

# **WOMEN'S RIGHTS IN ISLAM: THEORY AND PRACTICE - AN ANALYTICAL AND CRITICAL STUDY**

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**MASTER OF PHILOSOPHY**

Under the supervision of  
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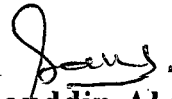
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**DECLARATION**

I, **Samauddin Ahmad Zeeshan**, declare that the materials and contents presented by me in this Dissertation for the partial fulfillment for the award of the degree of Master of Philosophy, entitled “**Women’s Rights in Islam: Theory and Practice - An Analytical and Critical Study**”, is my original research work and have not been previously submitted for any other degree of this or any other University / Institution.

  
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*Needless to say, errors, if any are solely my own.*

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# **INTRODUCTION**

## INTRODUCTION

There is widespread perception that Muslim women are among the most backward, illiterate and oppressed in the world. In media they are always shown clad in 'burqa' or wrapped in Hijab (veil). They are also perceived to be confined to the four walls of their homes totally cut off from the outside world. While partly it is true but reality is much more complex and also not static.

Generally we tend to oversimplify and assume reality to be static. In a fast changing world reality can not be taken to be static. We should always pay attention to changing and emerging realities. What happens in the Muslim world is usually blamed on Islam. The underlying assumption is that Muslim behaviour is always determined by religious belief and since Muslim women are backward and do not enjoy rights like other women it is because of Islamic teachings. This impression is further reinforced by the pronouncements of some orthodox 'ulama' that want to see Muslim women wrapped in Hijab.

It has to be borne in mind that firstly all Muslims do not behave according to what theologians or 'ulama' say or even according to the teachings of Islam; secondly, social customs, traditions and social milieu exert their own pressure. It is difficult to ignore all this. Thirdly, modern world-view also plays an important role in determining one's point of view as well as behaviour. The question of Muslim women, their social status and rights cannot be understood without keeping these things in mind.

First of all it must be kept in mind that Qur'an makes clear pronouncement in favour of equal rights for both sexes (2:228). However, this vision of Islam for both sexes equality could not find practical implementation for number of reasons. Those who embraced Islam, however sincere they might have been, were product of a fiercely male-dominated society. The

Qura'nic pronouncement on the other hand, was an ideal which required very different cultural milieu. From sociological viewpoint it was not immediately implementable. The scriptural understanding is always mediated through culture. The Arab culture was patriarchal and had set its own understanding of women's position. Thus the Qur'anic pronouncement of sexual equality was understood and implemented through mediation of Arab culture. What is worse Islam spread through deeply feudal societies like those of Iran, parts of Roman Empire and India. The 'ulama' certainly could not transcend cultural norms of these societies. Thus shari'ah formulations came into existence mainly in Iraq, Egypt and of course Madina.

Iraq and Egypt were confluence of ancient cultures with age-old traditions of their own. These greatly influenced the Muslim theologians in their understanding of Qur'anic pronouncements of equality of both the sexes. To meet the demands of their societies they selectively used Qur'anic verses and certain sayings of the Holy Prophet (PBUH) to formulate shari'ah approach to women problems, their status and rights. This became medieval religious heritage, which no one could question.

However, under pressure from modern social norms these Qur'anic pronouncements are being rediscovered by modernists and a debate is raging in the Muslim world today about rights of women in Islam. Meanwhile the Muslim women are on the move in various Muslim countries. In every Muslim country and other countries with considerable Muslim population like India. Education is spreading fast among Muslim women. This certainly brings increased awareness among women themselves and they press for their rights both Islamic as well as secular. There are both types of movements among Muslim women in Islamic world. In some Muslim countries Muslim women theologians have emerged with thorough knowledge of the Qur'an, Islamic theology and shari'ah. There are women theologians like Fatima Mirsani from

Morocco, Amina Wadood and Riffat Hassam from USA and several others. Also there are women's organisations like 'Sisters in Islam' from Malaysia.

These Muslim women theologians and organisations are questioning the traditional interpretations of the Qur'an in respect of women's rights and developing new feminine oriented theology ensuring equal rights for men and women. Sisters-in-Islam from Malaysia is challenging the orthodox 'ulama' from Malaysia. They are even trying to get the concept of 'marital rape' accepted as a valid law. As pointed out above reality is not static in Muslim women's world.

The women in an orthodox society like that of Kuwait are demanded and have got the right to vote recently, which was being denied to them by the Kuwait ruling elite. It is hoped they will win this right sooner than later. In Pakistan the women agitated in early fifties itself against the Pakistani Prime Minister when he married his secretary and took her as second wife. The agitation continued until Ayub Khan who had captured power in 1958 brought Muslim Family Ordinance in 1961, which put certain restrictions on polygamy and oral divorce. This ordinance could not be undone even during Zia-ul-Haq's period when the orthodox 'ulama' were closest to the state power in Pakistan.

Bangladesh, though otherwise quite poor and backward, is not far behind. There recently twenty female officers have completed two year gruelling military training and passed out from Bangladesh Military Academy (BMA). This training was for the post of second lieutenant and their passing out ceremony was attended by Bangladesh Prime Minister Khaleda Zia.

The Saudi society too is by no means as static as people think. The Saudi women too are facing complex choices. There is no doubt compared to other Muslim countries they are subjected to stricter traditions. But there is no reason to assume that they are passive and inert to modern changes in the society. The Saudi society as a whole is conceived as governed by purely



traditional Islam and totally shut out to modern world. The Saudi society is undergoing pangs of modern change and this is causing social convulsions and these social convulsions occasionally assume violent forms.

It is also encouraging news from Jordan that it has amended law to give women equal rights. This was announced by Queen Rania. She made this announcement on the opening day of Arab first ladies dedicated to improving the conditions of women in the male dominated Arab world.

In Iran of course though women have to wear chador but chador has not been a constraint for them as far as work is concerned. Iran has very active women's movement in the whole of the Islamic world. They are active in practically every field of work and are present in large numbers in Iranian parliament too.

In Indonesia too women have entered in educational field in a big way. There are large numbers of women in Islamic universities too and there is strong movement developing for women's rights.

Thus one must realise that reality is multi-layered and complex. Muslim women too are undergoing through throes of change the world over. The orthodox 'ulama' can hardly restrain this forward march. More and more Muslim women are either challenging medieval theological formulations or simply ignoring them. They are trying to carving out their own niche in this male dominated world.

Islam is the only religion in this world, which has written legal rights for women. Most importantly Islam is the only religion in the world, which uses the word 'marry one', "if you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; but if you fear that you shall not be able to deal justly (with them), then (marry) only one....." the holy Qur'an.

Questions have been asked now about the legal rights of Muslim women in Islam, if there are any. Lots of examples of malpractices against Muslim women are given to prove that Islam indeed subjugates women. This paper attempts to throw some light on the status of women in Islam through the Qur'an and the Hadith. While doing so, an attempt has also been made to address the history of Indian Muslim women and their present condition in the country.

# **CHAPTER – I**

# MUSLIM WOMEN OF INDIA

## EARLY MUSLIM WOMEN IN INDIA

It is not very clear as to when Muslim women came to India. India first experienced the advent of Islam in the early 8<sup>th</sup> century, almost 100 years after the message of Islam was brought into being by Prophet Muhammad in Arabia. The first Muslims were preachers, very little in number and probably didn't bring any women with them since they came here to propagate Islam.

The early Muslims who really made an impact on India were the Arabs led by young Muhammad Bin Qasim. They were more of conquerors rather than somebody who came to India for spreading Islam. However, they were Muslims and made great impact on the lifestyle of local population in their period. There were several other warriors who came later on to India, with the same purpose as of Muhammad Bin Qasim.

Meanwhile in far south, Islam was slowly becoming the religion of choice because of the impact of traders who traded with India in spices and gems etc. In fact the first Indian Muslims were from the south, embracing Islam after being impressed by its teaching and influenced by the lifestyle of Arab and Middle Eastern traders. Suffice to say, these traders had greater effect on the then predominantly Hindu society than the preaching of preachers or the might of Qasim's army and the likes!

As a result of these three influences, Indian Muslims were never a single homogeneous community as people might think. In fact according to Anthropological Society of India, there are over 350 different ethno-linguistic Muslim groups presently living in India. They have great cultural diversity –

attitude, language, habit, traditions – and a non-uniform diffusion of Islamic traditions over the centuries has resulted in a variety of Muslim laws and practices being practiced in India only. There is a general notion that Indian Muslims are influenced by Islamic laws. This implies that Muslim communities in India are predominantly different from non-Muslim customs and ways. However this notion is far from truth.

Even after embracing Islam, Muslim women kept Indian traditions and customs intact. They embraced the new religion but still dressed in the old Indian ways, ate the same food, had same social customs and obligations and were busy in doing their daily household chores.

However it would be unwise to say that Indian women, particularly Indian Muslims were not influenced by the foreign culture at all. With the passage of time, Indians started absorbing some of the foreign cultural traits and soon the medieval Indian culture became a beautiful blend of Indo-Arabic culture, which was reflected in cuisine, architecture, language and social customs. However it is worth noting that most of this amalgamation was due to the cultural influence and had nothing to do with religion.

Two of the modern ills of the Muslim women are attributed to the religion of Islam. One, Purdah system and second, lack of education. However this has nothing to do with Islam as a religion. In the following pages it has been attempted to explain how a gradual influence of foreign customs and culture has been attributed to Islam.

## **PURDAH SYSTEM**

Purdah (originated from Hindi, meaning screen or veil) denotes a system which is distinct from the Jalabib, plural of Jilbab (a sort of a cloak or overall covering from head to foot; an outer garment; a long gown covering the whole body, or a cloak covering the neck and bosom) and Khimar (generally

translated as 'veil' which covers the face) which is prescribed by Islamic law. This particular Purdah system is a kind of system that is peculiar to the Indian subcontinent. It is far more severe and strict and practiced so rigorously that it reduces women to mere parasites.

This Indian-style Purdah not only involves covering the woman's face but also segregates her by impounding her and consequently condemning her to a life entirely within four walls. Those women are also required to cover themselves completely from head to toe when in public by not only wearing a 'Burqa / Jalabib' but additionally they are required to hide behind a screen (purdah/curtain) which makes them invisible by preventing the outside world from seeing them at all. It acts like a one-way mirror in that women are able to see the outside world, but the outside world cannot see them.

The tragedy for those who adhere to this Indian-style Purdah is that they have deluded themselves into thinking that they are in fact following the Qur'an. They have actually fallen prey to their own over-enthusiastic religious fervour. This in turn has led to their insolent and self-righteous behaviour in their treatment of women. They don't seem to understand that by adhering to this Indian-style purdah system, their actions are not only excessive but out-of-control. Sadly the irony of this system is that the men who are trying to protect women from men's wickedness have done just the opposite—they have inflicted their own wickedness upon these women through their own cruel and inhumane treatment of them.

The veiling of the face by women was not originally an Islamic custom. It was prevalent in many cities of the East before the coming of Islam, but not in the cities of Arabia. The purdah system, as it now exists in India, was quite undreamt of by the Muslims in the early centuries, who had adopted the face-veil and some other fashions for their women when they entered the cities of Syria, Mesopotamia, Persia and Egypt. It was once a concession to the prevailing custom and was a protection to their women from misunderstanding

by peoples accustomed to associate unveiled faces with loose character. Later on it was adopted even in the cities of Arabia as a mark of [tamaddun] a word generally translated as 'civilization', but which in Arabic still retains a stronger flavour of its root meaning 'townsmanship' that is carried by the English word.

It has never been a universal custom for Muslim women, the great majority of whom have never used it, since the majority of the Muslim women in the world are peasants who work with their husbands and brothers in the fields. For them the face-veil would be an absurd encumbrance. The head-veil, on the other hand, is universal. The Egyptian, Syrian, Turkish or Arabian peasant woman veiled her face only when she had to go to town, and then it was often only a half-veil that she wore. On the other hand, when the town ladies went to their country houses, they discarded the face-veil, and with it nearly all the ceremonies which enclosed their life in towns.

In no other country beside India, do the customs which were adopted by the wealthiest townspeople for the safety and distinction of their women at a certain period (i.e., adopted by people having spacious palaces and private gardens) derive from the practice of poor people (who had only small rooms in which to confine women). This is sheer cruelty. Not everywhere did wealthy adopt those customs.

Umarah tells us that among the Arabs of Al-Yaman, in the fifth Islamic century, the great independent chiefs made it a point of pride and honour never to veil the faces of the ladies of their families, because they held themselves too high and powerful for common folk to dare to look upon their women with desiring eyes. It was only the dynasty which ruled in Zabid, and represented the Khilafat of Bani'l-Abbas in Yaman which observed the haram system with some strictness, no doubt in imitation of the Persianised court of Baghdad. Thus this kind of Purdah is neither of Islamic nor Arabian in origin. It is of Zoroastrian Persian, and Christian Byzantine origin. It has nothing to do with the religion of Islam, and, for practical reasons, it has never been adopted by

the great majority of Muslim women. So long as it was applied only to the women of great houses, who had plenty of space for exercise within their palaces and had varied interests in life. So long as it did not involve cruelty and did no harm to women, it could be regarded as unobjectionable from the standpoint as a custom of a period. But the moment it involved cruelty to women and did harm to them, it became manifestly objectionable, from the point of view of the Shari'ah, which enjoins kindness and fair treatment of women, and aims at the improvement of their status.

