

## Islamic Marriage and Financial/ Property Obligations

Farid Younos

Nikah (wedlock) in Islam is a social contract not a sacred matrimony. This means either party can nullify the contract. In this contract men and women are independent of each other financially and property wise. This means neither the husband nor the wife has access to each other's assets, property, income, retirement account and any other financial means. However, women do receive dowry in the form of cash or property before signing the contract. This is because before the advent of Islam ordinary women, lower-class or middle-class women did not have any financial or property rights. The Qur'an (Islamic scripture), assigned for women a dowry to prevent any sort of abuse by men. Dowry can be paid in advance or anytime a woman request. It should be paid or offered without question. If it is not paid in advance and the husband files for divorce, he must pay her dowry before concluding the divorce. If a woman has received dowry at the time of marriage and she files for divorce, and her husband does not have any shortcoming or defects, she must return her dowry back to her husband. This means if a husband is a nice person, provides sustenance and does not have any moral or social problem but still if a woman is not happy with her marriage, she can file for divorce. If a woman files for divorce, the husband must divorce her immediately without question. If the husband violates Islamic jurisprudence and does not divorce her, the judge in the city or town they reside in must divorce the woman. Marriage contracts in Islam can be nullified by both parties, a man or a woman. If the divorce is demanded by a woman it is called Khola. In Islam no one has the right to deprive someone from freedom and liberty. In Islamic jurisprudence, a mediator or family counselor or the judge does not have the right to ask the reason for divorce. This is because there may be some issues between a husband and wife that they do not want to disclose for the purpose of dignity and integrity of either the man or the woman.

In Islam the husband is the provider not the wife. This means he is responsible of all sustenance including health insurance for his wife. If he is not capable and able to provide sustenance as it is his responsibility, he has two options: he can divorce his wife because he is not able to provide her or live with his wife without any financial expectations. If his wife is working and she agrees to support her husband, that is her choice not an obligation. She can agree to live with her husband and provide him with family sustenance in order to avoid divorce. She shares her income or property as she please but it is not her obligation. This is because, according to Islam, one thing that God allows but hates is divorce. Sometimes a woman does not want to divorce her husband and is ready to provide for him because he cannot find a job or has lost his job. When communists took over in Afghanistan and many husbands either went to prison for no reason or lost their jobs, women did not ask for divorce. On the contrary, Afghan women became the provider and saved their marriage and family. Again, if a woman for any reason becomes the provider, which would be her own will not an obligation then the husband does not have any access to her income or property. Also, if a woman wants to purchase property or invest her capital, she can do it on her own and the husband is not entitled to co-sign for her purchase. He is not part of the deal or investment. If the husband files for divorce then he has no right to ask for his wife's assets, income, retirement account or property. He can simply file for divorce and separate with dignity and integrity. According to the Quran they should either live with dignity or divorce with dignity without harming each other.

*Dr Farid Younos is former Professor of Cultural Anthropology of the Middles East and Islamic Philosophy.  
He is also a researcher of Islamic Studies.*