

## **In Search of Happiness and Well Being Through Marriage: A Review from Islamic Family Law**

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**Abstract:** It is true that the purpose of marriage is to attain lasting happiness (*sa`adah*). In Islam, happiness is not an end in itself; rather, it should lead to a higher end, which in this world is the love of God. This is a preparation for the true and everlasting happiness in the hereafter, which is entering God's Paradise. The family institution, which is the fountain of progress, wealth and strength of human civilization, has always been the core of happiness and well being of a community besides economic, material and physical security of man and woman. The Islamic law, as other laws, provides rules for safeguarding human interest and ensuring its smooth development, which is considered as the main source for the preservation of human health. In this paper, attempts will be made to examine aspects of the laws relating to marriage in Islamic family law as the basic for the happiness and well being.

**Key words:** Marriage % Islamic Family Law % Happiness

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### **INTRODUCTION**

**Marriage Based on Mutual Feelings of Love and Kindness:** Religion plays an important role in varied aspects of family life, including cohabitation, household labor and gender roles, quality of family relationships and many other family-related outcomes [1]. Islam as many revealed religions, rules that a family is established through the means of marriage, which is one of the legal contracts that is sanctioned by the principles of Islamic law (*Shari'ah*). From the *Qur'anic* point of view, two terms are used for marriage, *nikah and zawaj*. The term *nikah* literally means: "embracing or bonding (*al-wat' or al-dammu*)", [2] while under Islamic law, it means both the contract and cohabitation, or contract which purports to legalize cohabitation by words denoting giving in marriage, even if it were through a foreign tongue understood by contracting parties and witnesses. [3] From this point of view, the term *nikah* implies a connection and a joining and intermingling in love and affection. Also, the term *nikah* indicates the peace of mind and provides a secure atmosphere for the growth and progress of human race and enables people to undertake and fulfill their social responsibilities conscientiously, with devotion and sincerity [4].

One important components of marriage is the conjugal relations between the sexes should be based on mutual feelings of love and kindness for each other, so that both parties, with combined efforts, can lead a happy and peaceful family life. It is generally believed that there are different kinds of love. These are expressed as motherly love, brotherly love, sensual love, emotional love, sexual love, selfish love and universal love. If people develop only their sexual or selfish love towards each other, these types of love cannot last long. The dramatizing of love by commercial companies through the mass media is not "real" love. It is akin to animal love realizing that when an animal wants to have sex, it shows its "love",

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but after having experienced sex, it just forgets about love. For animals, sex is just an instinctive drive necessary for procreation. But a thinking human being has much more to offer in the arena of love. Duties and responsibilities are important ingredients to maintain unity, harmony and understanding in a relationship between human beings. For this reason, the marriage of a man and a woman is not just a legal living arrangement, nor the result of a “free love”, it is for chastity (*ihsan*) and purity purposes which are considered as the fundamental elements to create a loving and peaceful family life.

Ibn al-Qayyim (d. 750/ 1350), a well-known religious scholar in Islam, argued that if we agree that pure love (*'ishq*) and carnal desire are sicknesses that necessitate treatment, the satisfaction of such pure love (*'ishq*) is the best therapy. In this regard, marriage is the best solution for two people who are in love. First, if the lover can reach and associate with the beloved in accordance with the Islamic law (*Shari'ah*) and as decreed by fate, then, this is the correct and best remedy [5]. Following this, Ibn al-Qayyim attempts to substantiate this based on medical grounds. He explains, love and compassion not only enable spouses to lead a happy and peaceful family life, but enables the man to eject the semen as much as possible from his body during sexual intercourse. This, according to Ibn al-Qayyim and other Muslim physicians, is of utmost importance to preserve human health, otherwise suppression or retention of congested semen can cause various kinds of diseases. Thus, it must be noted that when sexual intercourse is coupled with love, it intensifies love for one another, heightens pleasure, lessens body exhaustion and maximizes emission of semen during sexual intercourse. On the other hand, when the husband lacks love or interest, or when he does not think highly of his wife, then sexual intercourse will weaken the body, reduces a man's ability to have an erection and minimizes the emission of semen during coition [6]. This recognition can already be found in the works of Maimonides, who declared; “lawful sexual intercourse is very beneficial, because it cleans the body when it is full, diminishes its superfluities, gladdens the soul, removes anger, sighs and oppressive evil thoughts from the heart and satisfies the strong lust of the lover” [7]. All these facts are rooted from the Qur'an. Many verses of the Qur'an clarify that it is God's mercy in creating pairs of men and women, so that they can marry and live peacefully.