It was never applicable to every class of society and when applied to every class, as now in India, it is a positive evil, which the Sacred Law can never sanction. The general condition of Muslim women in Turkey, Syria, Egypt and Arabia has always been emancipated as compared with their condition now in India. For instance, the town ladies of the middle class, wearing their veils, were free to go about, doing their shopping and visiting other ladies. Indeed the world of women behind the veil was as free and full of interest as that of men, only it was separate from that of them, and largely independent of that of men. Women, duly veiled, were quite safe in the streets. Any insult offered to one of them was sufficient to rouse the whole Muslim population to avenge it.

The women of the moderately well-to-do could come and go as they pleased and had no lack of social intercourse. The degree of freedom they enjoyed in diverse countries was regulated by racial temperament and local traditions rather than Islamic Law, which merely guarantees to women certain rights - and there is no law in the world so fair to women - and lays down the principle that they are always to be treated kindly and their rights held sacred. For instance, there was a difference between the Arabs and the Turks in this respect, the Turks having adopted more of the Byzantine customs.

In neither of those races would the women have put up with the conditions in which the majority of Indian Muslim women live today; and in



neither of those races would the men have tolerated that condition for their women.

But even the condition of the Turkish woman of the past has been found to have become a cruelty in modern times. The reason for this is that when the Turks first came to Anatolia and Rumelia, they were a sallow complexioned race from Central Asia, with slanting eyes and thin black beards, as portraits of the early Sultans and their generals show. That type is found today among the peasantry around Adana, [a city in southern Turkey] but hardly anywhere else. Through centuries of intermarriage with the fair Circassians, Georgians, Syrians, Bulgars, Serbs, Albanians and other blonde races of Asia and Europe, the Turks have now become as fair as English people. The change was marked by a terrible increase in the mortality of Turkish women, particularly by an increase in the numbers of the yearly victims to consumption.

So long as the Turkish woman was of a dark complexion, the languid, easy going life of the traditional Khanum Efendi did not harm her. But after she became of fair complexion, she suffered visibly from the confinement - much less than that imposed on Indian Muslim ladies, but still measure of confinement - of that life. The Turkish doctors then discovered that blondes were generally weaker constitutionally than brunettes, and required a great deal more fresh air and physical exercise. After the full significance of that discovery dawned upon the rulers of Turkey, they then became advocates of feminine emancipation and, with the ruthless logic of their race, abolished the face-veil and other unhealthy restrictions as soon as they could.

Turkish women in the towns now dress as they have always dressed in the country, wearing the close fitting bash urtu (head-veil) with a longer looser head veil over it. They also wear a long loose mantle covering her form from head to toe—a dress much less coquettish, though more healthy, than the former black 'charshaf' and face veil. She is encouraged to take exercise and to play games in the open air, for which special women's clubs have been started.

She is educated equally to men, though separately from them. She is allowed to do things which would have scandalized her great-grandmother.

Yet it is all within the Shari'ah, since the changed conditions made this enlargement of the sphere of free activity absolutely necessary for women's health and happiness in these days. The changes were not revolutionary for the Turkish ladies since they had always the example of the Turkish country folk before them to prevent them from confusing the town dress and town restrictions with the Sacred Law of Islam. The Turkish peasantry are very good Muslims indeed. Nowhere does one see Islamic rules of decency more appropriately observed than in the Turkish villages of Anatolia. Yet the women in those villages and in Egyptian villages, and in Syrian villages and in Circassian villages and in Arabian villages and among the Bedawi and other wandering tribes enjoy a freedom which would stupefy an Indian Maulvi.

It is the great misfortune of the Indian Muslims that they have no peasantry; that they came into this land as conquerors, with ambitions and ideas befitting noblemen and rulers in Afghanistan and Turkistan and Persia in those days, so that now every Indian Muslim thinks it is necessary for his Izzat [honour/status] to treat his women in, perhaps, a wretched way as the original Beg or Khan Sahib [people of a higher and noble social status] treated the women of his household, or as the Mughal Emperor treated the women of his palace in the vast Zenana quarters of the fort at Agra.

It is the lack of a peasantry which had made them confuse the Purdah system of the wealthy townfolk in the past with the Sacred Law of Islam. If there had been a Muslim peasantry in India, like the Muslim peasantry of Arabia, Egypt, Syria or Anatolia as the basis of the nation, the Indian Muslims could never have fallen into the error of supposing that the Purdah system should be practised by the poor who dwell in hovels, and the rich would never have applied both to town and country life.

## POVERTY AND EDUCATION

One of the standard assumptions about Muslim women in India is that religion prevents them from getting equal access to education. It is certainly true that Muslim women are more likely to be illiterate than Hindu women (in a survey, 59 per cent had never attended school and less than 10 per cent had completed school). However, the same study shows that this is essentially the result of low socio-economic status, rather than religion.

Across the survey, among all communities and caste groups, financial constraints and gender bias dominate over other factors in determining levels of education. Indeed, in those regions where Muslims are better off (as in the south and to a lesser extent in the west), Muslim women also have higher levels of education.

However, two other features that are more specific to the Muslim community may have operated to devalue continuing education for girls. The first is that Muslim men also have very low educational attainment in general. This low male education level would create further pressures to impose ceilings on girls' education, so as not to render them "unmarriageable". In addition, the low age of marriage is a major inhibiting factor. At the national level, the mean age of marriage of Muslim girls is very low at 15.6 years, and in the rural north it falls to an appalling 13.9 years.

Low marriage age has a number of other adverse implications: It is usually associated with high early fertility, which affects women's nutrition and health status; it tends to reduce women's autonomy and agency in the marital home and to create conditions of patriarchal subservience that get

This, in turn, may affect women's work participation in direct and indirect ways. It is well known that the work participation of Muslim women is very low, but this may be less due to the force of religion per se than to the

patriarchal structures and patterns as well as low mobility and lack of opportunity that define their lives. It is worth noting that the work participation rate of women across communities tends to be low in certain regions, especially in the North and the East. Some of this is due to straightforward control over women's agency by male members of the household. Most of the women, both Hindu and Muslim need permission from their husbands to work outside the home.

Interestingly, across the board women in India tend to have relatively less autonomy of decision-making within the household. Clearly, patriarchal control remains one important constraint upon the outside work of women, among Muslims as well as certain other social categories.

But in addition, most of the outside work that the Muslim woman has access to falls in the lowest paid and most exploited categories of labour. Such activities - self-employed in low-productivity activities in the informal sector, as casual labourers and domestic servants - imply poor working conditions and low wages. It is, therefore, possible that Muslim women are kept out of the paid workforce not only by religious or purdah type motivations, but perhaps more significantly by low education, lack of opportunity, low mobility and the inability to delegate domestic responsibilities.

In terms of domestic violence - which is widely recognised to be increasing in India - the incidence cuts across caste, class and community. The above arguments show that Hindu-Muslim differences in patterns of marriage, autonomy, mobility and domestic violence are insignificant. There is no apparent community-wise variation in women's decision-making, mobility and access to public spaces. Most women in India - across communities and regions - have very little autonomy and control over their own lives.

Of course, such constraints are not felt equally by all women, but the distinctions are determined more by class and geographical location than by

community. Indeed, regional development appears to be a better predictor of the status of women and “Muslimness” or religion per se. There are clear indications of the need for a new, less predetermined conception of community and especially of the status of women within Muslim.

## **CHAPTER II**

## WOMEN'S RIGHTS IN ISLAM

Modern Muslim folks can be broadly divided into three main categories. On the one side are the so-called modernist Muslims who believe that men and women are equal in all senses. Family is of little value to them and they are engrossed in materialism and financial success making it their only aim. Women dress and act like men and displaying their body in public is termed as chic and trendy and an ultimate proof of their freedom from male dominance! Women compete with men in all areas to prove their point. Being a housewife is old fashioned and having children is burden and nuisance in furthering their career.

On the other side is orthodox, traditionalist, and fundamentalist Muslims who assert that the proper role of Muslim women is the tasks of catering to their husband's sexual needs, procreation, raising and caring for children, and dedication to domesticity in the all-inclusive sense. Males have full and complete social, economic, and financial responsibility to support one's wife or wives and slave girls, and other womenfolk of the family and children and keeping the household financially solvent.

In between these two extreme sides are those educated, liberal Muslims who advocate gender equality in a sense that both women and men have their work cut out with each partners helping the other in making their family self-sufficient. They recognize the physical and emotional differences between men and women and accordingly divide their task. The well-being of their family is of utmost importance. Women receive education in the same way as men, have their say in marriages and can pursue a career of their choice to support the family financially if the income of male member is not sufficient. Men help the women in household chores and all major decisions are made with consent of both the sexes.

In such a confusing scenario, it is pertinent for us to know what rights Muslim women enjoy according to Holy Qur'an and Sunnah, how these injunction have been applied in the lives of Muslims and how these laws and practices have been mutilated by Muslim folks to serve their own needs. Before we process further, a brief introduction about the status of women in pre-Islamic civilisations and their condition in pre-Islamic Arabia is necessary to put the significance of Islamic laws into proper perspective.

## **WOMEN IN PRE-ISLAMIC ERA**

Describing the status of the Indian woman, Encyclopedia Britannica states:

“In India, subjection was a cardinal principle. Day and night must women be held by their protectors in a state of dependence says Manu. The rule of inheritance was agnatic, that is descent traced through males to the exclusion of females”. The Hindu scriptures describe the characteristics of a good wife as a woman whose mind, speech and body are kept in subjection, acquires high renown in this world, and, in the next, the same abode with her husband.

In Athens, women were not better off than the Indian women. Athenian women were always minors, subject to some male - father, brother, or to some of their male kin. Her consent in marriage was not generally thought to be necessary and she was obliged to submit to the wishes of her parents, and receive from them her husband and her lord, even though he were stranger to her.

According to the Encyclopedia Britannica, the legal status of women in the Roman civilization was as follows:

“In Roman Law a woman was, even in historic times completely dependent. If married she and her property passed into the power of her husband . . . the wife was the purchased property of her husband, and like a



slave acquired only for his benefit. A woman could not hold any civil or public office, could not be a witness, surety, tutor, or curator; she could not adopt or be adopted, or make will or contract. Among the Scandinavian races women were under perpetual tutelage, whether married or unmarried. “

## **WOMEN IN PRE ISLAMIC ARABIA**

One of the few facts that are universally agreed upon is the diversity of the Arabian society prior to Islam. Arabia was comprised of diverse communities with different customs, languages and lifestyles. As the social and cultural norms varied from place to place, so did women's rights. One cannot fairly address women's position in pre-Islamic Arabia without an understanding of the tribal system for it was the tribal structure and customs that had the greatest impact on women's rights. The tribe was the main unit of the society before Islam. Each tribe consisted of a group of kindred clans; every clan was made up of members of a "hayy" which was an encampment of tents; each tent represented a family.

The bond of blood connected together all members of the same tribe, who submitted to the authority of one chief ("shaykh"); the tribe's chief was usually selected by the clan elders from one of the prominent families, and acted as an arbitrator to the internal conflicts. "Banu" (Children of) was the title with which they prefixed their joint names. The fact that certain clans prefixed their names with feminine names is perhaps an indication of an ancient matriarchal culture that existed in Arabia long before Islam. Group solidarity ("asabiyah") was the spirit of the tribe. It signified unconditional loyalty to fellow tribesmen. "Be loyal to thy tribe," was the motto of the time. The clan's claim upon its members was strong enough to make a husband give up his wife.

Laws and customs in this tribal society varied from one area to another. For this reason, we find different accounts of women's status during the days of Jahiliyyah. On the one hand, there are indications that women held high

positions in the society and exerted great influence. They freely chose their husbands, had the right to divorce, and could return to their own people if they were not happy or well-treated. In some cases, they even proposed marriage. They were regarded as equals, not as slaves and were the inspiration of many poets and warriors. The fact that a hero's mother and sisters were deemed most worthy of mourning and praising him is cited as a proof of the high character and position of women in pre-Islamic Arabia<sup>1</sup>.

On the other hand women folks were under extreme subjugation by the male members of their society. Arabia before Islam was a society where there were no rules, except that the strong dominated the weak. It seems reasonable to expect that a natural byproduct of such society would be the oppression of women. Hence alongside the examples of strong and independent women, there are numerous reports of women having an inferior status. Fathers who did not value their daughters as much as they valued their sons, for instance, practiced female infanticide. In areas, such as marriage, divorce and inheritance, women were often deprived of their basic rights- to choose their husbands freely, to divorce if ill-treated or to inherit from their families. Even the poetry praising women focused primarily on their physical attributes; seldom was there any appreciation of moral beauty, indicating that women were more the subject of lust than respect. Some of the social practices related to women in Pre- Islamic Era is discussed as follows:

### **FEMALE INFANTICIDE**

Female infanticide in the pre-Islamic era was not a new thing nor was it limited to one group of tribes. Young girls were usually the victims of this dreadful practice, however, young boys may have also been killed once there were no more girls left. It was said proverbially, "The dispatch of daughters is a kindness" and "The burial of daughters is a noble deed." In Arabia, as among other primitive people, child-murder was carried out in such a way that no

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<sup>1</sup> R. A. Nicholson, *A Literary History of The Arabs*, Cambridge University Press, 1966, p.88

blood was shed and the infant was buried alive. Often the grave was ready by the side of the bed on which the daughter was born<sup>2</sup>.

