends do receive regular money for personal use from their husbands and say that such an act is an obligation on the husband from Islamic point of view.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. shareen

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

It is not necessary that a husband must give periodical allowance to his wife, nor it is preferred or better. In Shari'ah husbands are required to provide all living expenses of their wives and other family members (children and parents if living with them as one household) at the same level the husband himself lives and (or course unless if he is very greedy and rich then only) in accordance with his income and wealth. That is regardless of whether she has income and/or wealth of her own. It makes no difference in Shari'ah whether he spend directly, gives her the right to sing on his account, gives her periodical allowance with supplement in case of need and with or without taking back the surplus if any.

However, if checking and/or saving accounts are made as either joint or community property, i.e., in the two names together (this is different from having the account in his name and he gives her the right to sign) I interpret it as an agreement between them to share the balance in such accounts on a half/half basis at any time a case arises such as at death of either husband or wife and need for distribution of estate or at a case of dispute. This is so regardless of whether deposits in the account are all from his income and wealth or from her income and wealth.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

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SUBJECT: Giving interest money to family

From: Islam on line

Sent: Friday, February 28, 2003

Name Mohammed Gender Male Age 31-45

Education Graduate Date Submitted 2/22/2003 Email

country of Origin India User Ref. No. 8LJRMH country of Res. India

Question

ASSALAMU ALAIKUM MAY ALMIGHTY ALLAH REWARD FOR YOUR SINCERE EFFORTS TO GUIDE PEOPLE IN STRAIGHT PATH. THERE IS SOME INTEREST MONEY IN MY NRE ACCOUNT WHICH I AM NOT USING. SO CAN

GIVE THIS INTEREST MONEY TO MY POOR NEPHEW TO BUY WORK VISA FOR ABORAD.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Mohammed

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You poor nephew's expenses may be your responsibility if you are the closest father side financially able relative of his. If you are responsible for his expenses you may not give him your interest money because it amounts to giving it to yourself. If your nephew is a son of your sister or if there are able relative closer to him than you and they are not shouldering their responsibility toward him for any reason, you may give him your interest money because you are not responsible for his sustenance.

By the way, selling a visa is forbidden if the price is anything more than the fees government take. For those who buy visas it may not be forbidden for them because they are paying it out of necessity to obtain jobs, but whoever takes the money takes it as Haram because there is no such a commodity for which he is charging that cost. Certainly if you hire someone to follow upon the transaction this person deserve a wage according to the market rate.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

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## VII - MEETINGS OF WOMEN AND MEN

SUBJECT: Meetings of women and men

From: Nuzhat

Gender Female

Sent: Tuesday, March 04, 2003

Question:

Bismi Allah Al Rahman Al Raheem

My most respected brother

Assalm u alaikum wa Rahmatu Allahi wa barakatuhu

May Allah shower His Rahma on you for the prompt reply for my previous question. Though I accept the fatwa but I am not sure if it can be applied to my husband and me. InShaAllah some other time I would like to discuss with you our own situation. Today I am writing to you regarding another important issue in our community. Unfortunately I am the victim. I have been working with the Muslim Association since more than 4 years.

In 1998 I was appointed as honorary director in the construction committee for the construction of the new Mosque and Education Centre. Since then I have been working also as fundraising director, education director of the Women Chapter and recently last year I worked as the chairperson of the Women Council.

Since last year my right to sit in the construction committee has been taken away the new chairman insists, inspite of all efforts by most of the brothers to bring me to the committee on refusing to do so along with his best friend who is the secretary. Let me inform you that both these brothers' wives worked with me in the women's chapter and Allah knows best who was the mischievous among the women directors who played a big game to remove me from board by bringing their relatives and friends so that non gives vote to me but to them.

As Allah says they are doing their plans and Allah is also planning. Out of 11 contestants 10 got elected and I was out. But within fifteen days Allah showed His plans one very old lady resigned due to her ailment and I entered the board automatically according to the rule and I took my same portfolio of education. The chairperson woman with Allah's plans was a friend of mine and when she took me to the first meeting of the council they elected me the chair of the council. After my tenure finished this year I did not take part in election because for 3 reasons

1. I wanted to work from background without post
2. I never wanted to get insulted by them again if they did not vote for me.
3. All the voters come from their friends and relatives. I don't have time neither I want to make members of my friends in order to have more votes. I want to please them by coming out of the board so that they enjoy the posts.