And among His signs that He created for you mates from among yourselves, so that you may dwell in tranquility with them and He has put love and mercy between your hearts. Verily, in that are signs for those who reflect [8].

**Encouraging Youths to Marry Avoidance of Improper Sexual Relationships:** The role of beliefs about the nature and authority of the holy books are pivotal for explaining a host of religious influences on family happiness. The Holy Quran and both Old Testament and New Testament passages condemn marital infidelity as a cardinal sin. Several verses and passages of the mentioned holy books suggest that adultery is morally comparable to theft and murder and those who commit acts of infidelity are at risk of eternal damnation. This condemnation draws attention to the spiritual significance of marriage [9]. It is a common belief that encouraging the youths to marry and so to satisfy sexual needs within the marital unit is important to gain spiritual and physical happiness. This has been recommended by the Prophet (s.a.w) on different occasions, “He who can afford to marry should marry because it will help him to lower his gaze (from looking at forbidden things and other women) and save his private parts (from committing illegal sexual acts etc.) and he who cannot afford to marry is advised to observe *al-Sawm* (the fasts), as *al-Sawm* will diminish his sexual power” [10]. Its importance is clear when the Muslim jurists and others are unanimous in recommending it to any person whose soul longs for it and whoever fears that he might commit fornication. In this case, it will be more righteous to marry than to perform pilgrimage, supererogatory prayers and fasting. For this reason, the Regional Consultation on the Role of Ethics and Religion in the Prevention and Control of AIDS program and other sexually Transmitted Diseases, has stressed in its recommendation that:

Marriage is a major solution to these problems, as it protects young people. Nevertheless, it is tremendously difficult to achieve it. It is just not sufficient simply to advise young people to abstain from sexual activity while all around them is inviting and full of temptation. We must, therefore, facilitate marriage and remove all financial, social and traditional obstacles that prevent it [11].

Furthermore, in Islam there are rules and regulations stipulated so as to prevent any harm or diseases. These rules are for the benefit of the individuals, as well as, society as a whole. Besides, avoiding unlawful sexual intercourse, as a primary important weapon in combating sexually transmitted diseases, one is advised to bear in mind the “do’s” and “don’ts” while performing sexual intercourse, otherwise, one may unknowingly transgress the limits and indulge in unlawful practices. If spouses follow the rules and regulations of matrimonial life which are stipulated in the *Qur’an* and Hadith, they will not have any diseases, such as AIDS and Syphilis. They will continue to enjoy life by performing “safe sex” and at the same time, they are to be rewarded in this life and in the hereafter.

**Persons Between Whom Marriage Is Forbidden:** According to Islamic law, the essential condition for the validity of marriage is that the woman must be eligible to marry the man who proposes. Strictly speaking, there must be no impediment under the *Shari’ah* i.e., on the grounds of kindred, affinity and fosterage [12] or on grounds of the social status (being already married or during an *’iddah*) or being of a different religion. The *Qur’an* mentions this rule in these words: And marry not women whom your fathers married--except what is past: it was shameful and odious--an abominable custom indeed. Prohibited for you (for marriage) are--your mothers, daughters, sisters; father’s sisters, mother’s sisters; brother’s daughters, sister’s daughters; foster-mothers (who gave you suck), foster-sisters; your wives’ mothers; your step-daughters under your guardianship, born of your wives to whom ye have gone in--no prohibition if ye have not gone in- (those who have been) wives of your sons proceeding from your loins; and two sisters in wedlock at one and the same time, except for what is past; for Allah is Oft-forgiving, Most Merciful [13].