Female infanticide was usually prompted by one of two reasons: fear of poverty or fear of disgrace. The first reason is associated with the frequent famines caused by lack of rain and the fear of poverty that would result from providing for girls who were viewed as less productive than boys. Fathers were afraid that they would have useless mouths to feed, since daughters were considered mere "ornaments," as pointed out in The Holy Qur'an:

*... if any of them is given the glad tidings of [the birth of] what he so readily attributes to the Most Gracious, his face darkens, and he is filled with suppressed anger: What! [Am I to have a daughter-] one who is to be reared [only] for the sake of ornament? - thereupon he finds himself torn by a vague inner conflict...(43:15-19)*

The Holy Qur'an admonishes the Arabs against killing their children for fear of poverty and promises sustenance for them:

*Hence, do not kill your children for fear of poverty: it is we who shall provide sustenance for them as well as for you. Verily, killing them is a great sin. (17:31)*

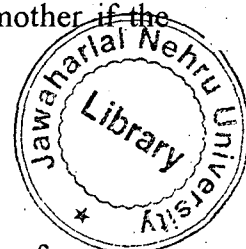
The second reason for infanticide is a perverted sense of pride on the part of the fathers who wanted to avoid shame and disgrace, should their daughters be captured by the enemy in war, a common occurrence at that time.

Infanticide was not limited to Arabia only. It was and continues to be practiced in many different cultures. "The ancient Greeks destroyed weak, deformed or unwanted children; the Chinese wanted many sons and few daughters and did not let some infants, particularly daughters survive. Japanese

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<sup>2</sup> W. Robertson Smith, *Kinship and Marriage in Early Arabia*, London, Adam and Charles Black, 1903, p.293

farmers spoke of infanticide as "thinning out" as they did with their rice fields. In India, many daughters were not allowed to live. Eskimos left babies out in the snow, while in the Brazilian jungle, undesired infants were left under the trees. In London, in the 1860s, dead infants were a common sight in parks and ditches. In 19th century Florence, children were abandoned or sent to wet nurses who neglected them, while during the same period in France, thousands of infants were sent to wet nurses in the countryside, never to return. In some parts of Africa and New Guinea, an infant is buried with its mother if the mother dies in childbirth or soon after<sup>3</sup>.



## MARRIAGE

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In the tribal society, the tribe was the main entity and focus of concern. As members of the tribe, men worked hard to earn their living, and supported their tribe by providing it with all the power that it needed. Marrying women, for the most part, had the purpose of increasing the number of the tribe's members and in turn, its power. Thus the tribe overshadowed the family, and its formation was left to personal discretion, unless a marriage might hurt the tribe in one way or another. Because of the emphasis on the tribe and the variation of customs, marriage was a flexible, loose institution with no strict, uniformed rules. Based on the literary sources as well as the forbidden marriages mentioned in The Holy Qur'an and sunnah, it is likely that the following forms of marriage existed in pre-Islamic Arabia at one time or another:

**Marriage by Agreement** – This was usually an agreement between the man and the woman's family. If the husband was from another tribe, the woman often left her family and found a permanent home in her husband's tribe. The tribe which received the woman kept her children, unless there was a special contract to restore the offspring of the marriage to the mother's people. The children were, therefore, of the tribe's kin and not of the mother's.

<sup>3</sup> Glen Hausfater, et. Al, ed, *Infanticide*, New York, Aldine Publishing Company, 1984, p.439

**Marriage by Capture** – This was a universal practice before Islam. In times of war, women were often captured and taken to the slave market of a trading place such as Mecca and sold into marriage or slavery. It was Islam that made women immune to attack or capture in war time. In this marriage, the woman followed her husband, and bore children who belonged to him. She became his property and completely lost her freedom. Her husband had absolute authority over her, including the exclusive right to divorce.

**Marriage by Purchase**—In this marriage, the woman's family gave her away for a price, also called the dowry, which usually consisted of camels and horses. It replaced marriage by capture when the tribes began developing friendly relations, but it brought the woman practically into the same oppressive conditions as a captive wife. The emergence of this type of marriage perhaps contributed to the decline of female infanticide. Selling a daughter for a large dowry became much more profitable than burying her in the ground<sup>4</sup>.

**Marriage by Inheritance** – This was a widespread custom throughout Arabia, including Medina and Mecca, whereby the heir of the deceased inherited his wife. He could then keep her as a wife, give her away in marriage for a dowry or forbid her from remarriage altogether. This type of marriage, which was abolished under Islam, was also common among the Semites.

**Temporary ("Mot'a") marriage** – This was a purely personal contract founded on consent between a man and a woman without any intervention on the part of the woman's family. There was no need for witnesses. In this type of marriage, the woman did not leave her home, her people gave up no rights which they had over her, and the children of the marriage did not belong to the husband, nor were they entitled to an inheritance. This marriage was practiced mostly by strangers and travelers, and in return for a price payable by the man to the woman. Because of this price, the woman could not dismiss her husband for a certain length of time that she had agreed to upon marriage.

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<sup>4</sup> Aziza al Hibri, *The Study of Islamic History: Or How Did We Ever Get Into This Mess*, Women's Studies International Forum, Oxford, Pergamon Press, 1982, p.209

Apart from the above popular forms of marriage, keeping concubines was also common among the Semites for two basic reasons. Childless wives preferred their husband's living with slave girls to marrying another free woman. When the slave gave birth, the child was identified with the wife of her master. The second reason was that polygamy was costly and it was more economical to keep concubines instead<sup>5</sup>.

It can be concluded then that marriage in pre-Islamic Arabia was defined by the prevailing custom of the tribes, and influenced by the Jewish and Christian traditions. What preserved any sense of dignity for women under the humiliating conditions of most marriages was the weight attached to the bond of blood. In Arabia a woman did not change her kin on marriage and continued to have a claim on the help and protection of her own people.

Of all the different forms of marriage and cohabitation practiced in pre-Islamic Arabia, only marriage by agreement slightly resembles the form of marriage permitted under Islam. But what sets the Islamic marriage apart from the pre-Islamic practices is that Islam acknowledged woman as a human entity with rights of her own. Marriage, therefore, became a contract between a woman and the man she had chosen to marry, and the dowry became a gift to her, rather than to her father.

## **DIVORCE**

As marriage was often an arrangement between the husband and the woman's father, so was divorce. To cancel the marriage and get his daughter back, the father had to return the dowry or purchase price. But if a husband did not get back the dowry, the woman could not be free because the husband had purchased the exclusive right, similar to the right of property, to use the woman as wife. Upon divorce, a divorced woman could also be claimed by her ex-husband's heirs, just as she would be upon his death. While Islamic law forbade remarriage to a woman who was divorced in pregnancy, in pre-Islamic

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<sup>5</sup> Hamoodah abd al ati, *The Family Structure In Islam*, American Trust Publications, 1977, pp. 98-102

Arabia, a pregnant divorced woman could be taken by another man under agreement with her former husband.

## **INHERITANCE**

Women were usually excluded from inheriting from their families. Inheritance was based on the principle of "comradeship in arms;" since men were physically stronger and better fighters, it led to the exclusion from inheritance of women, minors of both sexes and invalids as well as in the preference of the paternal to the maternal lines<sup>6</sup> and the Age of Caliphates.

In places such as Medina, where marriage by purchase was the rule, women fared much worse. She could not inherit because she herself was part of her husband's estate to be inherited. In fact, when Islam mandated that sisters and daughters were entitled to a share of inheritance, men of Medina protested against the rule. Mecca had more advanced laws in regards to inheritance, perhaps because it had been influenced by higher civilizations through its commercial contacts with Palestine and Persia, and some Meccans having lived in Roman cities like Gaza.

## **WOMEN RIGHTS ACCORDING TO THE HOLY QUR'AN AND SUNNAH**

In light of the abovementioned facts about the status of women in pre-Islamic era in Arabia and Non-Arab world, the Islamic laws were like a breath of fresh air. We will now see what Islam brought for uplifting the pathetic state of women.

According to Holy Qur'an there is absolutely no difference between men and women as far as their relationship to God is concerned, as both are promised the same reward for good conduct and the same punishment for evil

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<sup>6</sup> Hugh Kennedy, *The Prophet And The Age of Caliphates*, New York, Longman Inc., 1986, p.18

conduct. The Holy Qur'an says: *And for women are rights over men similar to those of men over women. (2:226)*

The Holy Qur'an, in addressing the believers, often uses the expression, 'believing men and women' to emphasize the equality of men and women in regard to their respective duties, rights, virtues and merits. It says:

*For Muslim men and women, for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast, for men and women who guard their chastity, and for men and women who engage much in Allah's praise, for them has Allah prepared forgiveness and great reward. (33:35)*

The Holy Qur'an further says that women have souls in exactly the same way as men and will enter Paradise if they do good :

Enter into Paradise, you and your wives, with delight. (43:70)

*Who so does that which is right, and believes, whether male or female, him or her will We quicken to happy life. (16:97)*

The Holy Qur'an admonishes those men who oppress or ill-treat women. The following statement from the Holy Qur'an becomes more relevant when one remembers the prevailing situation of the womenfolk in Arabia at the time of prophet Muhammad:

*O you who believe! You are forbidden to inherit women against their will. Nor should you treat them with harshness, that you may take away part of the dowry you have given them - except when they have become guilty of open lewdness. On the contrary live with them on a footing of kindness and equity. If you take a dislike to them, it may be that you dislike something and Allah will bring about through it a great deal of good. (4:19)*



Considering the fact that before the advent of Islam the pagan Arabs used to bury their female children alive, make women dance naked in the vicinity of the Ka'ba during their annual fairs, and treat women as mere chattels and objects of sexual pleasure possessing no rights or position whatsoever, these teachings of the Noble Holy Qur'an were revolutionary. Unlike other religions, which regarded women as being possessed of inherent sin and wickedness and men as being possessed of inherent virtue and nobility, Islam regards men and women as being of the same essence created from a single soul. The Holy Qur'an declares:

*O mankind! Reverence your Guardian-Lord, who created you from a single person, created, of like nature, his mate, and from this pair scattered (like seeds) countless men and women. Reverence Allah, through Whom you demand your mutual (rights), and reverence the wombs (that bore you); for Allah ever watches over you. (4:1)*

The Holy Qur'an emphasizes the essential unity of men and women in a most beautiful simile:

*They (your wives) are your garment and you are a garment for them. (2:187)*

Just as a garment hides our nakedness, so do husband and wife, by entering into the relationship of marriage, secure each other's chastity. The garment gives comfort to the body; so does the husband find comfort in his wife's company and she in his. "The garment is the grace, the beauty, the embellishment of the body, so too are wives to their husbands as their husbands are to them." Islam does not consider woman "an instrument of the Devil", but rather the Holy Qur'an calls her muhsana - a fortress against Satan because a good woman, by marrying a man, helps him keep to the path of rectitude in his life.

It is for this reason that marriage was considered by the Prophet Muhammad as a most virtuous act. He said: "*When a man marries, he has*

*completed one half of his religion." He enjoined matrimony on Muslims by saying: "Marriage is part of my way and whoever keeps away from my way is not from me (i.e. is not my follower)."*

The Holy Qur'an has given the *raison d'être* of marriage in the following words:

*And among His signs is this, which He has created for you mates from among yourselves that you may dwell in tranquility with them; and He has put love and mercy between you. Verily in that are signs for those who reflect. (30:21)*

The Prophet Muhammad was full of praise for virtuous and chaste women. He said: *"The world and all things in the world are precious but the most precious thing in the world is a virtuous woman."*

He once told the future caliph, 'Umar: *"Shall I not inform you about the best treasure a man can hoard? It is a virtuous wife who pleases him whenever he looks towards her, and who guards herself when he is absent from her."*

On other occasions the Prophet said: *"The best property a man can have is a remembering tongue (about Allah), a grateful heart and a believing wife who helps him in his faith." And again: "The world, the whole of it, is a commodity and the best of the commodities of the world is a virtuous wife."*

The Prophet wanted to put a stop to all cruelties to women. He preached kindness towards them. He told the Muslims: *"Fear Allah in respect of women."*

And: *"The best of you are they who behave best to their wives."*

And: *"A Muslim must not hate his wife, and if he be displeased with one bad quality in her, let him be pleased with one that is good."*

And: *"The more civil and kind a Muslim is to his wife, the more perfect in faith he is"*.