Allah knows best why the Brother is not willing to have my right to work as an honorary director who according to the constitution of the Association is a life time director and has a right to attend any meeting though he/she has no right to vote for any resolution. The reason he gave to the members of construction committee that I am the only women among all the 15 men sitting there. And he thinks the religious board might object. The other brothers told him that I am sitting there since 5 years and there had been other sisters also who have been sitting alone in such meetings previously and no body objected before. They also gave examples from Islamic history but he does not want to listen.

MY QUESTION: I want to challenge him in writing by producing scholars' opinions and verdict from Hadith and if any from Qur'an. Can a sister sit with a group of Muslim brothers (here 10-15 are present) in a business meeting and the business is construction / Fundraising of a Mosque? Is it required that at least 2 sisters should sit? (Specially this sister has devoted all her time for this cause). Please reply me in the light of Islamic rules and history

Wassalam and Jazak Allahu khairan

Sr. Nuzhat

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Hafeez

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

The question must be reversed. that is there is nothing in the Qur'an or in the Sunnah that prevents one woman from meeting with any number of men except being alone with one who is a non-Mahram (close relative) in a closed place that provides privacy (what is called in Fiqh Khalwah). Otherwise whoever claims prohibition must give evidence. It is a false claim. On the other hand there are numerous Sayings about women attending in the mosque learning classes, Friday Khutba, being together in traveling and in war and in the market. there are evidences about visitation that the prophet used to go and visit so and so (women companions) and Abu Bakr and Umar used to visit an old lady and serve her food and make housecleaning for her. There is nothing at all that requires at least two women or none to sit in a meeting that has men. This is a total fabrication that lacks evidence. People may fabricate hundreds of things and you cannot bring Sayings to falsify these fabrications. They must be asked to support their claims!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

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## VIII - DIVORCE AND UNOFFICIAL REMARRIAGE

SUBJECT: Divorce and Unofficial Remarriage

From: fatwae@islam-online.net

Sent: Wednesday, January 29, 2003

Name of Questioner: Abu Zayd

Gender: Male

Age: 31-45

Education: Post Graduate

Date Submitted: 1/26/2003

Email:

country of Origin: United Kingdom

User Ref. No.: 5GTTJG

country of Res.: U K

Question

Recently, my wife's father passed away. She is from Lebanon, and her father previously received a state pension. According to Lebanese law, if any daughter is dependent (i.e. unmarried or divorced), then the pension will pass to her. She has asked me to undertake an official divorce in her country in order to claim this pension, followed by an unofficial Islamic (i.e. private, not registered) remarriage. Is this permissible, or is it a case of forbidden deception?

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. Abu Zayd

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

If you guys actually get divorced, it can't be a deception because a divorce is real. And if

you decide later to get remarried (provided certainly this is the first or second divorce only) but "unofficially" you are still officially unmarried. If you accept this kind of life for yourselves I don't see it violating the law unless the Lebanese law also prevents persons who are married unofficially from the pension and you are going to give the government false information. It may be morally doubtful, but you are following the law of the land to its letter.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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SUBJECT: Living in the USA after divorce

From: live Fatwa on Islam on line, Aug. 8, 2001  
Name seeker Profession

Question

Salam dear brother,

I am going to divorce my husband, I live in USA, is it Haram for me to go on with my life and continue to work and live in the USA.

Thank you for your work. Salam

My Answer

Bismillah wa al Hamdu li Allah wa al Salatu wa al Salaam 'ala Muhammad Rasuli Allah. Divorce is the most hated action from among the allowed actions, as the Prophet, May the peace and blessings be upon him, declared it. So we know that what is allowed are not all of the same level. Some are hated and some may be recommended.

We are called on to live Islamically wherever we happen to reside, be it in the United States or else where. As long as you can perform all of the Islamic obligations (fara'id) and live within a Muslim community there is no place on the earth that is not allowable to live and work in, as long as the work that we do is in the area of the permissible.