It is reported that ‘Umar Ibn al-Khattab (r.a), the second caliph of *Khulafa’ al-Rashidun*, said to the people of the clan of Sa‘id whom he saw marrying amongst themselves: “You have weakened yourselves, go and marry foreigners!”. According to al-Qaradawi, some of the reasons for this prohibition are as follows [14]:

- C Entertaining any sexual thoughts concerning close relatives as one’s mother, sister and daughter is instinctively abhorrent to human nature.
- C Since the family must live together in intimacy and privacy but without incestuous relations, the *Shari’ah* intends to prevent that at the grass-root level.
- C Since there is a natural love and affection among such close blood relatives, the intent of the *Shari’ah* is to expand the circle of love and kinship by prohibiting incest, thereby directing the man’s search for a women outside the family.
- C The natural sentiments of love and affection between a man and the above-mentioned female relatives must be kept strong forever. If marriage were permitted between such relatives, it would cause jealousies, dissension and the disruption of families, destroying the very sentiments of love and affection, which give cohesiveness and permanence to the family.
- C Most offspring from such marriages would most probably be defective and weak. Moreover, if physical or mental defects are present in the members of a family, they would become more pronounced among the children of such marriages.
- C A woman needs someone to champion her rights and support her case against her husband, especially when relations between the two become strained. If those women who could defend her became rivals, how would this be possible?.

From the description above, it is quite clear the role of the *Shari’ah* in preserving human relations and health by prohibiting the marriage of a person with his relative notably: the father’s wife, the mother; daughter; sister; aunt; niece; foster-mother, etc.

**Protection and Maintenance of Wife:** A healthy society must be based on love and service of mankind and in respective of the rights of each other. This is why the aim of marriage is to, not only fulfill the natural sexual desire, ingrain joining and intermingling love between husband and wife and their members. In this regard, Islam has given various instructions

and directions. In order to achieve the desired results, we find that under Islamic family law both women and men have been assigned specific roles and functions. The duties of both have been appropriated to facilitate and supplement the activities of the other, which creates harmonious and happy families. Hence, it is not surprising that the *Qur'an* speaks of the husband-wife relationship as that of "mutual love and mercy" and described their supports for each other by saying "they (your wives" are garments unto you and you are garments unto them." The term *garment*, which occurs in the mentioned verse, is meant something that soothes and covers up one's weakness [15].

In the process of making a healthy family, Islamic law asks the husband, who is the protector and maintainer of the wife, to fulfill three main rights of the wife, *mahr* (dowry); *nafaqah* (maintenance) and; *qasm* (equity) in the case where there is more than one wife. The former (*mahr*) is a gift, or sum of money, given by the husband to the wife in consideration of marriage and is the first right which the *Shari'ah* gives to the wife [16]. In Islamic law, there are two types of *mahr*: *mahr al-musamma* (specific *mahr*) and *mahr al-mithl* (standard *mahr*). The former is an amount specified or fixed at the time of the marriage contract [17] It is not a price for a wife but a compulsory gift, which becomes the private property of the wife. The verses, in the *Qur'an*, about a woman's dowry, stress that it be given to her voluntarily and that she should retain it in the case of divorce [18]. If divorce occurs before intercourse, the wife retains only half of her dowry, unless she agrees to remittance. The full rule on this matter is as follows:

There is no blame on you if ye divorce women before consummation or the fixation of their dowry; but bestow on them (a suitable gift), the wealthy according to his means and the poor according to his means-a gift of reasonable amount is due from those who wish to do the right things. And if ye divorce them before consummation, but after the fixation of a dowry for them, then the half of the dowry (is due to them), unless they remit it or (the man's half) is remitted by him in whose hands is the marriage tie; and the remission (of the man's half) is the nearest to righteousness and do not forget liberality between yourselves. For Allah sees well all that ye do [19].

