



AN EXAMINATION OF *KHITBAH* (BETROTHAL) AND PRE-MARITAL MEDICAL CHECKUP IN CONTEMPORARY SOCIETY

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Abstract

This article showcase the relevancies of *Khitbah* (betrothal) and pre-marital medical checkup in contemporary society over wide spread of many diseases, advancements in genetic engineering have led to considerable improvements in diagnosing these diseases. Therefore, pressure on spouses to be observe, recognize and consider ethics cum etiquette of *Khitbah* and premarital medical examinations adequately. Many Islamic communities have responded to this emerging need by observing the etiquette of *Khitbah* and making some premarital screening tests compulsory prior to marriage. The adoption of these legislation comes from the core message of Islam as in Qur'an 5:2, which encourages counselling to protect future generations. The research employs qualitative methods and field studies from medical facilities to capture the experiences on perspectives of Muslim *ummah*. Islamic scholars were urged to put more effort in highlighting and addressing the threat of barbaric and uncivilized custom by non-adhering to the contemporary solution of the sexual transmitted diseases (STD's) through pre-marital medical checkup. Also, this article recommends the importance of intensified efforts by Imāms, Islamic scholars, Health personnel and Muslim organizations to disseminate the pristine teachings of Islam regarding *Khitbah* and marriage without medical test certificate. And also, in addressing the challenges of this menace of sexual transmitted diseases (STD's) and ensuring the realization of heath benefit to the couple's in the society.

Keywords: Examination, *Khitbah* (Betrothal), Pre-Marital, Medical Checkup, Contemporary Society.

INTRODUCTION

The betrothal is the prelude to the marriage contract, although not without conditions of its own. It is when the man approaches a woman or her family to ask for her hand in marriage, when terms of the contract will be negotiated, and will include the conditions which both the man and the woman wish to impose. What most of us might not know and realize is that betrothal or engagement is not merely an *adat* (custom). It is also recognized and in fact encouraged under the Islamic law.

When a person finds a man or a woman having good *Deen* and character, then the next step is to ask for her or his family. This is generally done by sending a proposal to the prospect's family. Such a procedure in Islam is called courting or *khitbah*. Clearly, we can say that *khitbah* is the act of asking a woman's hand for marriage. A man can generally do so by approaching his family, friends or relatives. In some situation, a person can also approach directly but keeping the limits of modesty.

Khitbah is merely sending the proposal to a woman the man is very much interested in. However, it does not legally bind the two parties in a commitment. When the proposal is accepted, *khitbah* is said to be approved. Once accepted, both the parties become morally responsible towards one another as it constitutes a mutual pledge. Breaking such a commitment without any justification or a valid reason is treated as an act of dishonesty and betrayal.

Betrothal (*khitbah*) under Islamic law is a promise to marry and not a marriage contract. Al- Baqarah: 234 - There is no blame on you if you make an offer of betrothal or hold it in your heart. Allah knows that you cherish them in your hearts.

There is nothing that prevents having a medical check-up for that intending to get married that proves they are free from infectious diseases, manifest genetic defects or genetic defects existent in the health history of the family.

Marriage is the fundamental building block of society, and the cornerstone in building emotional, healthy and family relationships. The healthy marriage guarantees preventing the family members from the hereditary and infectious diseases; thus building a happy and stable family (Khaleejtimes 7).

Betrothal in Islamic Family Law

Betrothal is defined as an agreement or a promise to marry. Consequently, for there to be a valid agreement of betrothal, several elements must be fulfilled which are offer, acceptance, consideration and capacity to marry. As in the current situation, the focus is the requirement of consideration.

The Prophet (SAW) said, "Marriage is my precept and my practice. Those who do not follow my practice are not of me." He also said, "When a man has married, he has completed one half of his religion." Prophet Muhammad (SAW) said, "Best among you is one who is best to his wife, and I am best among you in my dealings with my wives." (Doi 287).

Generally, Muslims are told not to meet their spouse before marriage and are condemned from questioning this mentality. In truth, Islam teaches us love is kind, nourishing and pure. Meeting a spouse before marriage is wholly permitted and allowed if done with the right intentions.

Islamic marriages require acceptance (قبول, *qubūl*), of the groom, the bride and the consent of the custodian (*walī*) of the bride. The *walī* of the bride is normally a male relative of the bride, preferably her father.

Whoever among you can marry, should marry, because it helps him lower his gaze and guard his modesty (i.e. his private parts from committing illegal sexual intercourse etc.), and whoever is not able to marry, should fast, as fasting diminishes his sexual power."

