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Nikāh by Force ♦

The nature of Islam does not permit any coercion and it distinctly provides right to marry a person of choice. However, the parents and family members exert to much pressure in Indian society, hence, the question arises how much right they enjoy in marrying their sons or daughters to an appropriate match? In the Thirteenth Seminar of the academy this question was thoroughly dealt with and the following conclusions were drawn.

- 3.1 On the attainment of adulthood Shariah gives to a boy or a girl the right to choice in the matter of marriage and to make decisions about themselves. This individual freedom is one of the characteristics of the Islamic Shariah. A number of modern communities, in the east and west, who have given due rights to women, are much indebted to the Islamic teachings in this regard.
- 3.2 It will be quite unfair on the part of a Guardian to force his/her ward to take in marriage a person whom he or she does not like. Guardian's insistence on his choice and using coercive means to make his ward yield, amounts to violation of individual rights which Shariah never approves of.
- 3.3 It is better for young boys and girls to prefer the marriage proposal offered by their Guardians. This is because the Guardians, due to the love and affection they give to the youngsters and the experiences of life they possess, are expected to have taken into consideration the interest of the young boy or girl for whom a matrimonial alliance is being sought.
- 3.4 The execution of marriage contract pertains to the pronouncement of consent at the time of the *Nikāh* ceremony. The moment an adult boy or girl pronounces their consent the *Nikāh* is solemnised.
- 3.5 In case a Qazi or a legal body is convinced of the coercive means resorted to by a girl's guardian to force her for marrying a male she does not like and has been made to pronounce consent under duress and the girl does not agree to continue this alliance and demands separation while the husband is not prepared to be separated from her, the Qazi or a legal body has the right to nullify the *Nikāh* in order to save the girl from injustice.

♦ 13th Fiqhi Seminar (Jamia Syed Ahmad Shaheed Katauli) 13-16 April 2001.

