

AL Ghazali's View Regarding to the Witness in Islamic Wedding Ceremony

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Abstract: *One of the recognized and indisputable commandments of Islam is that of marriage - the sacred union that takes place only between a man and a woman. In relation to this revered bond, there are many verses of the noble Quran and countless a hadith that encourage marriage for any single man or woman - of any age or background. This is not only limited to the young brothers and sisters who have never been married and are looking for their life mate, but even those who have been through divorce have also been encouraged to re-marry and to "complete" their faith.*

Keywords: *Al Quran; marriage; witness; couple*

I. INTRODUCTION

Marriage is the process by which two people make their relationship public, official, and permanent. It is the joining of two people in a bond that putatively lasts until death, but in practice is increasingly cut short by divorce. Over the course of a relationship that can last as many as seven or eight decades, a lot happens. Personalities change, bodies age, and romantic love waxes and wanes. And no marriage is free of conflict. What enables a couple to endure is how they handle that conflict. So how do you manage the problems that inevitably arise? And how can you keep the spark alive?

The only requirement for Muslim weddings is the signing of a marriage contract. Marriage traditions differ depending on culture, Islamic sect, and observance of gender separation rules. Most marriages are not held in mosques, and men and women remain separate during the ceremony and reception. Since Islam sanctions no official clergy, any Muslim who understands Islamic tradition can officiate a wedding. If you are having your wedding in a mosque, many have marriage officers, called *qazi* or *madhun*, who can oversee the marriage.

II. Review of Literature

2.1 Al-Gazaly's Life

Al-Ghazaly's full name is *Abū Hāmid Muḥammad ibn Muḥammad ibn Muḥammad ibn Ahmad at-Tūsī Al-Gazzāly. Al-Gazzāly*. Al-Gazzāly uses *asydid* means famous. Ibn al-Asir commented on the uses of *asydid* on al-Gazzāly, he said that: according to his prediction, the use *asydid* on it because of the tradition of Khawarizm and Jurjan people, such as '*Assāry*' is attributed to al-'Assār. This opinion is also corroborated by an-Nawawy.

The letter *ya`* coupled behind the name of Al-Gazaly, serves as *ya` nisbah*, which is ascribed to Gazzālah which is the birthplace of Al-Gazaly, as it is stated by an-Nawawy. This opinion is contradicted with the statement given by Ibn as-Sam'āny. He argued that the letter *ya`* coupled with the name Al-Gazaly is not as *ya` nisbah*, but as *taukīd*. He expresses his argument that he had asked people in Tus about the presence of al- Gazzālah. They say that there is no name in the area whose name is al-Gazzālah.

According to the author, the letter *ya`* coupled with the name Al-Gazaly, is as the birthplace of Al-Gazaly. He is not as spinning, but the people who works as a spinning are his father and his grandfather, not Al-Gazaly. Thus Al-Gazaly comes from al-Gazzālah, which is an area that is still within the Tus, Iran. His father is Muhammad ibn Muhammad. He is a man who is *ummi* as well as poor. He works as a spinner of yarn and sold it to his own shop in Tus. He is a devout man who always attends the assembly of *fiqih*. When he heard the lesson delivered by his teacher, he always cries and prays to Allah that he is blessed with a child who is expert in *fiqih*. In the end of his life, he entrusted his son to one of his friend who is an expert in *Sufis* to be educated at the expense of his legacy assets. He is died when Al-Gazaly is still a child. Historians do not explain how old Al-Gazaly when his father died. Al-Gazaly has a sibling whose name is Abū al-Futūh Ahmad ibn Muhammad ibn Muhammad ibn Ahmad at-Tūsī and Mujid ad-Dīn.

Abū al-Futuh is an expert in *fiqih* and *tassawuf* studying in Madrasah (School) of an-Nizamiya replaced Al-Gazaly. Abū al-Futuh also summarizes the book of *Ihyā` 'Ulum ad-Dīn* first volume with the name of Lubāb al-Ihyā. He also compiles a book called *aṣ-Zakhīrah fī 'Ilm al-Basīrah*. He died in the year of 520 Hijriyah in Qazwain.