It is true to say that dowry is one of the important means to win a woman's heart and to honor marriage, which is considered the basis to create a healthy family life. The above verses show that the dowry could also be used to prevent a husband from divorcing his wife at his whim and fancy, since upon dissolution of the marriage a husband is required to pay the total amount of the dowry at once or losing his dowry. For this reason, a husband would not divorce his wife on minor grounds out of fear of losing his dowry. He will exercise this right only in extreme cases, when it is absolutely necessary and only when he has failed to find any other alternative of reconciliation but separation. This shows that Islam recognized women's rights at a time when women had no rights of ownership and guardianship. Upon the advent of Islam, the dowry became one of the means of enforcing the rights of women to own property. The father, or husband, does not have the right to take the women's dowry. The husband should give the dowry with good intention, believing that his wife has the right to keep it, to invest it or return it to her husband.

The second right of a wife, whereby the *Shari'ah* lays certain duties on the husband as the protector and maintainer of the wife, is known as *nafaqah* (maintenance). It is the husband's primary obligations, regardless of his wife's private means. With regards to respect and care for health, the majority of the jurists hold the view that a husband should provide the necessities for his wife at a scale suitable to his status. If the husband is one who works for a living, then he is expected to support his wife according to the limits of his financial income. Anything that goes beyond his financial ability is not required of him. By maintenance, the paying of necessities i.e., food, clothing, housing, toilet necessities, medicine, doctors' and surgeons' fees, baths and also the necessary servants in the event where the wife is of a social position which does not permit her to undertake such services, or when she is sick. Furthermore, the husband is duty-bound to provide other articles deemed necessary for a person according to *'urf* (custom of a place) and her economic status. Many *Mufasssirun* interpret the verse of the holy *Qur'an*, "*al-Rijal Qawwamun 'ala al-Nisa'*," meaning that a man is the provider of food and necessities of life. The term "*qa'im*," means "to take care of" (including to fulfill her sexual needs) and to be responsible for promoting the well being of a woman [20]. The Prophet (s.a.w) says: "take (of husband's property) what is sufficient for yourself and your child according to custom" [21].

In Islam, the functions of husband and wife are quite distinct and are based on their nature and disposition. She is not economically responsible, even if she is rich and has her own income. She may or may not contribute to the family budget. Sometimes, we find that a woman may have to play a role in society, but that will be secondary to her role in the family [22]. The man has to play his major role outside the family in order to fulfill his major responsibility to earn a living and to support the family economically and materially. In this regard, the Holy *Qur'an* says:

Men are the protectors and maintainers of women; because Allah has given the one more (strength) than the other and because they support them from their means. Therefore, the righteous women are devoutly obedient and guard in (the husband's) absence what Allah would have them guard [23].

**The Prophet (S.A.W) Said:** All of you are guardians and are responsible for your wards. The ruler is a guardian and the man is guardian of his family; the lady is a guardian and is responsible for her husband's house and his offspring; and so all of you are guardians and are responsible for your wards [24].

Remarkably enough, the great jurists of Islam developed a comprehensive law of maintenance in light of *Qur'anic* directives and the Prophet's rulings regarding the maintenance of a wife. Under Islamic law, the husband is also responsible for the maintenance and protection of his wife, like a normal woman, even though it is impossible for him to be sexually intimate with her due to her old age or some physical defect, or any disability. For example, if a wife suffers from insanity, or suffers from an unfortunate incident whereby she loses her ability to have sexual intercourse with the husband, she is entitled to maintenance.