Allah knows best (Wa Allahu A'lam)  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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**IX - SALE OF A COMMUNITY PROPERTY AFTER KHUL'**

SUBJECT: Sale of a Community Property after Khul'

From: fatwae@islam-online.net

Sent: Thursday, January 23, 2003

Name of Questioner Umm Mohiz Gender: F Age  
Education Date Submitted: 1/2/2003 Email  
country of Origin User Ref. No.: CBIPZV country of Residence

#### Question

Assalamu Alaykum Wa Rahmatullahi Wa Barakatahu Please advise me or get me a fatwa from a scholar regarding my situation. I need to know if it is permissible for me to sell a house in USA which belongs to me and my ex-husband. I need to explain a little about my situation first. I was married for 16-17 years, have 4 children from this marriage, we used to live in USA and i used to work for my husband (at the time), in his small business but never got paid. For reasons which may be explained later if needed to, i had no choice but to run away from him and ask for a Khul', at the time i asked my children if they wanted to stay with their father or come with me, they all wanted to come with me so i came back to UK with my children to join my family here. My ex came to UK trying to drag us back but Al HAMdulillah he couldn't. He then left to go to Pakistan, and as been there ever since. I think he is not intending to go back to USA due to visa and other problems. He is not paying me anything for the upbringing of his children, i know that they are suppose to stay with him Islamically but he does not practice Islam, and he does too many Haram things and is a very bad influence on the children. 2 of my children went to visit him in Pakistan for 10 days he promised, but they never came back, because he did not allow them, Subhanallah. Anyhow the situation now is that the house in USA be abandoned and no one lives there for last 4 years, taxes are being piled up and i am paying someone to maintain the grass (which is hard for me) as i do not work here. The house is in my and my ex's name, so is it permissible for me to try and sell it? If so, how should the money be distributed? As I have asked a lawyer and he said that he would charge 45% from my share of the property. Please advice. Jazzakallahu Khayrian Wasaalam. Umm Mohiz

Please do not put my question on the website. Jazzakallahu khayrian  
Subject: RE: financial 2, selling a house

#### My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Umm Mohiz

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You mentioned that you had a Khul' with your ex husband. Did you have in a court and did you settle all financial consequences of this Khul'? If you had it in a court and have settled its consequences except for this property in the USA, and it is in both names, you cannot sell it without your ex's consent. Do not give the lawyer one half of its value, give it to the owner (your ex-husband), though you don't like him now! you have to find a way that you either agree with him that he sends a legal authorization, like a power of attorney, to somebody if not to you and sell the property together or find a legal way to sell it and put his share in an escrow until he claims it. You can also sue him, since you

have children that you care for and get their expenses charged to his share of the value of the property.

But from a Shari'ah point of view, you certainly cannot sell this property that is owned half and half without either a court order or your ex's consent.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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### **X - WOMAN TRAVELING IN A GROUP WITHOUT A CLOSE RELATIVE**

SUBJECT: Woman traveling in a group without a close relative

From: islamonlinenet@hotmail.com

Sent: Monday, December 30, 2002

Name of Questioner: raida

Gender: Female

Age: 31-45

Education: Post Graduate

Date Submitted: 11/27/2002

Email:

country of Origin: Palestine

User Ref. No.: NAUE65

country of Residence: Jordan

#### Question

1- I work for an American company that sells and implements software for scheduling commercial airlines. My job involves sales and protecting the interests of the Arab carriers we are dealing with. I use a large part of my salary towards Muslim and Palestinian charities and I use my high profile role in this company(as a Muslim woman wearing Hijab) to enhance the view of Islam/spread the word of Islam in the Western culture. Is my job (due to the current political situation) Haram or Halal? 2- Sometimes my job involves travel alone (2-3 days) by plane to attend a training course. Is this ok if I observe the Islamic rules of behavior during travel?

#### My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashasihi Ajma'in

Dear Sr. raida

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

Although this question is not in my area of specialty I dare answering it because it relates to me as a person who is involved in living and working within a Western culture that is eager to know more about Islam. What you are doing and presenting is excellent and you working in this environment, with your abilities and what you described about your behavior is rather an obligation and of high reward. Remember the saying of the Prophet,

pbuh, "إنكم لن تسعوا الناس بأموالكم فسعوهم بأخلاقكم" To it means we can only prevail by our values, morality and spiritual strength.

For the matter of travel, there is flexibility in our religion. The Prophet, pbuh, mentioned with praise that a woman would go from Sana'a to Hadramawt alone, fearing none but God and the Scholars mentioned that if a woman travels without Mahram but with a safe group, as in a plain today, that is permissible. Don't worry and go on in prevailing InShaAllah and May God be always with you and reward you.

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

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### XI - A WRONG DOING, HOW ABOUT THE MAN?