Al-Gazaly has an uncle named Ahmad ibn Muhammad, who is famous with the name of Abū Muhammad and Abū Hamid. He studies *fiqh* at az-Ziyādy in Tus, but the history of his death is unknown. Al-Gazaly gets married while his age is still under the age of twenty years old and has three daughters and one son named Hamid. His son died when he is still child, so he is called at the beginning of its name with Aby Hāmid.

Al-Gazaly obtains the title (*laqab*) with *Hujjah al-Islam* (defenders of Islam), *Zain al-Din* (religious ornaments) and *al-Faqih ash-Syāfi'y* (the expert of *fiqh* of ash-Syāfi'y Maddhab). He was born in 450 H/1058 AD in Gazzālah, a village on the outskirts of Tus, near Khorasan, Iran. Some places that had been living by Al-Gazaly, that is Tus as his homeland, Jurjan, Nīsābūr, Mu'askar and Baghdad. Then he returns to Tus. He is died on 14 Jamadi 505 H/December 19, 1111 AD in Tabaran, near Tus in the age of fifty-five and is buried there, beside the tomb of the famous poet, al-Firdaus.

2.2 Marriage

Islam, unlike other religions is a strong advocate of marriage. There is no place for celibacy like, for example the Roman Catholic priests and nuns. The prophet (pbuh) has said "there is no celibacy in Islam. Marriage is a religious duty and is consequently a moral safeguard as well as a social necessity. Islam does not equal celibacy with high "taqwa" / "Iman". The prophet has also said, "Marriage is my tradition who so ever keeps away there from is not from amongst me".

Marriage acts as an outlet for sexual needs and regulate it so one does not become a slave to his/ her desires. It is a social necessity because through marriage, families are established and the family is the fundamental unit of our society. Furthermore, marriage is the only legitimate or halal way to indulge in intimacy between a man and a woman. Islam takes a middle of the road position to sexual relations , it neither condemns it like certain religions, nor does it allow it freely. Islam urges us to control and regulate our desires, whatever they may be so that we remain dignified and not become like animals.

The word "zawj" is used in the Qur'an to mean a pair or a mate. In general it usage refers to marriage. The general purpose of marriage is that the sexes can provide company to one another, love to one another, procreate children and live in peace and tranquility to the commandments of Allah. Marriage serves as a means to emotional and sexual gratification and as a means of tension reduction. It is also a form of Ibadah because it is obeying Allah and his messenger - i.e. Marriage is seen as the only possible way for the sexes to unite. One could choose to live in sin, however by

choosing marriage one is displaying obedience to Allah. Marriage is "mithaq" - a solemn covenant (agreement). It is not a matter which can be taken lightly. It should be entered into with total commitment and full knowledge of what it involves. It is not like buying a new dress where you can exchange it if you don't like it. Your partner should be your choice for life. One should be mature enough to understand the demands of marriage so that the union can be a lasting one. For a marriage to be valid certain conditions must be met.

- a. consent of both parties.
- b. " Mahr" a gift from the groom to his bride.
- c. Witnesses- 2 male or female.
- d. The marriage should be publicized, it should never be kept secret as it leads to suspicion and troubles within the community.

According to Imams Abu Hanifah, Ahmad ibn Hanbal and Malik ibn Anas, marriage is recommendatory, however in certain individuals it becomes wajib/obligatory. Imam Shaafi'i considers it to be nafl or mubah (preferable). The general opinion is that if a person, male or female fears that if he/she does not marry they will commit fornication, then marriage becomes "wajib". If a person has strong sexual urges then it becomes "wajib" for that person to marry. Marriage should not be put off or delayed especially if one has the means to do so. A man, however should not marry if he or she does not possess the means to maintain a wife and future family, or if he has no sex drive or if dislikes children, or if he feels marriage will seriously affect his religious obligation. The general principle is that prophet (pbuh) enjoined up in the followers to marry. He said "when a man marries, he has fulfilled half of his religion , so let him fear Allah regarding the remaining half." This hadith is narrated by Anas. Islam greatly encourages marriage because it shields one from and upholds the family unit which Islam places great importance.