The Prophet was most emphatic in enjoining upon Muslims to be kind to their women when he delivered his famous khutba on the Mount of Mercy at Arafat in the presence of one hundred and twenty-four thousand of his Companions who had gathered there for the Hajj al-Wada (Farewell Pilgrimage). In it he ordered those present, and through them all those Muslims who were to come later, to be respectful and kind towards women. He said: *"Fear Allah regarding women. Verily you have married them with the trust of Allah, and made their bodies lawful with the word of Allah. You have got (rights) over them, and they have got (rights) over you in respect of their food and clothing according to your means."*

In Islam a woman is a completely independent personality. She can make any contract or bequest in her own name. She is entitled to inherit in her position as mother, as wife, as sister and as daughter. She has perfect liberty to choose her husband. The pagan society of pre-Islamic Arabia had an irrational prejudice against their female children whom they used to bury alive. The Messenger of God was totally opposed to this practice. He showed them that supporting their female children would act as a screen for them against the fire of Hell:

It is narrated by the Prophet's wife, 'A'isha, that a woman entered her house with two of her daughters. She asked for charity but 'A'isha could not find anything except a date, which was given to her. The woman divided it between her two daughters and did not eat any herself. Then she got up and left. When the Prophet came to the house, 'A'isha told him about what had happened and he declared that when the woman was brought to account (on the Day of Judgment) about her two daughters they would act as a screen for her from the fires of Hell.

The worst calamity for a woman is when her husband passes away and, as a widow, the responsibility of maintaining the children falls upon her. In the Eastern World, where a woman does not always go out to earn her living, the problems of widowhood are indescribable. The Prophet Muhammad upheld the cause of widows. In an age when widows were rarely permitted to remarry, the Prophet encouraged his followers to marry them. He was always ready to help widows and exhorted his followers to do the same. Abu Hurairah reported that the Prophet said: *"One who makes efforts (to help) the widow or a poor person is like a mujahid (warrior) in the path of Allah, or like one who stands up for prayers in the night and fasts in the day."*

Woman as mother commands great respect in Islam. The Noble Holy Qur'an speaks of the rights of the mother in a number of verses. It enjoins Muslims to show respect to their mothers and serve them well even if they are still unbelievers. The Prophet states emphatically that the rights of the mother are paramount.

*Abu Hurairah reported that a man came to the Messenger of God and asked: "O Messenger of Allah, who is the person who has the greatest right on me with regards to kindness and attention?" He replied, "Your mother." "Then who?" He replied, "Your mother." "Then who?" He replied, "Your mother." "Then who?" He replied, "Your father."*

*In another tradition, the Prophet advised a believer not to join the war against the Quraish in defense of Islam, but to look after his mother, saying that his service to his mother would be a cause of his salvation. Mu'awiyah, the son of Juhimah, reported that Juhimah came to the Prophet and said, "Messenger of Allah! I want to join the fighting (in the path of Allah) and I have come to seek your advice." He said, "Then remain in your mother's service, because Paradise is under her feet."*

The Prophet's followers accepted his teachings and brought about a revolution in their social attitude towards women. They no longer considered

women as mere chattels, but as an integral part of society. For the first time women were given the right to have a share in inheritance. In the new social climate, women rediscovered themselves and became highly active members of society rendering useful service during the wars, which the pagan Arabs forced on the emerging Muslim umma. They carried provisions for the soldiers, nursed them, and even fought alongside them if it was necessary. It became a common sight to see women helping their husbands in the fields, carrying on trade and business independently, and going out of their homes to satisfy their needs.

'A'isha reported that Saudah bint Zam'ah went out one night. 'Umar saw her and recognized her and said, "By God, O Saudah, why do you not hide yourself from us?" She went back to the Prophet and told him about it while he was having supper in her room, and he said, "It is permitted by Allah for you to go out for your needs." The predominant idea in the teachings of Islam with regard to men and women is that a husband and wife should be full-fledged partners in making their home a happy and prosperous place that they should be loyal and faithful to one another, and genuinely interested in each other's welfare and the welfare of their children. A woman is expected to exercise a humanizing influence over her husband and to soften the sternness inherent in his nature. A man is enjoined to educate the women in his care so that they cultivate the qualities in which they, by their very nature, excel.

These aspects were much emphasized by the Prophet. He exhorted men to marry women of piety and women to be faithful to their husbands and kind to their children. He said: "Among my followers the best of men are those who are best to their wives, and the best of women are those who are best to their husbands. To each of such women is set down a reward equivalent to the reward of a thousand martyrs. Among my followers, again, the best of women are those who assist their husbands in their work, and love them dearly for everything, save what is a transgression of Allah's laws".

Once Mu'awiyah asked the Prophet, "What are the rights that a wife has over her husband?" The Prophet replied, " Feed her when you take your food, give her clothes to wear when you wear clothes, refrain from giving her a slap on the face or abusing her, and do not separate from your wife, except within the house." Once a woman came to the Prophet with a complaint against her husband. He told her: "There is no woman who removes something to replace it in its proper place, with a view to tidying her husband's house, but that Allah sets it down as a virtue for her. Nor is there a man who walks with his wife hand-in-hand, but that Allah sets it down as a virtue for him; and if he puts his arm round her shoulder in love, his virtue is increased tenfold." Once he was heard praising the women of the tribe of Quraish, "...because they are the kindest to their children while they are infants and because they keep a careful watch over the belongings of their husbands."

The Shari'ah regards women as the spiritual and intellectual equals of men. The main distinction it makes between them is in the physical realm based on the equitable principle of fair division of labour. It allots the more strenuous work to the man and makes him responsible for the maintenance of the family. It allots the work of managing the home and the upbringing and training of children to the woman, work which has the greatest importance in the task of building a healthy and prosperous society.

It is a fact, however, that sound administration within the domestic field is impossible without a unified policy. For this reason the Shari'ah requires a man, as head of the family, to consult with his family and then to have the final say in decisions concerning it. In doing so he must not abuse his prerogative to cause any injury to his wife. Any transgression of this principle involves for him the risk of losing the favor of God, because his wife is not his subordinate but she is, to use the words of the Prophet (peace be upon him), 'the queen of her house', and this is the position a true believer is expected to give his wife.

Let us have a closer look at a few of the rights of women as been given by the Holy Qur'an.

## 1. GENDER RIGHTS (RIGHTS TO BE TREATED AS EQUAL)

*"I shall not lose sight of the labor of any of you who labors in My way, be it man or woman; each of you is equal to the other (3:195)"*

Spiritual equality, responsibility and accountability for both men and women is a well-developed theme in The Holy Qur'an. Spiritual equality between men and women in the sight of God is not limited to purely spiritual, religious issues, but is the basis for equality in all temporal aspects of human endeavor.

The concept of gender equality is best exemplified in The Holy Qur'anic rendition of Adam and Eve. The Holy Qur'an states that both sexes were deliberate and independent and there is no mention of Eve being created out of Adam's rib or anything else. Even in the issue of which sex was created first is not specified, implying that for our purpose in this world, it may not matter.

*"O mankind! Be conscious of your Sustainer, who has created you out of one living entity (nafs), and out of it created its mate, and out of the two spread abroad a multitude of men and women. And remain conscious of God, in whose name you demand your rights from one another, and of these ties of kinship. Verily, God is ever watchful over you! (Qur'an 4:1)"*

Qur'anic translators disagree on the meaning of "nafs" in the above verse which Muhammad Asad translates as "living entity." Many claim that "nafs" translates as "person," that is, Adam. But according to Asad and other scholars, God created humankind and its sexual counterpart out of its own kind. The Arabic word referring to mate (zawj) in the above Qur'anic verse is grammatically neutral and can be applied both male and female interchangeably. So it is not clear, nor should we conjecture, that Adam was created first, Eve was created out of Adam, or that Eve/woman is innately

subservient to Adam/man. The fact that this Qur'anic verse does not specify one specific sex over the other is proof of gender non-bias and equality. It is commonly (and mistakenly) argued that Adam was created first, and that by this gesture God finds the male dominant and superior to the female; however, the wording of The Holy Qur'an in the aforementioned verse does not support this claim.

The Holy Qur'an describes how Adam and Eve were told to avoid a specific tree, which they both approached. For this act of disobedience to God, they were consequently banished from the garden; however, later both repented and were forgiven by God. The Holy Qur'an does not allude to Eve tempting Adam to eat from the tree and being responsible for their downfall. In The Holy Qur'anic version, both were held accountable and both paid the price for their choices, proving that gender equality is an intrinsic part of Islamic belief. (Qur'an 2:30-37)

#### **Accountability, Independence, and Freedom of Choice**

Women are independent individuals, as exemplified by the fact that all human beings will be accountable for their own intentions and deeds on the Day of Judgment when "no human being shall be of the least avail to another human being" (82:19) If men were ultimately responsible for women (fathers for their daughters, husbands for their wives, etc.), then this accountability would be solely on men's shoulders to bear until the Day of Judgment. But this is not the case:

*"And whatever wrong any human being commits rests upon himself alone; and no bearer of burdens shall be made to bear another's burden..." (Qur'an 6:165)*

Consequently, we cannot be judged according to our own deeds unless we have the freedom of choice to do so. This free choice carries with it the



responsibility to make the right choices or paying the consequence for wrong ones, best exemplified by Adam and Eve.

### **Equality in Practice**

In The Holy Qur'an, reference to men and women is through attributes and deeds, by which we will be judged. The most pious of us, or those who follow God's commands, are referred to as "believers" or "mu'mineen" in The Holy Qur'an. In many references, in fact, The Holy Qur'an resonates this equality by eloquently repeating "men and women" with ethical and practical qualities throughout the verses, and even emphasizes this ten times in the following verse:

*"Verily for all men and women who have surrendered themselves unto God, and all believing men and believing women, and all truly devout men and truly devout women, and all men and women who are true to their word, and all men and women who are patient in adversity, and all men and women who humble themselves before God, and all men and women who give in charity, and all self-denying men and self-denying women, and all men and women who are mindful of their chastity, and all men and women who remember God unceasingly: for all of them has God readied forgiveness of sins and a mighty reward." (Qur'an 33:35)*

It is paramount to understand that The Holy Qur'an equates being a "mu'min" with actual practice, so that it is not enough to just have faith in principle; we must put our faith into practice. The same applies to our belief in the equality of men and women; gender equality as outlined in The Holy Qur'an must also be put into practice. In reference to the above verse, modern scholar Laila Ahmed in "Women and Gender in Islam" says that "the implications are far-reaching. Ethical qualities, including those invoked here--charity, chastity, truthfulness, patience, piety--also have political and social dimensions."

## 2. LEGAL RIGHTS

While looking at the legal rights of women, a basic understanding of Islamic law is necessary. Understanding the difference between divine law and laws developed through human reasoning (the former law being permanent and mandatory, the latter law being subject to reformulation as circumstances require) is necessary to determine which rules are binding on us today and which were developed by jurists to address certain situations and can therefore be re-examined if circumstances warrant.

Shariah is the law of God and it is incumbent upon Muslims to observe it<sup>7</sup>. The divine sources of shariah are The Holy Qur'an and the authentic teachings of Prophet Muhammad. For the most part, The Holy Qur'an and Sunnah provide general principles of conduct with a limited number of specific legal rules. Through the process of ijihad (personal reasoning) the divine teachings can be interpreted and implemented to address the changing circumstances of Muslims; thus, ijihad is the most important source of Islamic law after The Holy Qur'an and authentic sunnah. (Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, Islamic Texts Society, 1991, p. 366.) Fiqh, on the other hand, is the law itself and it is derived from shariah. Fiqh is not limited to the small number of revealed laws; rather, it is the jurisprudence that is derived from shariah. The development of fiqh is through human effort to promulgate laws and as such it is not part of the permanent divine law; therefore fiqh can be re-examined and, if necessary, reformulated to address changing circumstances.

Legal rights, including those of women, should be discussed in light of the Islamic principle of justice. The main areas of controversy in regards to women's legal rights are in the areas of witnessing and inheritance. While acknowledging that further research by Islamic scholars is needed in these

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<sup>7</sup> M.F. Osman, *Shariah in Contemporary Society*, New York, Multimedia Vera International, 1994, p.18

areas to address changing circumstances and, if necessary, to reformulate fiqh, the divine and permanent laws of shariah must be respected.

## **WOMEN AS WITNESSES IN DEBTOR/CREDITOR TRANSACTIONS**

The Holy Qur'anic verse in regards to witnessing a debtor creditor transaction states: *"Whenever you give or take credit for a stated term, set it down in writing...And call upon two of your men to act as witnesses; and if two men are not available, then a man and two women from among such as are acceptable to you as witnesses, so that if one of them should make a mistake, the other could remind her."* (Qur'an 2:282).

The jurist Ibn Al-Qayyim points out that the rule enunciated in 2:282 is the exception to the general rule that the testimony of a woman is equal to that of a man<sup>8</sup>. Furthermore, this verse states a reason behind the rule, in case one forgets, the other may remind her. Within Islamic jurisprudence once the reasoning behind a rule is no longer applicable, the rule itself may not be applicable. Professor Khalaf, who was Professor of Shariah at Cairo School of Law, states that all shariah rules are based on their reasons; therefore, the existence or non-existence of a rule depends on the existence or non-existence of its reason. He further states that a shariah rule is applicable if its reason is present, even if the wisdom of the rule is not understood; however, a rule is inapplicable if its reason does not exist, even if the wisdom of the rule is clear.

When The Holy Qur'an was revealed in Arabia over 1400 years ago, the women of that time had virtually no interaction in the business community and were unfamiliar with financial transactions; thus, the rationale for the verse. Thus, women are not inferior as a result of this rule, as is frequently believed in Muslim circles; rather, The Holy Qur'an simply stated the rule in a manner understandable to the community to whom The Holy Qur'an was revealed. However, in modern society, where both women and men are well versed in business and financial matters, and business is becoming a discipline and a

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<sup>8</sup> Osman, Fathi, *Muslim Women in the Family and Society*, Minarate Publication, 1979, p.39

specialty, there is no special danger of a woman forgetting or misunderstanding a transaction; therefore, under these circumstances, there is room to question the applicability of this rule.