Qur'an 24:33 tells believers to keep their chastity if they do not marry. Qur'an 24:32 asserts that marriage is a legitimate way to satisfy one's sexual desire. Islam recognizes the value of sex and companionship and advocates marriage as the foundation for families and channeling the fulfillment of a base need.

Healthy marriage is defined as state of agreement and harmony between the marriage partners with regard to the healthy, psychological, sexual, social, and legislative aspects, aiming at making a sound family and begetting healthy children.

The Islamic Proposal! – Islamic Way of sending a Marriage Proposal

A marriage proposal is an event where one sought to seek the hand of another in marriage. If the person accepts the marriage proposal you intend to marry, it marks the beginning of an engagement. According to Islamic Law, engagement is just like an agreement or mutual promise that the boy and the girl make to marry each other in the future, and that they cannot see other people and that no one else should approach them for marriage. Narrated Ibn `Umar: The Prophet (SAW) decreed that;

- *One should not try to cancel a bargain already agreed upon between some other persons (by offering a higher price). And a man should not ask for the hand of a girl who is already engaged to his Muslim brother unless the first suitor gives her up or allows him to ask for her hand."* (Sahih Bukhari 5145).

However, the ring ceremony, done by many in the name of engagement, is not recommended because it's a practice of the *Muzungu's* i.e western world. And we shouldn't be following the way of life of the people of other religions. Abu Sa'īd Al-Khudri narrated that the Prophet (SAW) said;

- *You will follow the ways of those nations who were before you, span by span and cubit by cubit (i.e., inch by inch) so much so that even if they entered a hole of a mastigure, you would follow them."* We said, "O Allah's Messenger (SAW)! (Do you mean) the Jews and the Christians?" He said, "Who else?" (Sahih al-Bukhari 7320).

The marriage proposal can be sent by a man's side as well as from the woman's side to the person they want to marry. The marriage proposal doesn't need to be sent by the male or by his family; the proposal can be sent by the female or her side of the family also. For example, as mentioned in the hadith, after the demise of Hafsa bint Umar's (R.A) husband, the daughter of Umar (R.A), her father first proposed her hand for marriage to Uthman (R.A), and then to Abu Bakar (R.A). Finally, she was married to Allah's Messenger (SAW) (Jabir 527). Is looking at a woman before marriage is permissible or not? "When it comes into a person's heart to court a woman, it is permissible for him to look at her." [Recorded by Abu Dawud and Imam Ahmad]. Before marriage, a woman can reveal her face to the suitor, but keeping in mind to follow the rules and regulations of modesty. The woman is advised to cover all her body parts except her face and her forehands. So, even if a suitor asks to see the lady before marrying her, she can reveal only her face to him. Abu Huraira (Allah be pleased with him) reported;

- *I was in the company of Allah's Messenger (May peace be upon him) when there came a man and informed him that he had contracted to marry a woman of the Ansar. Thereupon Allah's Messenger (May peace be*

upon him) said: Did you cast a glance at her? He said: No. He said: Go and cast a glance at her, for there is something in the eyes of the Ansar [SahihMuslim, 3314].

Premarital Screening

Premarital screening is defined as testing couples who are planning to get married soon for common genetic blood disorders (e.g. sickle cell anemia and thalassemia and sickle cell anemia) and infectious diseases (e.g. hepatitis B, hepatitis C, and HIV/AIDS). The premarital screening aims to give medical consultation on the odds of transmitting the above mentioned diseases to the other partner/spouse or children and to provide partners/spouses with options that help them plan for healthy family.

Objectives of Premarital Screening Program

- *Limiting the spread of some genetic blood diseases (e.g. sickle-cell anemia and thalassemia) and infectious diseases (e.g. hepatitis B, hepatitis C, and HIV/AIDS).*
- *Promoting awareness about the concept of the comprehensive healthy marriage.*
- *Reducing pressure over health institutions and blood banks.*
- *Avoiding the social and psychological problems for families whose children suffer.*
- *Reducing the family and community's financial burdens of treating the injured persons.*

Hence, those couple, who are planning to get married soon, are advised to conduct the premarital screening at least three months before the marriage date; so that the couple can plan their lives better, as the premarital compatibility certificates is valid for only six months. The screening for infectious diseases can also be reconducted when needed (Hamamy etal 7).

Healthy marriage is the state of agreement and harmony between the marriage partners with regard to their health, psychological, sexual, social, and legislative aspects, aiming at making a sound family and begetting healthy children.

Ruling on Medical tests before Marriage and seeking to avoid that through trickery

It is permissible to do medical tests before getting married and that becomes more important if it is thought most likely that there are any hereditary diseases in the family. Shaykh Ibn Jibreen (may Allah preserve him) was asked: What is the ruling on doing medical tests for both spouses before marriage?

