Difference Between Traditional and Quranic Concepts of *Halala*

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Generally a temporary marriage with the intention or will of divorce is called 'Halala' if separation is not the precondition. However, the intention of divorce at the time of marriage is deemed tolerable. Hence the precondition of divorce is generally unaccepted whereas intention of divorce is considered acceptable. The sharai details of precondition and intention can be seen in the books of Fiqh. The issue under consideration here is what type of marriage is meant by ﴿فَلَا تَحِلُّ لَهُ مِنۢ بَعۡدُ حَتَّىٰ تَنكِحَ زَوۡجًا غَيۡرَهُۥ﴾ the prevailing Halala or the legitimate dissolution of marriage.

We believe that the Fiqhi Halala (prevalent interpretation) is immensely different from the Quranic concept of Halala. Unfortunately, due to our non-research orientation, lack of relation with Quran and deficiency of investigation, the Quranic concept of Halala has been overshadowed by Fiqhi Halala. The research of this lost concept is the main objective of this dissertation.

In this regards, we need to deliberate on a few points as below:

1) According to Quran, marriage is never temporary. It is always permanent and that is why the law of divorce is there to dissolve the marriage in case the relations are completely spoiled between the couple. What is then the difference between precondition and intention of divorce from the results perspective? It is therefore quite astonishing that some of our religious jurists have not only allowed the marriage with the intention of divorce but have declared it blessed. (1)

If the spirit of Nikah Ehsaan is not there then it will difficult to call it a marriage. The word Ehsaan is extracted from 'Hisn' meaning fort, i.e. the place that serves as a place of protection. That is why a married man is called 'Mohsin' and married woman is called 'Mohsina' because they protect each other i.e. they get sheltered in a fort. The traditional Nikah brings the woman in its fold of security. This protects the honour and dignity of woman as well as tames the unrestrained sexual desires of man, hence he also gets secured in the form of marriage. This is what Quran has pointed out by calling man a 'Muhsin' and woman a 'Muhsina'.

Addition of ﴿غَيۡرَ مُسَٰفِحِينَ وَلَا مُتَّخِذِيٓ أَخۡدَانٖ﴾ with 'Muhsineen' is to show that extra

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