Furthermore, the rule set forth for debtor-creditor transactions gives no justification to expand the rule to either exclude women from being witness altogether or to require two women for one man in every situation where witnesses are required. The verse clearly sets forth the situation in which this rule applies and why. Muhammad al-Ghazali comments that it is both unfortunate and wrong that this rule has been extended by some to exclude women from all witnessing<sup>9</sup>.

### **WOMEN AS WITNESSES IN CASES OF ADULTERY**

Further evidence that the debtor-creditor situation is an exception to the general rule that the testimony of a woman is equal to that of a man is found in The Holy Qur'an, where in cases of adultery The Holy Qur'an requires witnesses but is silent on the issue of gender, thereby implying that the gender of the witnesses is irrelevant.

*"And as for those who accuse chaste women of adultery, and then are unable to produce four witnesses in support of their accusation, flog them with eighty stripes; and ever after refuse to accept from them any testimony -- since it is they, they that are truly depraved." (Qur'an 24:4).*

In cases of adultery where one spouse accuses the other, either spouse can swear by God that he or she is telling the truth with The Holy Qur'an treating each equally.

*"And as for those who accuse their own wives of adultery, but have no witnesses except themselves, let each of these accusers call God four times to witness that he is indeed telling the truth...But as for the wife, all chastisement*

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<sup>9</sup> Muhammad al-Ghazali, *Sunnah al Nabawiya Bayana al Fiqh wa Ahl al Hadith*, Dar al Sharq, 1989, p. 66

*shall be averted from her by her calling God four times to witness that he is indeed telling a lie." (Qur'an 24:6,8).*

Accusations of adultery are much more of moral significance than debtor-creditor transactions and it would make little sense to require two women witnesses for the relatively less significant event of a debt transaction and to require only one for the more serious accusation of adultery unless we accept the proposition that the debtor-creditor situation was an exceptional one because at the time women were unfamiliar with business transactions.

### **WOMEN AS WITNESSES IN CASES OF DIVORCE**

In cases of divorce The Holy Qur'an requires that there be two witnesses; however, it is silent as to gender, thereby implying its irrelevance.

*"...And let two persons of known probity from among your own community witness what you have decided; and do yourselves bear true witness before God." (Qur'an 65:2).*

Again, divorce is a significant act where The Holy Qur'an has specified many rules and its silence as to the gender of the witnesses is further evidence that the debtor-creditor situation is unique.

### **WOMEN AS WITNESSES TO BEQUESTS**

*"O you who have attained to faith! Let there be witnesses to what you do when death approaches you and you are about to make bequests: two persons of probity from among your own people, or -- if the pangs of death come upon you while you are traveling far from home -- two other persons from among people other than your own. Take hold of the two after having prayed; and if you have any doubt in your mind, let each of them swear by God, 'We shall not sell this (our word) for any price, even though it were for the sake of a near kinsfolk; and neither shall we conceal aught of what we have witnessed before God -- or else, may we indeed be counted among the sinful.' But if afterwards*

*it should come to light that the two witnesses have become guilty of this very sin, then two others -- from among those whom the two former have deprived of their right -- shall take their place..."(Qur'an 5:106-107).*

In this situation, where safeguards are taken to ensure the integrity of the witnesses, The Holy Qur'an is again silent as to their gender. It is noteworthy that preference was given to witnesses "from among your own people" -- this was a relevant criterion and it was enunciated; however, gender was not specified and thus is irrelevant.

### **3. INHERITANCE RIGHTS**

Islam was revolutionary in regards to inheritance by women. As we have seen earlier, prior to The Holy Qur'anic injunction, women not only did not inherit from their relatives, women themselves were bequeathed as if they were property to be distributed at the death of a husband, father, or brother. Thus, Islam, by giving women the right to inherit, changed the status of women in an unprecedented fashion. Moreover, this right was God given and not acquired as a result of political pressure. Furthermore, it is interesting to note that the verses on inheritance are contained in Chapter 4 of The Holy Qur'an which is entitled "Women", perhaps signaling the importance of this area for women.

The Holy Qur'an states: *"Men shall have a share in what parents and kinsfolk leave behind, and women shall have a share in what parents and kinsfolk leave behind."* (Qur'an 4:7). In terms of the right to inherit, women and men are equal legal entities; thus, whether women can inherit is not controversial. Rather, the dispute centers around the "share" that is to be inherited. The inheritance verses demonstrate God's wisdom in detailing the rights of each family member where the society was tribal and patriarchal and where women generally had no financial security other than that provided by men; however, there may be hidden wisdom in these verses that is beneficial to other types of societies as well. Islamic scholars, while respecting the

permanent divine law, must explore the application and inherent wisdom of these verses to ensure that the Islamic principle of justice prevails.

The Holy Qur'an goes on to state in detail the division of property based on the number of relatives and the level of kinship.

*"Concerning [the inheritance of] your children, God enjoins [this] upon you: The male shall have the equal of two females' share; but if there are more than two females, they shall have two-thirds of what [their parents] leave behind; and if there is only one, she shall have one-half thereof. And as for the parents [of the deceased], each of them shall have one-sixth of what the deceased leaves behind, in the event of the deceased having [left] a child; but if the deceased has left no child and the parents are the [only] heirs, then the mother shall have one-third; and if the deceased has brothers and sisters, then the mother shall have one-sixth after [the deduction of] any bequest the deceased may have made, or any debt. As for your parents and your children - you know not which of them is more deserving of benefit from you: [therefore this] ordinance from God. Verily, God is all-knowing, wise." (Qur'an 4:11).*

The injunction that a male receives a share equal to that of two females appears to apply only to the inheritance of children by their parents. Parents who inherit from a deceased child each inherit one-sixth if their child has left a child. In that instance, the division is equal between the mother and the father of the deceased. The verse then states what the mother shall receive if the deceased left no children or if the deceased left siblings. Presumably the father and the mother inherit equally in those situations.

Muslim jurists have debated the issue of inheritance for centuries with several theories being proposed. One theory explains that a brother receives double his sister's share because he has an obligation to provide for her support. The inheritance verse may be read in conjunction with the following verses which state:

*"Hence, do not covet the bounties which God has bestowed more abundantly on some of you than on others. Men shall have a benefit from what they earn, and women shall have a benefit from what they earn. Ask, therefore, God to give you out of His bounty: behold, God has indeed full knowledge of everything." (Qur'an 4:32).*

And,

*"Men shall take full care of women with the bounties which God has bestowed more abundantly on some of the former than on some of the latter, and with what they may spend out of their possessions. And the righteous women are the truly devout ones, who guard the intimacy which God has ordained to be guarded." (Qur'an 4: 34).*

These verses place an obligation on the person with more bounties to spend on the person who has less. The inheritance verse gives men a more abundant bounty than that given to women. Thus, men are responsible to spend of their property on women.

Another theory holds that the inheritance verses mentioned above apply only if no will was left by the deceased. This theory is based on the following verses:

*"O you who have attained to faith! Let there be witnesses to what you do when death approaches you and you are about to make bequests" (Qur'an 5:106)*

and

*"It is ordained for you when death approaches any of you and he is leaving behind much wealth, to make bequests in favor of his parents and other near of kin in accordance with what is fair: this is binding on all who are conscious of God." (Qur'an 2:180).*



As shown by the plethora of theories on the subject, the topic of inheritance contains many complicated rules that need further study and clarification. Muslim jurists must continue to debate this subject and should consider whether the laws of inheritance apply only in an Islamic state where one who is wronged would have legal recourse and how should a Muslim minority in a non-Islamic state resolve these issues.

#### 4. POLITICAL RIGHTS

The Holy Qur'an, sunnah, and Islamic history provide ample evidence of women undertaking various forms of political involvement from the bai'ah to fighting in battles to influencing political decisions. There are numerous instances during the life of Prophet Muhammad where women were clearly seen as leading men. Qur'an has given many political rights to women. To exclude women from political involvement simply because they are women is an act of tribalism based on gender. The Prophet stated: "He is not of us who proclaims the cause of tribal partisanship..."

*"And [as for] the believers, both men and women - they are friends and protectors of one another: they [all] enjoin the doing of what is right and forbid the doing of what is wrong, and are constant in prayer, and render the purifying dues, and pay heed unto God and His apostle. It is they upon whom God will bestow His grace: verily, God is almighty, wise." (Qur'an 9:71).*

This verse shows that women and men are to work together in the religious realm (the reference to prayer), in the social realm (rendering purifying dues, presumably to help the needy), and in the political and educational realm (the reference to heeding God and His apostle -- one must understand what God commands and have a voice in society to heed God's teachings). The references in the verse to the activities required, e.g. enjoining the right, prayer, etc. show that both women and men are to take an active role in society rather than merely a passive one.

Political involvement is a means to fulfill one's obligations to society. Involvement in the political system can take many forms, from voting in elections, to holding a position as a legislator or a judge, to being a head of state. Islamic history provides precedents for each of these roles for women.

### **WOMEN'S PARTICIPATION IN THE BAI'AH**

The leader of an Islamic state is confirmed by the people through a process known as bai'ah; a symbolic contract between the leader and the people wherein the leader promises to obey Islamic law and the people, in exchange promise their allegiance. In essence, bai'ah is the election of a leader, for without the bai'ah the purported leader has no legitimacy and thus cannot act as the head of state. Ibn Taymiya in his work Minhaj al Sunnah stresses the requirement of bai'ah by the people for a leader to be legitimate. Ibn Taymiya discusses the occurrence where Abu Bakr nominated Umar ibn al Khattab to succeed him as caliph. Ibn Taymiya stated that Umar became the caliph only when he received the bai'ah from the people. Ibn Taymiya further stated that if Umar had not received the bai'ah, he would not have become the leader, despite his nomination by Abu Bakr.

In early Islam women were included in the giving of the bai'ah. Prophet Muhammad received the bai'ah from the people. The Holy Qur'an addresses the issue of women giving the bai'ah to Prophet Muhammad and God tells Muhammad to accept the pledge of the women.

*"O Prophet! Whenever believing women come unto thee to pledge their allegiance to thee...then accept their pledge of allegiance." (Qur'an 60:12).*

In 645 A.D. (23 A.H.) Umar, the second head of state after the death of Prophet Muhammad, convened a group to determine his successor. One of the group, Abdul Rahman, went to the people to consult with them as to who should be the next leader. Abdul Rahman consulted both women and men, thus women had a say in who would be their leader. Through this process Uthman was selected to succeed Umar.

## **WOMEN AND SHURA**

In addition to participation in the electoral process, women have also been involved in political activities. These activities appear to be sanctioned by Islamic law. In Islam, community decisions must be made through a process of consultation (shura). The Holy Qur'an, in describing the qualifications of true believers, states

*"...and whose rule in all matters of common concern is consultation among themselves." (Qur'an 42:38).*

This verse reaches into all aspects of political life and to fulfill the requirements of this verse, a legislative assembly should be formed. This verse refers to the entire community; therefore, the legislative assembly must be representative of the entire community, women and men and that to achieve true representation, the members of the legislative assembly must be elected through free elections with wide suffrage, including both women and men.

## **WOMEN AS JUDGES**

The traditional Islamic scholar Ibn Hazm was of the opinion that women could be judges in all cases<sup>10</sup>. Ibn Hazm cites the verse:

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<sup>10</sup> Ibn Hazm, *Al Muhalla bil Athar*, Vol.8, Darul Kutub al Ilmiya, 1988, p.528

*"Behold, God bids you to deliver all that you have been entrusted with unto those who are entitled thereto, and whenever you judge between people, to judge with justice. Verily, most excellent is what God exhorts you to do: verily, God is all-hearing, all-seeing!" (Qur'an 4:58)*

and argues that this verse is addressed to both men and women and that there is no reason to discriminate between a man or woman (or a free person or a slave) as to who can judge between people.<sup>11</sup>

Likewise, Imam al -Tabari believed that women could be judges in all cases.<sup>12</sup> Imam Abu Hanifa believed that women could be judges on issues related to family law.<sup>13</sup>

In addition, Umar, the second head of state after the death of Prophet Mohammad, appointed a woman named Al Shafa bint Abdullah ibn abd Shams as the manager over the market of Medina.<sup>14</sup>

Traditionally, an aspect of leadership in Islam is the ability of the leader to lead the Muslims in prayer, i.e. act as the imam.<sup>15</sup> Some argue that women cannot hold positions of leadership because women cannot lead men in prayer<sup>16</sup>. However, this argument requires two assumptions that may be invalid. First, one must assume that the leader himself or herself is obligated to lead prayer. Second, one must assume that women cannot lead men in prayer.