The choice of a partner should be the one with the most "taqwa" (piety). The prophet recommended the suitors see each other before going through with marriage. It is unreasonable for two people to be thrown together and be expected to relate and be intimate when they know nothing of each other. The couple are permitted to look at each other with a critical eye and not a lustful one. This ruling does not contradict the ayah which says that believing men and women should lower their gaze.

- a. The couple, however are not permitted to be alone in a closed room or go out together alone. As the hadith says "when a man and a woman are together alone, there is a third presence i.e. shaitan.
- b. There is no concept of courtship in Islam as it is practised in the west. There is no dating or living in defacto relationship or trying each other out before they commit to each other seriously. There is to be no physical relationship what so ever before marriage. The romantic notions that young people often have, have proven in most cases to be unrealistic and harmful to those involved. We only have to look at the alarming divorce rate in the west to understand this point. e.g. the couple know each other for years, are intimate, live together and so on yet somehow this does not guarantee the success of the future marriage. Romance and love simply do not equal a everlasting bond between two people.

Fact: Romance and love die out very quickly when we have to deal in the real world. The unrealistic expectations that young people have is what often contributes to the failure of their relationship. The west make fun of the Islamic way of marriage in particular arranged marriage, yet the irony is that statistically arranged marriages prove to be more successful and lasting than romantic types of courtship. This is because people are blinded by the physical attraction and thus do not choose the compatible partner. Love blinds people to potential problems in the relationship. There is an Arabic saying: which says "the mirror of love is blind, it makes zucchini into okra". Arranged marriages on the other hand, are based not on physical attraction or romantic notions but rather on critical evaluation of the compatibility of the couple. This is why they often prove successful.

There is a halal arranged marriage and a haram one. It is OK to arrange marriages by suggestion and recommendation as long as both parties are agreeable. The other arranged marriage is when parents choose the future spouse and the couple concerned are forced or have no choice in the matter. One of the conditions of a valid marriage is consent of the couple. Marriage by definition is a voluntary union of two people. The choice of a partner by a Muslim virgin girl is subject to the approval of the father or guardian under Maliki school. This is to safeguard her welfare and interests. The prophet said "the widow and the divorced woman shall not be married until she has consented and the virgin shall not be married until her consent is obtained. The prophet did revoke the marriage of a girl who complained to him that her father had married her against her wishes.

The wives rights - the Husbands obligations:

a. Maintenance

The husband is responsible for the wife's maintenance. This right is established by authority of the Qur'an and the sunnah. It is inconsequential whether the wife is a Muslim, non-Muslim, rich, poor, healthy or sick. A component of his role as "qawam" (leader) is to bear the financial responsibility of the family in a generous way so that his wife may be assured security and thus perform her role devotedly. The wife's maintenance entails her right to lodging, clothing, food and general care, like medication, hospital bills etc. He must lodge her where he resides himself according to his means. The wife's lodge must be adequate so as to ensure her privacy, comfort and independence. If a wife has been used to a maid or is unable to attend to her household duties, it is the husband's duty to provide her with a maid if he can afford to do so. The prophet is reported to have said: The best Muslim is one who is the best husband.

b. "Mahr "

The wife is entitled to a marriage gift that is her own. This may be prompt or deferred depending on the agreement between the parties. A marriage is not valid without mahr. It does not have to be money or gold. It can be non-material like teaching her to read the Qur'an. "Mahr" is a gift from the groom to the bride. This is the Islamic law, unlike some cultures whereby the bride's parents pay the future husband to marry the daughter. This practice degrades women and is contrary to the spirit of Islam. There is no specification in the Qur'an as to what or how much the Mahr has to be. It depends on the parties involved.

c. Non-material rights.

A husband is commanded by the law of Allah to treat his wife with equity, respect her feelings and show kindness and consideration, especially if he has another wife. The prophet's last sermon stresses kindness to women.