SUBJECT: a Wrong doing, how about the man?

From: islamonlinenet@hotmail.com

Sent: Monday, September 23, 2002

Name of Questioner: Myra

Gender: F

Age

Education

Date Submitted: 9/6/2002

Email

country of Origin: United States

User Ref. No.: VCLB8C

country of Residence

#### Question

I have had the opportunity to research this site quite well in the past week, but I have some concerns. It seems like many of the Muslim sisters have similar concerns as mine, yet our questions are not being answered to the fullest. This is why I have chosen to address my question as fatwa rather than counseling. My question is regarding pre-marital relationships. I understand clearly the implications of this sin and realize that many of the Muslim sisters with this concern do also. The importance of repenting is very crucial and InShaAllah, that is what we intended to do. Although, having said that, what about the fact that this individual promised to marry and as we all know the Shaitan plays a role in all these situations. Unfortunately he was able to intervene and allow for the individuals to take part in this sin, but what about our intentions. Granted, we have sinned, I'm not taking that lightly at all. What I need to know is, what happens to the male who insists on performing this act, getting as he wishes, verily the love does exist, but what are his obligations? we have both sinned, does it make it ok for him to walk away after making such an empty promise to the girl and her family and his family? Where do the women rights come into play? What about our rights as being the weaker gender? Do we not have any rights pertaining to the fact that we have been fooled or mistreated because we are more vulnerable? Clearly my intention was to do as Allah had commanded us to do but unfortunately I was foolish and I will continue to seek

forgiveness for what I have done. I feel destroyed now. My life has been demolished by someone who played and fooled many people. Please tell me how to deal with him. I need to know how people are dealt with when they mistreat or lie to others causing great harm in their life. InShaAllah I will beg for forgiveness, yet, please help me deal with this matter regarding this fellow. the reason I feel so negative is because I feel that none of the answers addressed the fact that the women has been played and reality is, that she has made a mistake but she has also had good intentions but was fooled. Please help address this issue to all women who feel this way. I know that Allah is most forgiving when one tries to do well, but what about one who does not repent or look back at his sins, believing that what he has done is not wrong at all. May Allah help all these Muslim sisters who have committed this sin and forgive them for this act.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Myra

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I am not specialized in the area of your question so I am sorry to request you that you resend it again and ask that it is addressed to a specialized person. Probably it was sent by mistake to me as my area is Islamic finance and economics.

But as a brother who also lectures about Muslim women rights, please allow me to make a few "crude" points

1- You clearly mentioned that sisters who fall into this direction of action are fooled and lured into it by a man who betrayed his promise, and that the act is both sinful and shameful no matter what intention sits behind it.

2- All of us are sinful and the Prophet, pbuh, said "the best of the sinful are those who repent." repentance, seeking God's forgiveness and increasing the good deeds including prayers and other forms of worships and charity remain the main "stain remover" as God said in the Qur'an "Verily good deeds remove the bad ones."

3- Girls may sometimes be the weaker party to such a relation, but remember they are also the most protected one. This is one the reasons why covering all the body, except face and hands, is required for them not for men. Moreover other protections are also given in Shari'ah such as: women don't travel alone, they travel with a kin male who can help when needed, man and a woman may not be alone in a closed place, no socialization is permitted between men and women on individual basis, even within groups socialization is limited. Girls who observe these Shari'ah limits are less likely to fall in such traps than those who take it easy with the limits of Shari'ah.

4- From Islamic point of view there is no difference in the degree of sin between a man and a woman who commits this act. They are the same. In fact, the man's penalty is even bigger as it includes one year exile and prevention from living in the area. Additionally, the moral sin of fooling her, with the promise of marriage or affectionate love, is a sin that can also be persecuted in an Islamic court and can be punishable in addition to the punishment of fornication. However, it is very unfortunate that the Muslim societies today socially discriminate, as you well know, between the sin

of the man and that of the woman. There is no base for such discrimination in the Shari'ah whatsoever!

5- Solution: repentance, don't let it be known by anybody even husband in the future, observe the Shari'ah requirement of Hijab and other behavioral norms, increase your prayers, Duaa and good deeds and try to expose the man who is fooling girls without implicating yourself.

Once again I am not an expert, please seek help from experts.