## WOMEN AS IMAMS

The word imam as used in The Holy Qur'an means a source of guidance (e.g. Qur'an 2:124). The meaning is not limited only to prayer. Thus, the leader should guide the people along the path of Islam. In other words, the role of the

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<sup>11</sup> *ibid*, p. 528

<sup>12</sup> M. H. Sherif, *The Muslim Women Between the Truth of Shariah and Fallacy of Falsification*, Dar al Marifa al Jamiyya, 1987, p.142

<sup>13</sup> Ibn Hazm, *Al Muhalla bil Athar*, Vol.8, Darul Kutub al Ilmiya, 1988, p.527

<sup>14</sup> *ibid*, p. 527

<sup>15</sup> Fatima Mernissi, *The Forgotten Queens of Islam*, Minnesota University Press, 1993, p.32

<sup>16</sup> *Ibid*, p. 32

leader is to follow the teachings of Islam and to act as a role model. Leading prayer is not a necessary criterion for leadership, although it may be symbolically desirable. The leader himself or herself need not actually lead prayer. The leader can delegate this function to another. Prophet Muhammad, on two occasions, assigned Ibn Umm Maktum to lead prayer in Medina.<sup>17</sup> (On more than one occasion Muadh would pray isha with the Prophet and when he was finished he would return to his people and, with the Prophet's permission, he would lead them in prayer. Thus, the assumption that the leader must actually lead the prayer is not necessarily valid.

Several ahadith set forth the criteria for leading prayer: an ability to read The Holy Qur'an, knowledge of The Holy Qur'an, knowledge of the teachings of Prophet Muhammad, and being accepted by the congregation. The following hadith, related by Ahmad and Muslim and reported by Ibn Masud, states that the Prophet said:

*"The imam of a people should be the one who is the most versed in The Holy Qur'an. If they are equal in their recital, then the one who is most knowledgeable of the sunnah. If they are equal in the sunnah, then it is the one who migrated first. If they are equal in that, then it is the eldest. And one should not lead prayer in another's house without permission."*

As-Sayyid Sabiq, a renowned Islamic scholar from al-Azhar, states that the following people are prohibited from leading prayer: someone with a legitimate excuse not to pray and an incapacitated person. He further states that the following people are discouraged from leading prayer: an evildoer and someone who changes the religion.<sup>18</sup>

Thus, maleness was not mentioned as a criterion. Moreover As-Sayyid Sabiq states that it is preferable for a woman to lead other women in prayer and

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<sup>17</sup> As Sayyid Sabiq, *Fiqh us Sunna*, Vol. 2, American Trust Publication, 1989, p.57

<sup>18</sup> Ibid, pp. 56-58

he states that Aishah used to lead the women in prayer.<sup>19</sup> According to Ibn Rushd, Imam al-Shafii believed that a woman could lead other women in prayer; however, both al-Tabari and Abu Thawr believed that a woman could lead both men and women in prayer.

Furthermore, Umm Waraqa bint Abdallah, an Ansari woman who was well versed in The Holy Qur'an, was instructed by Prophet Muhammad to lead 'ahl dariha' (ahl dariha means the people of her home where 'dar' means home and can refer to one's residence, neighborhood, or village), which consisted of both men and women, in prayer.

The "people of Umm Waraqa's home" were so numerous that Prophet Muhammad appointed a muezzin for her. Umm Waraqa was one of the few to hand down The Holy Qur'an before it was written. Also, Umm Waraqa wished to be known as a martyr so she asked Prophet Muhammad to allow her to participate in the Battle of Badr (624 A.D./ 2 A.H.) so that she could take care of the wounded; from that time on Prophet Muhammad referred to her as "the female martyr."

In 699 A.D. (77 A.H.) a woman named Ghazala led her male warriors in prayer in Kufa after having controlled the city for a day. Not only did she lead Muslim men in prayer, she recited the two longest chapters in The Holy Qur'an during that prayer. (It should be noted that many traditional imams do not accept Ghazala as legitimate precedent because she belonged to the Kharijite sect, a group of puritans, known for their piety, who revolted against Ali and Muawiya; however, this does not necessarily invalidate her actions).

Thus, although the practice of women leading prayer is not commonly accepted, one cannot simply conclude that it is prohibited without first conducting honest and unbiased research.

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<sup>19</sup> ibid, p.58

## EXAMPLES OF POLITICALLY ACTIVE WOMEN

Furthermore, Islamic history is filled with women who undertook various forms of political activism. Unfortunately, however, much of this history has been ignored. The first martyr in Islam was a woman, Sumaya zawgat Yasir. Sumaya was tortured and killed in the early period of Islam because of her belief in Prophet Muhammad and the message he brought of one God.<sup>20</sup>

Asma bint Umais was a woman who traveled by sea and immigrated to Abyssinia when the Muslims were being persecuted in Mecca. Abu Musa narrated the following: Asma visited Hafsa, the Prophet's wife. During her visit Umar ibn al-Khattab arrived and upon seeing Asma he inquired who she was. Hafsa told him Asma's name whereupon Umar asked if she was the Abyssinian sea traveler and Asma replied that she was. Umar then said "We did hijra before you, so we are closer to the Prophet ." Later, the Prophet arrived and Asma related to him what Umar said. The Prophet said to her "Nobody is closer to me than you. Umar and his companions have one hijra, but for you, people of the sea, you have two." Asma later said that others who had emigrated by sea would ask her about this event. (Bukhari 13:245 and Muslim, The Book of Pilgrimage, 4:101). This story is significant in that Asma bint Umais and her travels in search of religious freedom appeared to be common knowledge and were noteworthy enough to receive praise from the Prophet.

Women also fought in battles to defend Islam. Umm Imara defended the Prophet during the Battle of Uhud after the Muslims were defeated. Umar ibn al-Khattab said "I heard the Prophet saying 'On the day of Uhud, I never looked right or left without seeing Umm Imara fighting to defend me'"<sup>21</sup>

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<sup>20</sup> Haddad and Elison, F., ed., *Women Religion and Social Change in Early Islam*, New York, State University, 1985, p.25.

<sup>21</sup> Abdel Halim abu Shaqa, *Emancipation of Women at the Time of Prophet*, 1990, Vol. 2, p.53

Another famous female warrior was Nasiba bint Kaab who fought with the Prophet in the Battle of Uhud (625 A.D./ 3 A.H.) and later on with Caliph Abu Bakr in the Ridda war (632 A.D./ 10 A.H.). She was known as such a courageous and dedicated warrior that Abu Bakr himself attended her reception upon her return to Medina.<sup>22</sup>

Umm Salama, one of the Prophet's wives, was instrumental in advising the Prophet during the crisis at Hudaibiya in 628 A.D. (6 A.H.) Her advice prevented disunity among the Muslims after the Treaty of Hudaibiya and her opinion prevailed over that of many men, including Umar ibn al-Khattab. Umm Salama was also an inquisitive student of Islam. She asked the Prophet why only men were mentioned in The Holy Qur'an and in response God revealed the following verse:

*"Verily, for all men and women who have surrendered themselves unto God, and all believing men and believing women, and all truly devout men and truly devout women, and all men and women who are true to their word, and all men and women who are patient in adversity, and all men and women who humble themselves before God, and all men and women who give in charity, and all self-denying men and self-denying women, and all men and women who are mindful of their chastity, and all men and women who remember God unceasingly: for all of them has God readied forgiveness of sins and a mighty reward." (Qur'an 33:35).*

Umm Hani bint Abi Talib offered refuge to two non-Muslim men who sought protection after the opening of Mecca. After she offered them refuge she went to the Prophet and told him what she had done. He said to her, "We offer refuge to whomever you offered and we guarantee safety to whomever you guaranteed safety." Thus, in essence, Umm Hani bint Abi Talib performed

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<sup>22</sup> M. H. Sherif, *The Muslim Women Between the Truth of Shariah and Fallacy of Falsification*, Dar al Marifa al Jamiyya, 1987, p. 78



a significant political function, one often reserved only for the ruler, when she granted political asylum to these men.

Aisha, a wife of Prophet Muhammad, was also politically active. In the year 658 A.D. (36 A.H.) she played a major role in the armed resistance against Ali, the fourth successor after the death of Prophet Muhammad. Aisha went to mosques and rallied people to take up arms against Ali. Aisha, the only woman on the battlefield, led thousands of men into the "Battle of the Camel." Aisha was clearly an influential leader as shown by the following statement made by Hasan the son of Ali after Aisha traveled to Basra with Talha and al-Zubayr, members of Ali's opposition, to rally support. Hasan, in a speech made in Kufa, stated, "I swear by God, surely she is the wife of your Prophet, in this life and the hereafter. But it is a test from God to know whether you will obey Him or her." (Bukhari).

#### **ARGUMENTS AGAINST POLITICAL PARTICIPATION**

Despite the evidence to the contrary, some argue that in Islam women cannot or should not hold positions of leadership. This argument is based primarily on the interpretation given to one hadith and two Qur'anic verses. The hadith, related by Abu Bakr, states "God has benefited me from a word I heard from the Prophet on the day of the Camel, after I had been about to join the ranks of the people of the Camel when the Prophet was informed that the people of Persia had crowned the daughter of Kisra as their ruler, he said: No people will ever succeed if they hand their affairs to a woman." Sahih al-Bukhari

A Qur'anic verse used to justify excluding women from political leadership states: *"And the divorced women shall undergo, without remarrying, a waiting period of three monthly courses: for it is not lawful for them to conceal what God may have created in their wombs, if they believe in God and the Last Day. And during this period their husbands are fully entitled to take them back, if they desire reconciliation; but, in accordance with justice, the*

*rights of the wives with regard to their husbands are equal to the husbands' rights with regard to them, although men have a degree (darajah) over them. And God is almighty, wise. (Qur'an 2:228).*

Imam al-Tabari argued that the degree referred to in this verse exhorts men to treat their wives better than they expect to be treated; in other words, the husband should not require his wife to fulfill all of her obligations to him, but he should still fulfill all of his obligations to her. The view held by Imam al-Tabari, that husbands should treat their wives better than they expect to be treated by them, was apparently the interpretation given to this verse in the early years of Islam. Abdullah ibn Abbas (d. 788 A.D./ 69 A.H.), the Prophet's cousin, said: "I adorn myself for my wife as she adorns herself for me, and I would not like to exact all my rights that she owes me, so that she also would not claim all what is due to her. The 'degree' is a cue to invite men to pleasant cohabitation and to extend to women more money and good manners, because the one with more gifts should impose more upon himself",<sup>23</sup>

In later years, scholars began to view the "degree" as equivalent to the advantages of men and linked the alleged superiority to men's advantages in jihad, inheritance, and whatever else men had in abundance over women. This supposed superiority was then used as the basis for the argument that wives must obey their husbands.

This verse relates to the divorce context where the husband, who has initiated the divorce, has the right to reconcile with his wife during the waiting period. The nature of the situation imposes this right and the degree is restricted to this situation and cannot be construed as of a general nature, as many misunderstand and then adduce it to situations in which it is not applicable. Another argument, again restricting this verse to the divorce setting, holds that the degree or advantage men have is the ability to pronounce divorce without

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<sup>23</sup> M. H. Sherif, *Women and Political Power in Muslim Thought*, Lecture, Cornell University, 1987, vol. 2, p.454

the need for arbitration. Thus, based on the above, this verse need not be interpreted to hold that all men are superior to all women in all situations, thereby denying women political roles.

The other oft quoted verse used to justify the subjugation of women states:

*"Men shall take full care (qawamuna) of women with the bounties which God has bestowed more abundantly on some of the former than on some of the latter, and with what they may spend out of their possessions. And the righteous women are the truly devout ones, who guard the intimacy which God has ordained to be guarded." (Qur'an 4: 34).*

This verse states a conditional proposition. Men are to take full care of women if two conditions are met: first, if the man's bounties are more abundant than the woman's and second, if the man supports the woman from his means. In terms of more abundant material bounties, the only Qur'anic reference where men receive a greater share than women is inheritance (Qur'an 4:7). Thus, men are responsible to spend of their property on women and so they are given a larger share in inheritance. The verse gives no indication of men's superiority over women in regard to intelligence, piety, or any other attribute; therefore, it makes little sense to interpret this verse to mean that men are superior to women. Furthermore, the verse states that some have been given more bounties than some others; thus, men as a class are not 'quawamuna' over women as a class.

## **5. RIGHT TO CHOICE IN MARRIAGE**

Islam gives the woman maximum possible freedom to choose her life partner. She is at liberty to marry the man of her choice without any reference to the consent of a wali, provided that the moral norms of Islam are not trampled upon. Moreover, none can give her into marriage without her consent. Even those jurists who stipulate the consent of a wali for a valid marriage concede that if the wali obstructs the marriage by declining to give his consent,

the matter would be referred to a court of law which would allow the woman to marry the man of her choice.

Her parents have no right to force her to marry someone she dislikes. The Muslim woman knows this right, but she does not reject the advice and guidance of her parents when a potential suitor comes along, because they have her best interests at heart, and they have more experience of life and people. At the same time, she does not forego this right because of her father's wishes that may make him force his daughter into a marriage with someone she dislikes.

There are many texts that support the woman in this sensitive issue, for example the report quoted by Imam Bukhari from al-Khansa' bint Qidam: "My father married me to his nephew, and I did not like this match, so I complained to the Messenger of Allah .

He said to me: 'Accept what your father has arranged.' I said, 'I do not wish to accept what my father has arranged.' He said, 'Then this marriage is invalid, go and marry whomever you wish.' I said, 'I have accepted what my father has arranged, but I wanted women to know that fathers have no right in their daughter's matters (i.e. they have no right to force a marriage on them)'".