He replied: There is nothing wrong with that, if there is the fear of hereditary disease which may have an impact on health, cause problems between the spouses and affect the stability of life and peace of mind. Perhaps one of them has epilepsy or a chronic disease, even if it is mild, such as asthma, diabetes, bilharzia or arthritis. There may also be infertility and the inability to produce children. But if both spouses appear to be in good health, and these kinds of diseases are not found in the environment and society in which they live, then the basic assumption is that there is no sickness and nothing to worry about, so there is no need for both spouses to do medical tests. But if there are some indications, and there is the fear of some hidden health problem, and one of the spouses or their family request medical tests to check for that, then the test must be done, so that there will be no dispute or argument after the marriage contract is done.

Secondly; The doctor has no right to issue a certificate stating that someone is free of diseases without doing any test or examination, unless he is the one who tested or examined the patient previously, or if the matter would require uncovering the *'awrah*, and you are both certain that you are healthy. In that case, there is nothing wrong with taking this certificate without any test or examination, so as to avoid uncovering the *'awrah* for no good reason. Similarly, if any outstanding tests are not important and will cost a lot of money unnecessarily, or will serve no purpose, then there is nothing wrong with you obtaining the certificate (Masri 7).

Withdrawal of Betrothal

khitbah can be broken or withdrawn and it will not be treated as an immoral act in the eyes of Allah (SWT). This highlights the fact that if a serious problem is discovered in either the bride or the groom who was not known at the time of accepting *khitbah*, then such grounds are justified for breaking it.

The parents can engage their daughter to a righteous man at a young age. However, when she gets older, she has a right to reject the proposal and marry someone else if she wants to. Narrated 'Urwa: The Prophet (SAW) wrote the (marriage contract) with Aisha while she was six years old and consummated his marriage with her while she was nine years old and she remained with him for nine years (i.e., till his death)." [Sahih al-Bukhari 5158].

To qualify for an action for breach of promise to marry, the Plaintiff must prove that: There was an actual promise to marry and such promises had been exchanged between parties. The court will not deem a promise to marry from mere romantic talks or discussions about the parties' future.

It is a tort against the breaching party. The principle of breach of promise treats the promise to marry as an enforceable contract which may entitle the non-breaching party to receive damages. However, such an action has been barred in most of the jurisdictions and does not give rise to a valid cause of action.

Anticipatory Breach on the other hand occurs when a party announces his/her intention not to perform the obligation as promised on the due date or by such conduct which makes the performance of such obligation impossible on the agreed date.

FINDINGS

The need for the adhering to the ethic and etiquette of *Khitbah* cannot be over emphasize so also the demand from couples to make all necessaries to go for pre-marital medical checkup become most if not compulsory due to some prevalent sexually transmitted diseases in the present generation.

Health facilities should be established for healthy marriage obtain through the aforementioned process and procedures should lead to sound Islamic society i.e Muslim *ummah* with every senses of belonging and understanding that devoid of suspicions, rancor and acrimony respectively.

RECOMMENDATIONS

With regards to the examination of *Khitbah* (Betrothal) and Pre-Marital Medical Checkup in Contemporary Society. The following recommendations were observe appropriately in accordance with the above findings: -

- Ascertain the achievement of *Khitbah* (Betrothal) and Pre-Marital Medical Checkup in Contemporary Society.
- Ensure *Khitbah* (Betrothal) and Pre-Marital Medical Checkup in Contemporary Society.
- Provide possible moral, political value and significant of *Khitbah* (Betrothal) and Pre-Marital Medical Checkup in Contemporary Society.
- Suggest way forward and provide solution to proper application of *Khitbah* (Betrothal) and Pre-Marital Medical Checkup in Contemporary Society.

CONCLUSION

Applying Islamic principles to all aspects of our lives makes life much easier. May Allah guide us all to live life in accordance with Islam?

Allah has promised to the believing men and the believing women gardens, beneath which rivers flow, to abide in them, and dwell in gardens of perpetual abode; and best of all is Allah's goodly pleasure- that is a grand achievement [Quran, 9:72].

Those authorities are to be kind to those who are under their authority, because the Prophet (SAW) called upon his Lord in supplication, saying:

- *"O Allah, whoever attains any position of authority among my ummah and is harsh towards them, be harsh towards him and whoever attains any position of authority among my ummah and is kind towards them, be kind towards him (Narrated by Muslim 1828).*

If they force the people to do these tests, then they should be free, and those in authority should equip the public hospitals to do that, out of consideration towards the poor and those who do not have enough money, and so that they will not open the door to bribery for the purpose of obtaining the certificates without doing any tests. In this case, there is nothing wrong with what you intend to do, in sha Allah.

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