One of the main duties of the wife is to contribute to the success and blissfulness of the marriage. She must be attentive to the comfort and wellbeing of her husband. The Qur'anic ayah which illustrates this point is:

"Our lord, grant us wives and offspring who will be the apples of our eyes and guide us to be models for the righteous". The wife must be faithful, trustworthy and honest she must not deceive her husband by deliberately avoiding contraception. She must not allow any other person to have access to that which is exclusively the husband's right i.e. sexual intimacy. She must not receive or entertain strange males in the house without his knowledge and consent. She should not be alone

with a strange male. She should not accept gifts from other men without his approval. This is meant to avoid jealousy, suspicion and gossip. The husband possessions are her trust. She may not dispose of his belongings without his permission. A wife should make herself sexually attractive to her husband and be responsive to his advances. The wife must not refuse her husband sexually as this can lead to marital problems and worse still - tempt the man to adultery. The husband of course should take into account the wifes health and general consideration should be given.

The purpose of obedience in the relationship is to keep the family unit running as smoothly as possible. The man has been given the right to be obeyed because he is the leader and not because he is superior. If a leader is not obeyed , his leadership will become invalid -Imagine a king or a teacher or a parent without the necessary authority which has been entrusted to them.

Obedience does not mean blind obedience. It is subject to conditions:

- (a) It is required only if what is asked from the wife is within the permissible categories of action.
- (b) It must be maintained only with regard to matters that fall under the husband rights.

III. DISCUSSION

Marriage is considered valid if it is attended by two honest witnesses, not with one man and two women. Nature of honest is a requirement for witnesses. Al-Gazaly suggests a hadith of the Prophet, namely:

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَا نِكَاحَ إِلَّا بِوَلِيِّي وَشَاهِدَيْ عَدْلٍ

"Said the Prophet:" There is no marriage except with a guardian and two honest witnesses."

After doing *takbrij* then there are some haddiths which have relation to this case, they are: a history of 'Abd al-Razaq, al-Baihaqy, and ash-Syāfi'i. First, in the history of 'Abd al-Razaq, there are two problematic narrators. First 'Abd al-Razaq himself is considered by many critics as *da'eef*. Even he is regarded as *kaẓẓab* narrators and steals hadith though there are some regarded him as a *siqah* narrators. Thus the hadith is grouped into *matruk haddith* that can not be used as a legal proposition.

According to Al-Gazaly, honest witnesses are a requirement for the validity of marriage. Thus the wicked witness is unauthorized to serve as a witness in a marriage. Hadith used to postulate by Al-Gazaly is *da`if haddith*. Syafi`iyah and Hanabilah agree with Al-Gazaly which said that honest is a requirement for witness validity of marriage.

Their arguments similar to those used by Al-Gazaly, the hadith:

عَنْ عَبْدِ اللَّهِ بْنِ مُحَرَّرٍ عَنْ قَتَادَةَ عَنِ الْحَسَنِ عَنْ عَمْرَانَ بْنِ الْحَصِينِ قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَا نِكَاحَ إِلَّا بِوَالِيٍّ وَشَاهِدَيْنِ عَدْلٍ

"From ` Abd Allah bin Muharrar from Qatada from al-Hasan and `Imran ibn al-Hasin has said it, the Prophet has said:" There is no marriage except with a guardian and two witnesses are honest."

Hanafiyah claims that honest witnesses is not a requirement for the validity of marriage. The marriage is valid, though witnessed by honest witness and wicked. They reason, because the purpose of the witnesses is that the marriage is witnessed by many people and it is as a *i`lan*, means the announcement to the people that they already carry out the contract of marriage.

IV. CONCLUSION

Witnesses are a requirement for the validity of marriage. Thus the wicked witness is unauthorized to serve as a witness in a marriage. Hadith used to postulate by Al-Gazaly is *da`if baddith*. Syafi`iyah and Hanabilah agree with Al-Gazaly which said that honest is a requirement for witness validity of marriage.

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