At first, the Prophet told al-Khansa' to obey her father, and this is as it should be, because the concern of fathers for their daughters' well-being is well-known. But when he realized that her father wanted to force her into a marriage she did not want, he gave her the freedom to choose, and saved her from the oppression of a father who wanted to force her into an unwanted marriage.

Islam does not want to impose an unbearable burden on women by forcing them to marry a man they dislike, because it wants marriages to be successful, based on compatibility between the partners; there should be common ground between them in terms of physical looks, attitudes, habits, inclinations and aspirations. If something goes wrong, and the woman feels that

she cannot love her husband sincerely, and fears that she may commit the sin of disobeying and opposing this husband whom she does not love, then she may ask for a divorce. This is confirmed by the report in which the wife of Thabit ibn Qays ibn Shammas, Jamilah the sister of ‘Abdullah ibn Ubayy, came to the Prophet and said: “O Messenger of Allah, I have nothing against Thabit ibn Qays as regards his religion or his behaviour, but I hate to commit any act of kufr when I am a Muslim. The Prophet said: “Will you give his garden back to him?” - her mahr had been a garden. She said, “Yes.” So the Messenger of Allah sent word to him: “Take back your garden, and give her one pronouncement of divorce.”

According to a report given by Bukhari from Ibn ‘Abbas, she said, “I do not blame Thabit for anything with regard to his religion or his behaviour, but I do not like him.”

Islam has protected woman’s pride and humanity, and has respected her wishes with regard to the choice of a husband with whom she will spend the rest of her life. It is not acceptable for anyone, no matter who he is, to force a woman into a marriage with a man she does not like.

The Muslim woman who understands the teachings of her religion has wise and correct standards when it comes to choosing a husband. She does not concern herself just with good looks, high status, a luxurious lifestyle or any of the other things that usually attract women. She looks into his level of religious commitment and his attitude and behaviour, because these are the pillars of a successful marriage, and the best features of a husband.

Islamic teaching indicates the importance of these qualities in a potential husband, as Islam obliges a woman to accept the proposal of anyone who has these qualities, lest mischief (fitnah) and corruption become widespread in society: “If there comes to you one with whose religion and attitude you are satisfied, then give your daughter to him in marriage, for if you do not do so,

(fitnah and) mischief will become widespread on earth”.<sup>24</sup> (Just as the true Muslim young man will not be attracted to the pretty girls who have grown up in a bad environment, so the Muslim young woman who is guided by her religion will not be attracted to stupid “play-boy” types, no matter how handsome they may be. Rather she will be attracted to the serious, educated, believing man who is clean-living and pure of heart, whose behaviour is good and whose understanding of religion is sound. No-one is a suitable partner for the good, believing woman except a good, believing man; and no-one is a suitable partner for the wayward, immoral woman but a wayward, immoral man, as Allah has said:

*“Women impure are for men impure, and men impure for women impure and women of purity are for men of purity, and men of purity are for women of purity”. (Qur’an 24:26)*

This does not mean that the Muslim woman should completely ignore the matter of physical appearance, and put up with unattractiveness or ugliness. It is her right - as stated above - to marry a man for whom her heart may be filled with love, and who is pleasing to her both in his appearance and in his conduct. Appearance should not be neglected at the expense of inner nature, or vice versa. A woman should choose a man who is attractive to her in all aspects, one who will gain her admiration and respect. The true Muslim woman is never dazzled by outward appearances, and she never lets them distract her from seeing the essence of a potential spouse.

The Muslim woman knows that the man has the right of ‘qiwamah’ over her, as the Qur’an says: *Men are the protectors and maintainers [qawwamun] of women, because Allah has given the one more [strength] than the other, and because they support them from their means. (Qur’an 4:34)*

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<sup>24</sup> A. Hasan, narrated by Tirmidhi, 2/274, *Abwab al Nikah*, 3, and by Ibn Majah, 1/633, *Kitab al Nikah*, bab al akfa.

Hence she wants to marry a man of whose 'qiwamah' over her she will feel proud, one whom she will be happy to marry and never regret it. She wants a man who will take her hand in his and set out to fulfill their life's mission of establishing a Muslim family and raising a new generation of intelligent and caring children, in an atmosphere of love and harmony, which will not be impeded by conflicting attitudes or religious differences. Believing men and believing women are supposed to walk side-by-side on the journey of life, which is a serious matter for the believer, so that they may fulfill the great mission with which God has entrusted mankind, men and women alike, as the Qur'an says:

*For Muslim men and women - for believing men and women, for devout men and women, for true men and women, for men and women who are constant and patient, for men and women who humble themselves, for men and women who give in charity, for men and women who fast [and deny themselves], for men and women who guard their chastity, and for men and women who engage much in Allah's praise - for them has Allah prepared forgiveness and great reward. (Qur'an 33:35)*

In order to achieve this great goal of strengthening the marriage bond, and establishing a stable family life, it is essential to choose the right partner in the first place.

Among the great Muslim women who are known for their strength of character, lofty aspirations and far-sightedness in their choice of a husband is Umm Sulaym bint Milhan, who was one of the first Ansar women to embrace Islam. She was married to Malik ibn Nadar, and bore him a son, Anas. When she embraced Islam, her husband Malik was angry with her, and left her, but she persisted in her Islam. Shortly afterwards, she heard the news of his death, and she was still in the flower of her youth. She bore it all with the hope of reward, for the sake of Allah, and devoted herself to taking care of her ten-

year-old son Anas. She took him to the Prophet (e), so that he could serve him (and learn from him).

One of the best young men of Madinah, one of the best-looking, richest and strongest, came to seek her hand in marriage. This was Abu Talhah - before he became Muslim. Many of the young women of Yathrib liked him because of his wealth, strength and youthful good looks, and he thought that Umm Sulaym would joyfully rush to accept his offer. But to his astonishment, she told him, "O Abu Talhah, do you not know that your god whom you worship is just a tree that grew in the ground and was carved into shape by the slave of Banu so-and-so." He said, "Of course." She said, "Do you not feel ashamed to prostrate yourself to a piece of wood that grew in the ground and was carved by the slave of Banu so-and-so?" Abu Talhah was stubborn, and hinted to her of an expensive dowry and luxurious lifestyle, but she persisted in her point of view, and told him frankly: "O Abu Talhah, a man like you could not be turned away, but you are a disbelieving man, and I am a Muslim woman. It is not permitted for me to marry you, but if you were to embrace Islam, that would be my dowry (mahr), and I would ask you for nothing more." He returned the following day to try to tempt her with a larger dowry and more generous gift, but she stood firm, and her persistence and maturity only enhanced her beauty in his eyes. She said to him, "O Abu Talhah, do you not know that your god whom you worship was carved by the carpenter slave of so-and-so? If you were to set it alight, it would burn." Her words came as a shock to Abu Talhah, and he asked himself, Does the Lord burn? Then he uttered the words: "Ashhadu an la ilaha ill-Allah wa ashhadu anna Muhammadan rasul-Allah." Then Umm Sulaym said to her son Anas, with joy flooding her entire being, "O Anas, marry me to Abu Talhah." So Anas brought witnesses and the marriage was solemnized. Abu Talhah was so happy that he was determined to put all his wealth at Umm Sulaym's disposal, but hers was the attitude of the selfless, proud, sincere believing woman. She told him, "O Abu Talhah, I married you for the sake of Allah, and I will not take any other



dowry.” She knew that when Abu Talhah embraced Islam, she did not only win herself a worthy husband, but she also earned a reward from Allah that was better than owning red camels (the most highly-prized kind) in this world, as she had heard the Prophet If Allah were to guide one person to Islam through you, it is better for you than owning red camels”.

## 6. RIGHT TO DIVORCE

Marriage as prescribed by God is the lawful union of a man and woman based on mutual consent. Ideally, the purpose of marriage is to foster a state of tranquility, love and compassion in Islam, but this is not always the case. Islam discourages divorce but, unlike some religions, does make provisions for divorce by either party.

God provides general guidelines for the process of divorce with emphasis throughout on both parties upholding the values of justice and kindness in formalizing the end to their marriage (see Surah 2: 224-237 for general guidelines regarding divorce).

God encourages the husband and wife to appoint arbitrators as the first step to aid in reconciliation in the process of divorce. If the reconciliation step fails, both men and women are guaranteed their right to divorce as established in the Qur'an, but the question lies in what is the procedure for each. When a divorce is initiated by the man, it is known as 'talaq'. The pronouncement by the husband may be verbal or written, but once done, a waiting period of three months (iddat) must take place in which there are no sexual relations even though the two are living under the same roof. The waiting period helps prevent hasty decisions made in anger and enables both parties to reconsider as well as determine if the wife is pregnant. If the wife is pregnant, the waiting period is lengthened until she delivers. At any point during this time, the husband and wife are free to resume their relationship, thereby stopping the divorce process. At this time, the husband remains financially responsible for the support of his wife.

The divorce initiated by the wife is known as khul (if the husband is not at fault) and entails the wife giving her dowry to end the marriage because she is the "contract" breaker. In the instance of talaq where the husband is the "contract" breaker, he must pay the dowry in full in cases where all or part of it was deferred.

In the case that the husband is at fault and the woman is interested in divorce, she can petition a judge for divorce, with cause. She would be required to offer proof that her husband had not fulfilled his responsibilities. The judge would make that determination based on the facts of the case and the law of the land. If the woman had specified certain conditions in her marriage contract, which were not met by the husband, she could obtain a conditional divorce.

The controversy with divorce lies in the idea that men seem to have absolute power in divorce. The way the scholars in the past have interpreted this is that if the man initiates the divorce, then the reconciliation step for appointing an arbiter from both sides is omitted. This diverges from the Qur'anic injunction. The differences in powers of the husband and wife with regard to divorce can be extracted from the following verse:

*"...but, in accordance with justice, the rights of the wives (with regard to their husbands) are equal to the (husband's) rights with regard to them, although men have precedence over them (in this respect). And God is almighty wise". (2:228)*

It is in the next verse, according to existing interpretations, the reason for the small difference:

*"Men shall take full care of women with the bounties which God has bestowed more abundantly on the former than on the latter, and with what they may spend out of their possessions. And the righteous women are the truly devout ones, who guard the intimacy which God has (ordained to be) guarded." (4:34)*

It is clear that the Qur'an states there is a "degree" of difference with regards to the rights of men and women in divorce, but it is not clear "how much" and "what" privileges a man is entitled to. This is what has been interpreted by the jurists. It should also be noted if the difference is due in part to the man being the financial supporter, then it must follow that if the woman shares or is the main financial contributor to the family that this privilege should apply to her as well.

Many of the laws regarding divorce are the scholars' interpretations of the relatively few Qur'anic references. As with all human laws, they must adapt to dynamic circumstances. Issues like custody have become controversial. For example, the Qur'an advises the husband and wife to consult each other in a fair manner regarding their children's future after divorce (2:232-3)

Various laws regarding custody of the children have been legislated by a few of the jurists. Some jurists have stipulated that custody of the child is awarded to the mother if the child is under a certain age and to the father if the child is older. There is no Qur'anic text to substantiate the arbitrary choosing of age as a determinant for custody. Similarly with regard to the issue of alimony, the Qur'an addresses the ex-husband's financial obligation to his ex-wife but it does not provide a specific formula for the amount of support (2:241, 65:4-7). This is open for negotiation between parties and should be in proportion with the husband's financial income.

There has been much distortion and propagation of mistruth about a woman's rights in the matters of marriage and divorce. It is only with self-education and awareness of the Qur'anic text that both men and women can come to know the truth of what God has prescribed and to evaluate the scholarly interpretations closely to ensure that the spirit of justice is carried out:

*"When you divorce women and they fulfill the term of their (Iddat), either take them back on equitable terms or set them free on equitable terms; but do not take them back to injure them, (or) to take undue advantage; if*

*anyone does that, he wrongs his own soul. Do not treat God's Signs as a jest, but solemnly rehearse God's favors on you, and the fact that He sent down to you the Book and Wisdom, for your instruction. And fear God, and know that God is well-acquainted with all things". (2:231)*

Apart from the abovementioned rights which covers almost all the spectrum of a women's life, women also enjoy right to work and earn; *Men shall have a benefit from what they earn, and women shall have a benefit from what they earn. (Qur'an 4:32)* right to own property, right to proper treatment from husband and many more.

### **NUPTIAL RELATIONSHIP IN ISLAM**

When Allah mentions marriage or the relationship between husband and wife in the Holy Qur'an, He describes it as one of love, mercy, and harmony between two human beings who have entered into a mutual contract. For example,

*"And among His wonders is that; He created from you mates out of your own kind, so that you may incline toward them, and He engenders love and tenderness between you; in this, behold, there are messages indeed for people who think." (Qur'an 20:21)*

And,

*"It is He who has created you out of one entity, so that one might incline (with love) towards the other." (Qur'an 7:189)*

According to the Holy Qur'an, the relationship between husband and wife should be one of love, mercy and mutual understanding. Allah also commands men to treat their wives,

*"And consort with your wives in a goodly manner, for if you dislike something about them, it may be well that you dislike something which Allah might yet make a source of abundant good." (Qur'an 4:19)*

The Holy Qur'an speaks of the intimate and close relationship of the two spouses in these words: *"They are like garments unto you as you are like garments unto them"* (Qur'an 2:187).