Wa Allahu A'lam  
Wa Alhamdu li Allah Rabbi al 'Alamin  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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## **XII - BUYING A HOUSE FOR DAUGHTER AND DIVORCED WIFE WITH A BANK LOAN**

**SUBJECT:** Buying a house for daughter and divorced wife with a bank loan

**From:** islamonlinenet@hotmail.com

**Sent:** Monday, September 23, 2002

**Name of Questioner:** Asma

**Gender:** Female

**Age:** 21-30

**Education:** Post Graduate

**Date Submitted:** 8/26/2002

**Email**

**country of Origin:** Tunisia

**User Ref. No.:** W5PSA

**country of Res.:** Tunisia

### **Question**

My parents are divorced since i was 4 years old and i have been living with my mother in my grand-fathers house with my aunts and cousins. Today, after about 25years, my mother can no longer bear this life especially that she has continuous problems with my aunts and that the house is small. My mother started taking tranquilizers and is crying all the time. Then my father decided to buy for us a house.. And after we agreed with the seller and I can not describe to you the happiness of my mother, my father mentioned something about bank loan but I did not take it seriously because my father is rich and also because at that time I was not praying and did not understand that it was not allowed by Islam. I signed the contract, but formalities took one year, and I was praying in FAJR Prayer that he will not take a bank loan and that God will not let us down ( my mother & me). And whenever I try to mention to my mother that we might to not have the house, she breaks down. Unfortunately, He did take a bank loan interest based. And now I can not describe to you my fear of God and my despair because the loan is in my name even though I am not paying it. And it is useless that I talk to my father, because my father (May God forgive him) does not pray, and will not listen to me. Yesterday I cried all night, I don't want to live in a house acquired by "Riba". What can I do so that God forgives me?

Notes: please reply to this long question, because this sin is too heavy on my heart and kills me. JAzakom Allahou Khairan.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Asma

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

You are now a mature woman that can make decisions for herself and what you said of the prohibition of Riba is certainly correct. The sin of the decision on buying the house is not yours although the house is in your name and you signed the purchase agreement. Your father took a loan from the bank to finance the purchase and gave you the house as a gift. You got the house and the loan is his not yours although the lien is put on the house to the benefit of the bank as a guarantee of the loan. In other words, your signature on the bank's papers does not change the fact that your father made the purchase and the loan.

However, to get out of this conscience pain you have two option: 1) Since every thing is in your name you can go to the Saudi Tunisian Finance House, it is an Islamic bank, and you can substitute this bank loan with Islamic financing that is compatible with Shari'ah. You may have to get your father to agree to change payment to the new bank instead of the current one, or to guarantee the payment from your own income. 2) You can vacate this house and rent on your own or buy through the Islamic Bank and live in a new house that is pure of any sin of Riba.

Always pray for the guidance of your father. He can benefit from your prayer and your kind advice with the help of God and do not disturb your mother who apparently had suffered a lot and need now your help as a natural tranquilizer!

Wa Allahu A'lam

Wa Alhamdu li Allah Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

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### XIII - GIFTS TO CHILDREN

SUBJECT: Gifts to children

From: islamonlinenet@hotmail.com

Sent: Sunday, April 14, 2002

Name of Questioner Minhajuddin

Gender Male

Age 31-45

Education Graduate

Date Submitted 3/30/2002

Email

country of Origin India

User Ref. No. P82UZ3

country of Res. India

### Question

Dear Brother, ASAK, Can you help me. I have a house built by me and my father. I have sold that house for 650,000. We are a family of Six children ( 2 sons + 4 daughters), father and mother are alive Alhamdulillah. I want to give the shares of my sisters (all married), What is the share of my sisters in the above amount. Please note that me, father, mother and brother are in one house. Looking forward to receiving your reply.  
Minhajuddin

### My Answer:

Bismi Allah al Rahman al Rahim  
Al Hamdu li Allah Rabb al 'Alamin  
wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in  
Dear Br. Minhajuddin  
Assalamu Alaykum wa Rahmatullahi wa Barakatuh.  
you did not mention the share of your father in the 650000, how much is it? But you really don't need to tell me because there is no inheritance in this case . Your father, MaShaAllah is alive and no one can be inherited alive. Surely he (and you too) can give any gift to any body, especially to his children and to your brothers and sisters. Gifts given to children by any of their parents must be given on equal basis, depending on needs either in kind or in money. It means if a parent give one child (equally male and female. since this is not like inheritance) the cost of marriage, he should give the cost of marriage to all other children (this is in kind) and if a parent gives to a boy US\$ 10000 he/she should also give to every girl and every boy 10000, equally.  
In inheritance, i.e., after death, a son get twice as much as a daughter and a wife gets one eighth since there are children, if the wife dies first her husband gets one quarter as long as she left at least one child.