**Lawful Sexual Intercourse Through Marriage:** If we accept that lawful sexual intercourse is a primary means to maintain the health of the people, thus, marriage would be an essential for the preservation of human health. The early Muslim medical scholar and jurist, Ibn Qayyim, in his *al-Tibb al-Nabawi*, [25] asserted that lawful sexual intercourse is considered by all learned physicians to be essential for health benefits. In light of what has been stated, Ibn al-Qayyim emphasized that Islamic law has ordained the institution of marriage sanctioning sexual intercourse between the opposite sex. This is the lawful means to fulfill their natural inclinations in a responsible way. As noted before, this is considered, by all physicians, as essential for a healthy and a stable life. He further stated that by having lawful sexual intercourse, a husband may eject semen from the body, otherwise, suppression or retention of congested semen can cause various kinds of serious illness. He quoted Galen's idea on this matter by saying:

Predominant over the substance of semen are fire and air. Its temperament is hot and moist, because of its being formed from pure blood by which the primary organs are nourished. When there is an excess of semen, know that, it should not be emitted save in the seeking of offspring, or else to expel that which is congested. If it remains long congested, it generates grave illness, such as delusions (*al-waswas*), madness (*al-junun*), epilepsy (*al-Sar'*) and others. And its expulsion may cure many of these illnesses. If it remains a long while restricted, it becomes corrupt and changes to a poisonous quality, which brings about grave illness such as have been mentioned. However, sometimes, nature produces a spontaneous and involuntary emission of excess semen, usually during sleep and without sexual intercourse [26].

Abu Bakr al-Azraq (890/1486), in his book *Tashil al-Manafi' fi al-'ibb wa al-Hikmah*, supports the above view by quoting the approval observation of the great Muslim physician in his time, Abu Bakr Muhammad Ibn Zakariya al-Razi (d. 313/925) who said that abstaining from sexual intercourse for an extended period weakens one's nervous system, causes obstruction of the urethra and shrinks the penis. He observed some people who vowed temporary abstinence from sexual intercourse, had diminished sexual energy, suffered general weakness of their bodies, became doleful, lost their sexual desire and their digestive system became corrupt [27].

In this and the preceding discussions, the benefits of lawful sexual intercourse in preservation of health have been highlighted. Now, according to modern research, lawful sexual intercourse is one of the means to prevent sexually transmitted diseases. As agreed, sex represents a universal law, but for the human being, it is the only special case of this

universal phenomenon and unique in the animal kingdom. An married woman sexually submits to men, is considered “unclean”. Islam strictly forbids any unlawful sexual intercourse [28]. In this regard, Islam is a way of life, which is harmonious with nature, providing human solutions to complex situations and avoiding extremes. In the case of some men who overactive sexually and are not content with one wife, are permitted by law to have more than one wife, not exceeding four, otherwise they may have illicit sexual intercourse with other women, a situation that is not tolerated by the *Shari'ah*.

Among the religious precepts, lineage has to be preserved through the union of a man and woman through *nikah*. In other words, there cannot be a sexual relationship without the marital bond [29]. Prophet Muhammad (s.a.w) has said on many occasions adultery is one of the three major sins. Islam considers *zina* not only as a great sin, but also as an act which opens the gate for many other shameful acts, which destroys the very basis of the family. Obviously, it leads to quarrels and murders, which ruin reputations and property and spreads numerous diseases, both physically and spiritually. For this reason, the Prophet Muhammad (s.a.w) announced that whoever among you has the means to establish a family, should get married, for marriage preserves the chastity of one's eyes and sexual organ and whoever cannot afford to establish a family, must fast from desiring, for abstinence in such a case will protect him from sin [30]. Significantly, by following Islamic law, man can preserve his health. It is worthy to mention a tradition which reports that a young man approached the Prophet Muhammad (s.a.w) and asked his permission to commit *zina*, since he could not control himself. The Prophet (s.a.w) reasoned with him and asked him if he would approve of someone doing illegal sex with his mother, sister, daughter or wife. Each time the man said: “no” then the Prophet (s.a.w) replied that the woman with whom you plan to have sex could also be someone's mother, sister, daughter or wife. Afzalur Rahman observes accurately that:

These preventive or prohibitory measures of Islam are meant for the moral and material benefit as well as the spiritual and mental prevention of individuals and the community. These Divine prohibitory instructions are based on extreme wisdom and do not deprive one of anything good or useful. In fact, they do a lot of good to a person by protecting his interests against harmful and injurious things and by developing in him (or her) a refined taste for the good and better things in life and a greater regard for higher moral values. For this purpose, it is necessary to take care of “man's spirit and mind, soul and body, conscience and sentiments, health and wealth, physique and morals. Prohibition, therefore, is not deprivation but enrichment, not suppression but discipline, not limitation but expansion [31].

As suggested by learned physicians, healthy sexual intercourse relies on a variety of factors, the person's age, time of day, place, custom, physical characteristics of the body, diet, desire and the moisture of female genitals [32]. According to traditional medicine, it is better for a young man to avoid sexual intercourse with an old woman, with a sick woman and it is better to avoid having sexual intercourse with a young girl who is immature, or who does not have sexual urges [33]. In addition to the antecedent discussion, there is a *hadith* reported by Jabir b. 'Abdullah indicating that the Holy Prophet (s.a.w) gives great emphasis to the factors that contribute to the preservation of health.

Narrated by Jabir b. 'Abdullah (r.a): “When I got married, Allah's Messenger (s.a.w) said to me: What type of lady have you married?” I replied: “I have married a matron.” He said: “Why, don't you have a liking for the virgins and for fondling them?” Jabir also said: “Allah's Messenger (s.a.w) said: “Why didn't you marry a young girl, so that you might play with her and she with you?” [34].

This recognition can already be found in the works of Ibn al-Jazzar, Maimonides and Ibn al-Quff who are of the opinion that, the best time for sexual intercourse is after food has been properly digested and the couple is not too exhausted. Many Muslim scholars accurately observe it is healthier to have sexual intercourse after complete digestion and when the body's temperament is stable, resulting in the balance of heat and cold, dryness, moisture, or the stomach's fullness and emptiness. In addition, it is less harmful to have sexual intercourse while the stomach is full, rather than when it is empty [35]. Similarly, its harm is less with excessive body moisture versus dryness and with higher body temperature versus colder body temperature. Under normal circumstances, one should approach his wife when his desire for sex has grown naturally and when he feels sexually fit.

## CONCLUSION

It is found that Islamic law (*Shari`ah*) is not arbitrary in its commandments, neither permitting things in order to be indulgent to people nor prohibiting them in order to make their lives miserable. Rather, Islamic law has commanded for them what is in their own best interest, safeguarding their lives, intellect, property and honor and guiding them towards success in this world and in the hereafter. Islamic law gives much attention to health and well-being of individual and society by allowing lawful sexual intercourse and prohibiting unlawful sexual intercourse i.e., adultery, fornication and homosexuality and those things that are destructive to the health of man. Therefore, if we honestly and deeply ponder upon Islamic family laws and implement them throughout the world, it will help to prevent sexually transmitted diseases in general and AIDS in particular.

