

In the name of

Allah,

the Beneficent,

the Merciful

Al-Furqān

the bi-weekly electronic newsletter from the office of
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O Allah,

Bless

Muhammad

& his progeny

Proposal & Engagement * a few pointers *

Introduction

The marriage season of the year has dawned upon us and so I thought it appropriate to remind those who are planning engagement and marriage of a few pointers.

“Engagement”

Engagement is the time between acceptance of the marriage proposal (*khitba*) and the marriage ceremony (*‘aqd*). Once the proposal is accepted, the man and the woman are known as “engaged to be married” or simply “engaged”.

Engagement has no recognition in Islamic laws. It is simply an agreement to marry but it is not a binding agreement, it can be broken off with or without a reason.

Who Proposes?

Traditionally in all cultures, it is the man who proposes to the woman; and it is done either directly by the man himself or on his behalf by his family. In the West, even now the man is expected to get down on his one-knee to propose to the woman he wants to marry.

In words of ‘Allama Murtaza Mutahhari, “From time immemorial man has approached woman with his proposal... Nature has imbued woman with the disposition of a flower and made the man the nightingale, woman the lamp and man the moth.”

“This is not the case with human beings only. Other animals also behave like this. It is always the function of the male to present himself impatiently and earnestly before the female...” (*The Rights of Women in Islam*, p. 15-16)

Even the Qur’ān asks the men to seek women for marriage. (See 4:3)

And so, in the proposal, it is the man who initiates and the woman who accepts. In the actual marriage ceremony, however, it is the woman who initiates the marriage and the man who accepts it.

When & To Whom?

Other than the *mahram* ladies whom he cannot marry, a man may propose marriage to any single woman. (For list of the mahram ladies, see the Qur’an 4:23-24.)

However, in the following four cases, proposal is not appropriate. (Remember that the contemporary mujtahids have not expressed their opinions on three of the four cases; but scholars of the early centuries of the *ghaybat* have expressed their opinions.)

1. A **divorcee** who is in her three months’ waiting period (*‘iddah*) of the revocable divorce (*talaq*, a divorce initiated by the husband.)
= It is forbidden (*harām*) to propose to her directly or indirectly before the expiry of her *‘iddah*.
The divorced couple, in this case, may decide to revoke their divorce during the grace period.
2. A **divorcee** who is in her three months’ waiting period (*‘iddah*) of the irrevocable divorce (*khula’*, a divorce initiated by the wife.)
= It is forbidden (*harām*) to propose to her directly but one is allowed to propose to her indirectly.
3. A **widow** who is in her four months’ waiting period (*‘iddah*) after her husband’s death.
= It is forbidden (*harām*) to propose to her directly but he is allowed to propose to her indirectly. (See the Qur’an 2:235)

4. An **engaged** woman: Is it permissible for man to propose a lady who is already engaged?
- = Among the past scholars, there are two views on this issue: from *makruh* (irreprehensible) to *harām* (forbidden).
 - = However, if a woman who has just received a proposal but has not yet responded to it positively, it is permissible to propose her.

In this case, if a man proposes to an engaged woman and eventually marries her, then according to those who consider that proposal to be *haram*, although the act of proposing is sinful but the actual marriage between the two would still be valid.

Engagement Ceremony

There is no such thing as an engagement ceremony in Islam. “Engagement” is just a non-binding agreement to marry.

However, Muslims have adopted certain traditions from other cultures or made their own customs. Technically, if traditions don’t violate the shari‘ah laws, then there is no problem. For example, among the Shi‘as of north India, the man’s family go with an “Imam zāmin” to the girl’s family and tie it on her arm as a well-wish gesture for the girl – this is done by the women of the man’s family.

These days, many Muslim cultures have adopted the Western tradition of giving or exchanging engagement rings. Apparently, this was first done by Maximilian I, the Holy Roman Emperor, in 1477 when he gave a diamond ring to Mary of Burgundy.

However, there is a problem in this tradition: since the engagement does not make the man and the woman *mahram* to one another, they cannot touch one another even for giving the engagement ring, they still have to observe the rules of *hijab*. The only solution is to recite the temporary *nikah* for the purpose of becoming *mahram* only. For more details, see my *Marriage & Morals in Islam*.

Problems & Conflicts

These days the so-called “engagement ceremony” is becoming more like a mini marriage ceremony! I am not saying that don’t do your engagement ceremony – if you do it within the bounds of shari‘ah, then there is no problem, **BUT**

don’t over do it! Don’t rob the actual marriage of its mystique!

Even the tradition of giving gifts –the man’s family gives to the engaged woman– is overdone in some cultures. I am told that at every occasion on our religious calendar, the boy’s family is expected to send clothes and jewellery to the girl. This is okay; but it becomes a big problem when the engagement is broken off.

1. If the engagement is broken off by one party, then the other cannot claim for damages for breaking the agreement since it was of a non-binding nature. One cannot claim for damages for ‘loss of reputation’ or ‘depression’ or ‘air fare for our trips to visit you,’ or ‘the deposit paid for the hall rental’ and etc.

Remember you cannot unwind your life; unpleasant things happen and you have to move on and carry on with your life.

2. Of course, both parties have the right to ask back for the gifts given to one another:

- (a) If the gifts were of perishable nature (e.g., sweets), then there is no basis for asking it back or its value.
- (b) If the gifts were non-perishable (e.g., cash or jewellery), then there is two possibilities:
 - i. If it still exists, then it should be given back.
 - ii. If it perished or doesn’t exist any more, then:
 - 1. if it perished out of negligence, then pay its value.
 - 2. if it perished without anyone’s fault, then there is nothing.

So keeping the engagement relationship simple helps in dealing with potential problems later on. But if you still want to indulge in extravagance during the engagement period, then those who give should be prepared to forget everything in case the engagement is broken off and those who receive should be prepared to consider the gifts as ‘trust’ and be prepared to give them back.

3. However, according to Islamic laws, the gifts given to a person related to you by blood cannot be asked back. (Blood relationship means biological relationship as opposed to relationship through marriage.) So, for example, if the engagement is between cousins and then it is broken off, the parties cannot ask back for the gifts that they had given to one another.

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