Wa Allahu A'lam  
Wassalam  
Sincerely,  
Dr. Monzer Kahf

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SUBJECT: Gifts to children and Separation

From: islamonlinenet@hotmail.com

Sent: Tuesday, August 13, 2002

Name of Questioner	shamim	Gender	Male	Age	21-30
Education	Graduate	Date Submitted	6/30/2002	Email	
country of Origin	Bangladesh	User Ref. No.	Q1UUEC	cntry of Res.	Bangla

### Question

As salamu alaikum, I have a vast problem and I hope you will look into the matter with scrutiny. My father purchased a plot and registered on my mother's name. After that my father built multistory buildings including market places there and exposed my mother as the owner of the building and market which fetches huge income tax as owned by a single person. So, my mother wants to bequeath those properties among our brothers and

sisters with a view to diminishing tax value. . I have one brother and four sisters. My parents intend to bequeath with a certain variation. My second sister is mentally abnormal. In her early life she was normal and ambitious and was firmly determined to get herself admitted into medical studies but in vain. She was extremely shocked and gradually developed mental problem. Parents left no stone unturned for treatment but she did not improve. At last parents got her married so that marriage might alter the situation. In her short time of conjugal life she gave birth to a daughter but the problem was not eliminated rather intensified. After the child birth my sister has been living with us away from her husband for about four to five years. Her husband after waiting for several years married another one. Is my sister still under wedlock or automatically got divorced as she have been living away from her husband for several years? My sister is still under treatment which costs thousand taka (currency of Bangladesh) per month. Now regarding the bequeathing will my parents want to deposit about five lakhs taka in my account so as to facilitate my bearing expenses for her treatment when I will be in charge. In this regard I must add that my parents want to do this without the knowledge of my elder brother. Parents lack in faith upon him for his being irresponsible and luxurious. Will this step that is going to be taken by my parents be valid or not? If invalid I may inhibit my parents but if it is valid then I have another ask. If five lakhs taka is deposited in my account it will make profit(in stead of usury I mentioned profit because I opened account in Islamic bank).Can I take the profit or it will be added with the capital and remain restricted for sisters benefit only. Pray for me, for my sisters and also for my elder brother so that he succeeds in attaining faith of parents.

My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Br. shamim

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

I understand your question and this kind of dilemma. You need to untangle such matters very carefully so that you achieve the objective of serving future needs of the unfortunate person without violating the laws of Shari'ah nor upsetting the laws of the land.

1) Your sister illness seems to be psychological more than mental, although the first may affect the latter and the body as well. Under all circumstances keep the medical care and treatment and add reading Qur'an and Duaa (prayers) because the Prophet, pbuh, told us that both help. May God give her full recovery and cure from all illness.

2) Your sister is still married unless her husband divorces her or a divorce order is issued by a court on your family's request or on her request. Marrying another woman does not affect her marriage and the long period she is separated at her family's house does not affect that either.

3) It is permissible, in Shari'ah and in the Anglo Saxon laws to establish a Waqf (trust) for the treatment and living expenses of your sister. Parents are required to spend on their needy children, even when they are adult. Your father/mother can establish a waqf to take care of such expenses. It can be set in such an amount so that its income in an Islamic bank can satisfy her annual needs. This Waqf is temporary and must terminate when she is cured or when she dies. Upon termination the waqf principal can either be

given to charity or distributed to all four brothers and sisters according to the rules of inheritance (it can also be distributed in any other way but I think it is inappropriate to distribute to brothers and sisters in any way that is not consistent with the inheritance rules, 2 shares to a male and 1 share to a female because parents are required to make complete justice between their children). You can be the trustee (Nazir or Wasi or Qayyim) of this waqf by appointment from the waqf founder.