1. Amy, M. Burdett, *et al.*, 2007. Are There Religious Variations in Marital Infidelity?, in J. Family Issues, 28(12): 1554.
2. Ibn Manzur and Lisan al-'Arab, 1986. 6: 4537, s.v. "nakaha"; Muhammad Muhyiddin 'Abdul al-Hamid, al-Ahwal al-Shakhsiyyah fi al-Shari'ah al-Islamiyyah (Beirut: Dar al-Kitab al-'Arabi, 1984), 12-13; Anwar Ahmad Qadri, Islamic Jurisprudence in the Modern World (New Delhi: Taj Company, 1986), pp: 359.
3. `Abd al-Rahman al-Jaziri, Kitab al-Fiqh `ala al-Madhahib al-Arba'ah, 4: 1-3; Anwar Ahmad Qadri, Islamic Jurisprudence in the Modern World, pp: 360.
4. See for example, Baqarah 2: 25; Al-Nisa' (4): 19; Al-Nahl (16): 72; Al-Rum (30): 21. In order to achieve the above quality, Islamic law was crucial to the development of Muslim society, not only because of its intellectual pre-eminence but first and foremost because of its basis to harmony the life of human being as a whole beside its social moral and political role in the Islamic history. In social and society aspects, Islam has its own regulation to be followed.
5. Ibn al-Qayyim and Al-Tibb al-Nabawi, 1985. ed. Shu'ib al-Arna'ut and 'Abd al-Qadir al-Arna'ut (Beirut: Mu'assasah al-Risalah), pp: 272-4.
6. Ibid., 198.
7. Gerrit Bos mentions that Maimonide's opinion about sexual intercourse is more balanced, recognizing its beneficial effects in certain circumstance. For the benefits of sexual intercourse, Maimonide states that it is the pre-requisite for a healthy body, enabling one to serve the Lord. See, Gerrit Bos, Maimonides on the Preservation of Health, pp: 229.
8. Al-Rum, 30: 21.
9. Amy M. Burdett, *et al.*, 2007. Are There Religious Variations in Marital Infidelity?, in J. Family Issues, 28(12): 1559-60.
10. Bukhari, Sahih Bukhari, Kitab al-Sawm, Bab al-Sawm liman khafiya 'ala nafsihi al-'uzubah; Al-Zubaidi, Mukhtasar Sahih Bukhari, Hadith No, pp: 927.
11. Antoin Joesph Mu'awadh, Marriage System in Lebanon, pp: 112.
12. Encyclopaedia of Islam, new ed., s.v. "Rada," by Joseph Schacht.
13. Nisa', 4: 22-23.
14. Yusuf al-Qaradawi, al-Halal wa al-Haram fi al-Islam (Cairo: Maktabah Wahbah, 1960; repr. Kuwait: I.I.F.S.O, 1989), 174 (page reference is to the reprint edition), {trans. Kamal El-Helbawy, The Lawful and The Prohibited in Islam (Kuala Lumpur: Islamic Book Trust, 1995), 178-9}; Al-Nasimi, Muhammad Nizim, al-Tibb al-Nabawi wa al-'Ilm al-Hadith. 3 vols. (Beirut: Mu'assasah al-Risalah, 1991), 2: 97-99.
15. Al-Rum, 30: 21 and Al-Baqarah, 2: 187.

