

WASHING THE DECEASED SPOUSE

Question:

Is it permissible for a man or woman to wash the body of his or her deceased spouse?

Answer:

All the fuqaha agree that it is permissible for a woman to wash her deceased husband. However, they disagree regarding the opposite scenario (a man washing his deceased wife). Most of them are in favour of permissibility. Imam Abu Hanifa and Sufyan Thawri (ra) regard it as impermissible. Among the scholars before them, Sha'bi (ra) held the same opinion. There is a similar narration from Awza'i (ra) as well.

- When a man dies, his wife has to observe a compulsory waiting period commonly termed 'iddah. The most salient feature of this 'iddah is impermissibility to remarry. This impermissibility to remarry means that technically she is married until the expiry of the 'iddah.
- On the contrary, when a woman dies, her husband does not have to observe any 'iddah. Hence, he may immediately marry his wife's sister. What this means is that there is no limit before which he is prohibited from marrying his wife's sister. Absence of 'iddah indicates termination of marriage, he is no longer married to her.
- Being married to her husband until expiry of the 'iddah is the rationale for the permissibility of her washing him. This permissibility is further corroborated by the fact that when Abu

Bakr (ra) passed away, he was washed by his wife Asma bint 'Umayy (ra).

- According to Imam Abu Hanifa (ra) and those who agree with him, absence of such 'iddah for the husband is the rationale for the impermissibility of him washing his her.

Proofs of Permissibility

Proponents of permissibility disregard the above explanation due to narrations that:

1. In the beginning of Rasulullah sallallahu alaihi wasallam's final illness, he said to his wife 'Aisha (ra), "You would not suffer if you die before me because then I will see to you. I will wash you, shroud you, perform the salaah over you and bury."
2. 'Ali (ra) washed his wife Fatimah (ra) when she passed away. According to one narration, Fatimah (ra) made a wasiyyah (bequest) that she be washed by 'Ali (ra).

Response of the Ahnaaf

The Arabic language has its own peculiarities, rhetoric and figures of speech. One of the very common aspects in Arabic rhetoric is *majaaz*. A fairly broad area of study that comprises many different types, a simple example is the description of a brave man as a lion. *Zaid is a lion!* Another example is when we say that the Greek emperor Constantine built Constantinople or that the Mogul emperor Shah Jahan built the Taj Mahal. We all know that neither of these emperors built anything with their own hands. Constantinople and the Taj Mahal were built by labourers. However, because Constantinople was built with the instruction of Constantine, we say figuratively say that it was built by Constantine. The same applies when we say Shah Jahan built the Taj Mahal. Let me give you one more example. Zaid's son matriculated. His father then sent him to a Dar-ul-Uloom or a

university. A few years later the young man graduated as an ‘aalim or doctor. After the son’s graduation, people say: Zaid made his son an ‘aalim or Zaid made his son a doctor. The reason for explaining this is that the Ahnaaf’s response to their opposition’s citation of the above ahaadith is that these ahaadith should be interpreted in the light of majaaz. Hence, when Rasulullah sallallahu alaihi wasallam said to ‘Aaisha (ra) that he would wash her, he meant that he would ensure that she would be washed. Likewise, when Fatimah (ra) made wasiyyah that ‘Ali (ra) should wash her upon her death, she could have meant that ‘Ali (ra) must ensure that she be washed. The narration of Asma bint ‘Umais (ra) states that she and ‘Ali (ra) washed Fatimah (ra). Based on the possibility of majaaz, the Ahnaaf interpret this to mean that Asma (ra) washed Fatimah (ra) and ‘Ali (ra) merely helped her by passing the water to her. Asma (ra) referred to his assistance as washing by way of majaaz.

The Statement of Umar (ra)

In substantiation of their opinion the Ahnaaf also cite a narration from the Kitaab-ul-Aathaar of Imam Muhammad (ra). In this narration Imam Muhammad (ra) stated that upon the death of one of ‘Umar (ra)’s wives, he said: “We had more right to her while she was alive. Now that she has passed on, you have more right.”

The Opposition’s Objection

Opposition to the Ahnaaf argue that in this narration Imam Muhammad (ra) did not provide any chain of narrators between himself and ‘Umar (ra). Instead, he used the words بلغنا عن عمر أنه قال (it has reached us that ‘Umar said that . . .)

Hanafi Answer

The Hanafi response to the above objection is that:

- They regard such narrations as mursal.
- They accept the mursal narrations of the first three generations, especially those of a mujtahid.
- Imam Muhammad belonged to the third generation and he was one of great a great mujtahid.
- Hence, such a narration of his (which is called mu'allaq in hadith terminology) is valid and acceptable proof.

Ibn-ul-Baaz (ra)

As mentioned earlier, Imam Abu Hanifa (ra) and those who agree with him attribute impermissibility to termination of marriage upon the demise of the wife. Unfortunately, Ibn-ul-Baaz (ra) described this rationale as contrary to the sunnah and therefore unworthy of attention.

Our Response

We describe these comments of Ibn-ul-Baaz as unfortunate because, as previously mentioned, the reason for concluding that the marriage terminates upon the death of the wife is that the husband may immediately (without observing any 'iddah) marry her sister. Similarly, if a man's wife dies before consummation of the marriage, he may marry her daughter immediately thereafter. These two laws are deduced from the Qur'an and sunnah. Hence, classification of a rule deduced from these rules as incorrect is actually more incorrect. Furthermore, Imams Abu Hanifa, Sufyan Thawri and Awza'i (ra) are unanimously accepted as Imams of the Ahl-us-Sunnah. Thus, describing their opinion as contrary to the sunnah is equal to saying that the Imams of the sunnah opposed the sunnah.

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