4) Whatever your father put in the name of your mother can be a gift to her, there is no limit on the amount of gift one may give anyone else, relative or not, and a person has full authority to dispose of a person's property the way a person pleases. This is certainly unless they have an understanding between them, written or verbal, that this is only for tax or other purposes but he remains the real owner. Either parent can give any amount of gift to their children. However the Prophet, pbuh, refused to be a witness to a gift to one child when other children were not given equal gifts and called it injustice (Zulm). Hence, gifts to children must be equal, male and female, not like the inheritance. Either of your parents can give a gift to you and your brother and sisters, in equal amount, for in an untrue way for tax and other purposes, with written or verbal understanding, provided there is a guarantee that such understanding shall be honored in case of death (either because of religiosity or consciousness of the child). In case of no such guarantee, fake giving is meaningless and useless, the point that makes it a must to give other children equal amounts.

5) Inheritance in Islam is regulated by mandatory rules as specified in the Qur'an, mainly in Sura 4. therefore bequest must follow these rules without the slightest violation. If you have grand parents, each of them inherits 1/6 of the net estate of their child (i.e., after expenses, debts and any last will to non heirs within a maximum of one third). If your mother dies before her husband, he inherits 1/4, and if I assume she is survived by her two parents too, the remainder, 5/12 should be divided between the four of you on the basis that a son takes twice as much as a daughter. Should your father die before his wife, she takes 1/8 and with two parents surviving the remainder, 13/24 will be divided between the four of you the same way.

6) It is extremely important to notice that bequesting can only be done after death, giving while alive is gift and cannot be treated as inheritance. Gift to children must be equal between them and bequesting to children follows the rule of 2 to 1 male/female.

7) The income from the trust made for the treatment of your sister must be used for her treatment and any left over must be added to principal. The founder of the trust may add other objectives, if she/he so chose, and whatever stipulations mentioned in the waqf deed must be honored unless they are discriminatory against female beneficiaries. Finally, may Allah. Ta'ala, guide you, your brother and your family, me and all of us to the right path and to always do what pleases Him.

Wa Allahu A'lam

Wa Alhamdu li Allahi Rabbi al 'Alamin

Wassalam

Sincerely,

Dr. Monzer Kahf

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## XIV - THE AMOUNT OF MAHR

SUBJECT: The Amount of Mahr

From: islamonlinenet@hotmail.com

Sent: Thursday, June 20, 2002

Name of Questioner Amina	Gender Female	Age 21-30
Education	Date Submitted 6/4/2002	Email
country of Origin United States	User Ref. No. HGXVRK	country of Res. U S A

### Question

My sister is getting married and wants to ask for the Sunnah Mahr. We know it is 400 Dinar, which we are told is the same as \$300, but obviously \$300 was worth a lot more in the time of the Prophet (SWS) than today. I was able to find out the relative value of \$300 in 1789 which would be worth \$5999 today. How can I find out the relative value of the sunnah mahr to the value of money today?

### My Answer:

Bismi Allah al Rahman al Rahim

Al Hamdu li Allah Rabb al 'Alamin

wa al Salatu wa al Salamu 'ala Sayyidina Muhammad wa 'Ala 'Alihi wa Ashabihi Ajma'in

Dear Sr. Amina

Assalamu Alaykum wa Rahmatullahi wa Barakatuh.

There is no Sunnah amount of Mahr. The Qur'an (4: 20) refers to a large pile as a possible Mahr. We have in the Sunnah the Mahr of the Prophet pbuh, in his marriages and we have Mahr he given by his companions. In Most of his marriages, the Mahr he, pbuh, gave was 400 Dirham (not Dinar, the Dirham is from silver and the equation at His time was 20 Dirham = 1 Dinar in value) the only exception was the Mahr for the Mother of believers, Habibah bint Abu Sufian. Her mahr was very large ( I think it was some 4000 Dinar, but I am not sure!) her marriage contract was done by proxy on the Prophet's behalf by the King of Ethiopia and it was a "King's" Mahr that was donated by the King. The Prophet also had more that one marriage done by His companions with his approval on Mahr that was much smaller than 400 Dirham. Ther is a report about Abd al Rahman bin Awf that he got married for the weight of a date seed of gold (a fraction of one Dinar). Another companion paid an iron ring as a Mahr. Fatimah, May God be Pleased with Her, was married to Ali for a Mahr of 480 Dirham.

Finally we have several reports about daily wages and prices of consumption goods at the time of the Prophet, pbuh. Together, the give an idea that a day's work (obviously unskilled) used to be worth of 1 (one) Dirham, and the cost meat and flour of one decent meal for a family of 4-5 mix of adult and children was about a dirham too.

Wa Allahu A'lam

Wassalam

Sincerely,

Dr. Monzer Kahf

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