16. In this regard, the Hanafis, Shafi'is and Hanbalis held of the opinion that dowry is a result of the marriage contract based on surah 2, verse 236. The reasoning for this is that no blame is attached to a husband who divorces his wife before consummation in the case where the dowry is not specified in the contract. In view of the fact that divorce can only take place where there is a valid contract, the implication is that the contract may be valid without the dowry being specified. The Malikis hold the opposite view, however, that the dowry is an element in the conclusion of the contract and not one of its consequences. The Malikis base their opinion on the Qur'an surah Al-Nisa' (4), verse 24, which states that the dowry is a gift which the groom binds himself to give to the bride. See, Al-Shafi'i, al-Umm, 5: 71; Sayyed Sabiq, Fiqh al-Sunnah, 2: 162; Encyclopaedia of Islam, new ed., s.v. "mahr" by O. Spies, pp: 79.
17. Wahbah al-Zuhaili and Al-Fiqh al-Islami, 1995. 7: 265-272; Mona Siddiqui, "Mahr: Legal Obligation or Rightful Demand?," in Journal of Islamic Studies 6 (1995): 14-24; Abdullah Muhammad Khouj, Handbook of Marriage in Islam (Washington: The Islamic Center, 1987), pp: 15-6.
18. See for example, Al-Nisa' 4:(4) and 25; Al-Ma'idah 5:(5).
19. Al-Baqarah, 2: 236-237.
20. Al-Nisa', 4: 34.
21. Muslim, Sahih Muslim, fi al-Aqdiyyah: Bab Qadiyyah Hind min hadith 'A'isyah, hadith no 1714; Ibn al-Qayyim, Zad al-Ma'ad, 5: 490; al-Shafi'i, al-Umm, 5: 87.
22. The majority of Islamic jurisprudence both Sunnis and Shi'as, rule that there shall be no maintenance for the wife who goes to work without permission of her husband. See, Sayyid Sabiq, Fiqh al-Sunnah, 2: 172.
23. Al-Nisa', 4: (34).
24. Bukhari, Sahih al-Bukhari, Kitab al-Nikah, Bab Lizawjuka 'Alayka Haqq.
25. Ibn al-Qayyim, Al-Tibb al-Nabawi, 249-250; al-Sayuti, al-Rahmah fi al-Tibb wa al-Hikmah, pp: 25.
26. Ibn al-Qayyim, al-Tibb al-Nabawi, 249; see also Afzalur Rahman, Encyclopaedia of Seerah, 5: 20.
27. Al-Razi, "Kitab al-Murshid aw al-Fusul," ed. A.Z. Iskandar, Majallah Ma'had al-MaakhTuTat al-'Arabiyyah 9 (1961), 59-60; al-Azraq, Tashil al-Manafi', 72-3; Ibn al-Qayyim, al-Tibb al-Nabawi, 250. Cf. G. Bos, Maimonides on Preservation of Health, 229-30. Ibn Sina, in his al-Qanun fi al-Tibb, says: "when men abstain from sexual intercourse, the semen accumulates, turns cold and acquires poisonous. The semen sends to the heart and brain harmful and poisonous fumes... You should know that the retention of semen is extremely harmful and many cause one of the testicles to recede". See, Ibn Sina, al-Qanun fi al-Tibb, 2: 535.
28. We have to keep in mind that legitimate sexual intercourse in Islam was not confined only to marriage, but extended also to the institution of concubinage. See, B.F. Musallam, Sex and Society in Islam, pp: 11.
29. Ibn al-Qayyim, Zad Al-Ma'ad, 5: 249-250.
30. Bukhari, Sahih Bukhari, Kitab al-Nikah, Bab man IsTita' al-Ba'ah fa al-yatazawij.
31. Afzalur Rahman, Islam: Ideology and the Way of Life (London: The Muslim Schools Trust, 1980; repr., Kuala Lumpur: A.S. Noodeen, 1995), pp: 263, (page reference is to the reprint edition).
32. Ibn al-Qayyim, Zad al-Ma'ad, 4: 254-265; al-Azraq, al-Tashil al-Manafi', 72; Gerrit Bos, Maimonides on Preservation of Health, pp: 229.
33. Ibn al-Qayyim, al-Tibb al-Nabawi, 254; al-Dhahabi, al-Tibb, 24; al-Sayuti, al-Rahmah fi al-Tibb wa al-Hikmah, 25; al-Azraq, Tashil al-Manafi', pp: 71.
34. Bukhari, Sahih al-Bukhari, Kitab al-Nikah, Bab Tazwij al-Thayyibat; Fu'ad 'Abdul Baqi, Lu'lu' wa al-Marjan, Kitab al-Rida', Bab Istihbab nikah al-bikr, 1: Hadith No, 929.
35. Gerrit Bos, Maimonides on Preservation of Health, 230-231. Maimonides also advises that one should avoid to have sexual intercourse after one leaves the bath, before or after one does exercises and on the day before one has a bloodletting and the day thereafter. Following the opinion of al-Razi, Maimonides suggests that one should avoid to have sexual intercourse in standing position because it harms for the hips and that in a sitting position because it is difficult for the emission of sperm, causing pain in the hips and sometimes a tumour in the penis and groin.
36. Ibn al-Quff, Jami' al-Gharad, 244-246; Cf. G. Bos, Maimonides on Preservation of Health, pp: 230.