This verse, by using the simile of garments, has explained two basic facts. First, dress is considered to be one of the most fundamental needs of human beings in all stages of life. Second, dress covers the nakedness of human beings and hides those parts which are to be kept hidden. Every person has his weakness and frailty and does not want them to be disclosed to others.

The two sexes working together, not only cover each other's weakness and frailty, but also enhance each other's capabilities and help each other make up their deficiencies. Men are told to be generous and liberal in their treatment of women under all circumstances, especially when the relations between the two are not very amicable. Surah al-Baqarah refers to this in these words:

*"And do not forget liberality between yourselves"* (Qur'an 2:237).

Even in divorce, men are enjoined to be just and fair (Ma'ruf) to their wives. We read these words also in Surah al-Baqarah:

*"When you divorce women, and they fulfill the term of their waiting ("iddah), either take them back honorably on equitable terms or set them free with kindness and goodness."* (Qur'an 2:229)

So, it is through the institution of marriage that true expression is given to what the Holy Qur'an refers to as "love and mercy" (Qur'an 30:21) between men and women; that men and women are like each other's garments (Q 2:187), that "be you male or female, you are members of one another" (Q 3:195), and that "men and women are protectors, one of another." (Q 9:71).

*The Holy Qur'an says "Men shall take full care of women with the bounties Allah has bestowed on them, and what they may spend out of their possession; as Allah has eschewed each with certain qualities in relation to the*

*other. And the righteous women are the truly devout ones, who guard the intimacy which Allah has ordained to be guarded. those women whose ill-will you have reason to fear, admonish them [first]; then distance yourself in bed, and then tap them; but if they pay you heed, do not seek to harm them. Surely, Allah is indeed the most High, the Greatest.” (Q 4:34)*

This verse is often quoted for justifying the ruthless dominance of patriarchal males demanding obedience from their wives- to the point of disciplining them through physical punishment! This verse of Surah Nisa has attracted great attention from both within the believing community non-Muslims alike.

In the context of the above verse the most appropriate meaning for ‘nushuz’ is marital discord (ill- will, animosity etc.) The process suggested is necessary, otherwise it is inviting the likelihood of divorce without any reconciliation procedure, and this will contravene the Qur’anic guidance. The separation could be temporary or permanent depending on the reconciliation procedure, and this fits in very well with the divorce procedure outlined in the Holy Qur’an. Therefore the more accurate understanding of the above verse would be: (4:34) “... As for those women whose animosity or ill- will you have reason to fear, discuss the matter with them, then separate in bed, then tap; and if they pay you heed, do not seek a way against them.”

The verse following the above verse gives further weight to the above translation. (4:35) “And if you fear a breach between them (the man and the wife), appoint an arbiter from his folk and an arbiter from her folk. If they desire amendment, Allah will make them one of mind. Lo! Allah is Ever Knower, Aware.”

An added weight to the meaning outlined above is given by verse (4:128), where in the case of man the same word, ‘nushuz’, is also used. Note too that as ill- treatment emanating here is from the husband, a process of reconciliation is encouraged!

“If a wife fears ill- treatment (nushuz) or desertion (i’raad) on her husband’s part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best...” (Qur’an 4:128)

In the same surah, we read, “Whoever among you; men or women, are guilty of this crime (impropriety/ obscenity), punish them both; then if they both repent and reform themselves, leave them alone, for Allah is Most Generous in accepting repentance, and Merciful in forgiving sins.” (4:16)

As previously mentioned, women could only be taken to task when they were guilty of open obscenity. The verse (Qur’an 4:16) clearly states that whoever commits open licentiousness, man or woman, must be punished. It may here be mentioned that this open obscenity or licentiousness (nushuz) means obscenity short of adultery and fornication.

If a wife fears that her husband is going to be excessive, there is the same process for the wife too. She can advise him first. But why is there no reference to physical pressure, like a symbolic slap or the like? The wife is not required to slap her husband, guarding against the possibility of physical retaliation and its dire consequences. But she has use of an injunction, which is better than that; to sit down with respected members of the community, (if need be with a judge), and draw up a contract with the man, which says: You have done this or that- if you do it again, these will be the consequences. In other words, she is getting the community behind her.

We note that in the event that there is disruption of marital harmony, the Qur’an suggests three steps for regaining harmony. In order of preference, they are:

**(Step 1) Wa’z** (admonition, consultation and discussion). This is the preferred method suggested for regaining marital harmony and is the same mechanism discussed in the Qur’an for the coordination of affairs between all groups of people. Consultation can be between the parties (as in 4:34) or

between the two parties with the help of arbiters or hakim (4:35, 4:128). Wa'z or admonition implies advising and reminding one of the consequence of one's actions; this in a way that softens the heart of the listener (16:125) and making him/ her incline favorably to your words.

**(Step 2) Wahjur** (to separate in bed; time and space boycott, at least one night). If consultation does not lead to marital harmony, the second suggestion is of time-out, a phrase to denote a separation in time and/ or space between two people. This is a form of psychological pressure. Note that it is avoidance in the house or in front of the family, children and so forth.

The purpose of that act is to solve the problem well- known not to belittle the woman or uncover the secrets that are going on. However, it is a reaction to her act of nushuz and recalcitrance by avoiding her and turning away from her in hope that this will lead to reciprocity and togetherness. It can be for an intermediate cooling off period only, or could presumably continue indefinitely, which in the context of marriage could only mean divorce.

**(Step 3) Daraba** (a gentle strike or tap: an expression of physical pressure) If the first two methods are used in their preferred order to the fullest extent, the need for the third method of a strike would not be reached.

The problem of abuse comes from the word "Idribuhunne" which is usually translated as "beat them". The root of this word is "Daraba". If one consults an Arabic dictionary you would find a long list of meanings ascribed to this word!

The list is one of the longest lists in the whole Arabic dictionaries and has so many different meanings. In the Qur'an, depending on the context, one can ascribe different meanings to it, i.e:

To travel to get out

To strike



To beat

To set up:

To give (examples):

To take away, to ignore:

To condemn

To seal, to draw over

To cover

To explain

Thus, in the Qur'an alone we witness the verb "Daraba" having at least ten different meanings. "Daraba" has also other meanings which are not mentioned in the Qur'an. For example in the Arabic language, you do not print money-- you "Daraba" money, you do not multiply numbers-- you "Daraba" numbers, you do not cease the work—you "Daraba" the work!

### **WHY THE "DARABA"?**

Why has the Qur'an included the method of a "strike"? The Qur'an always emphasizes doing good and abstaining from evil. If the Qur'an is looked at as an integrated and cohesive text, situations can be identified where the Qur'an calls for the prohibition of certain things in stages. For example, whereas early revelations discourage the use of intoxicants (2:219, 4:43), the final revelation on this matter clearly condemns and prohibits them (5:93-94).

This is where there is a need to understand the historical context in which the Qur'an was revealed. It is known that in the pre-Islamic period known as the Age of Ignorance (Jahiliyyah), there were gross practices of physical and emotional abuse of females such as female infanticide (killing of babies) and the custom of inheriting the wives of deceased relatives against the

will of the women. Verse 4:34, which refers to a strike/ tap, was revealed early in the Medinan period at a time when cruelty and violence against women were still rampant. Seen within this context the strike is a restriction on existing practice, and not a recommendation. As Muslim society in Madinah developed towards an ideal state, the final verse in the Qur'an on male – female relationship (9:71) regards women and men as being each other's protecting friends and guardians ('awliyya) which emphasizes their cooperation in living together as partners.

In addition, this spirit can be used in viewing the Hadith and classical commentaries by Muslim jurists on the strike or daraba. Ahadith on striking in such a way as not to cause pain ('ghayr mubarrih') are reported by Muslim, Tirmidhi, Abu Daud, Nasa'ie and Ibn Majah.

The authorities stress that if a strike is resorted to, it should be merely symbolic such as a strike with a toothbrush or folded handkerchief (Tabari and Razi). Imam Shaf'ie is of the opinion that striking should preferably be avoided completely. It can thus be concluded that the call for the (single) strike is a restriction and not a recommendation; as when the first two steps are practiced effectively, there is no need for a third step.

## **CHAPTER III**

## **COMMON MISCONCEPTIONS AGAINST ISLAM**

The Holy Qur'an does not discriminate between the two sexes in any way that undermines their full worth as equal human beings, nor does it give either of them; men or women, priority or superiority to the other in any manner whatsoever, neither does it endorse spouse abuse nor does it encourage spouse battering. Just as men have rights over women, likewise women have rights over men. Just as women have certain duties and obligations, likewise men have certain duties and obligations.

Research has shown that oppressive interpretations of the Qur'an are influenced mostly by cultural practices and values which regard women as inferior and subordinate to men. It is not Islam that oppresses women, but human beings that have failed to understand God's directives.

In the following pages, we will discuss two of the most common allegations against Muslims based upon half truths and examples which are based upon cultures and customs of the people rather than Islamic injunctions. One of the major issues, wife beating has already been discussed in the previous pages. We have seen how a seemingly harmless quote from the Holy Qur'an can be used by individual Muslims as an excuse to beat their wives and by some others to label Muslims as a bunch of wife beaters, but in reality both are far from truth. To the people who know Islam and the Holy Qur'an, violence against women is so antithetical to the teachings of Islam that men who do so are treated as misguided, misinformed or malevolent individuals.

### **(1) OBEDIENCE MISCONSTRUED**

The Qur'an does not order women to slavishly obey their husbands. It says good women are 'qanitat' (have qunut). Qunut is used for both women and men (3:17, 33:35) and non-humans (39:9, 2:117). Qunut does not refer to

the obedience of a wife to a husband or of any human to another. It refers to the spirit of humility before Allah. When the verse goes on to say “if they obey you,” the Qur’an uses the term ta’a, which means for one human to follow the orders of another, referring not just to women obeying men, but men following orders as well (4:59). Ta’a is not used here in the command form for women; rather the Qur’an places a firm admonishment on the men: “If they (female) pay you heed (male)” the males commanded “not to seek a way against (the women)”. “If they obey you” does not mean that women have an obligation to slavishly obey men. Nor does it mean that if a woman disobeys, a husband can beat her. The focus is on the responsibility of men to treat women fairly, especially when women follow their suggestions.

Most of the women beaten nowadays are not beaten because the first two conditions have been met with, but are in fact beaten because of the husband’s anger over some petty issue. And one has to keep in mind that women of other faith also suffer this social ill-treatment in equal measure if not more from their male counterparts. Hence wife beating is a social problem spread across countries, cultures and faiths. Such behavior is not that of a sincere Muslim and obviously has no sanction in the Qur’an whatsoever.

It is evident from many authentic traditions that the Prophet himself intensely detested the idea of beating one’s wife, and said on more than one occasion,

*“Could anyone of you beat his wife as if she is a slave, and then lie with her in the evening?” (Bukhari and Muslim).*

According to another tradition, he forbade the beating of any woman saying thus: “Never beat God’s handmaidens” (Abu Daud, Ibn Majah, Ahmad Ibn Hanbal, Ibn Hibban, on the authority of ‘Abd Allah Ibn Abbas; and Bayhaqi on the authority of Umm Kulthum).

Next to piety, the believer finds nothing better for him than a virtuous wife. If he bids her good, she obeys. If he looks at her she gives him pleasure. If she gives him a promise, she fulfills it. If he is absent from her, she guards herself and his property (Ibn Majah).

This hadith states that the wife should obey her husband, but to what extent? Obviously, she cannot disobey her husband in anything that is haram. Not only that, but the obedience of the wife is in those duties listed above, viz. ... with regard to cohabitation, domestic matters, guarding his property, and not allowing others to violate her/his dignity or their belongings.

In summary, there is the following hadith from the Prophet on the rights of a wife. A person asked the Messenger of God, "What right does the wife of one among us have over him?" His answer was, "It is that you shall give her food, you shall not slap her on the face, nor revile her, nor leave her alone except within the house" (Ahmad, Abu Da'ud, Ibn Majah). This implies provision, residence, respect and security.

Some husbands get upset when their wives refuse to do this or that around the house. This has subjected many wives to physical mistreatment. But the following incident clearly shows that it is not the duty of the wife to tend after the house, and therefore, it can in no way justify any sort of retort on the part of the husband. In fact, the following quote would make it seem that many women nowadays should be the one's complaining as they are forced to do work that they are not truly totally responsible for:

It is reported that a man once came to 'Umar, the second Caliph, with the intention of bringing to his notice certain complaints he had against his wife. When he reached the door of 'Umar's house, he heard the Caliph's wife railing against him. Hearing this he went back as he thought that the Caliph himself was in the same predicament and could therefore hardly be expected to

set matters right for him. ‘Umar coming out of his house, saw the person going back. So he called him back and inquired as to the purpose, which had brought him to his house. He said that he had come to him with some complaints against his wife, but turned back on finding that the Caliph himself was subject to the same treatment from his wife. ‘Umar said to him that he patiently bore the excess of his wife because she had certain rights over him. “Is it not true that she cooks my food, washes my clothes and suckles my children, thus relieving me of the necessity of employing a cook, a washerman and a nurse, although she is not in the slightest degree responsible for this? Not only that, I enjoy peace of mind on account of her and I am protected from committing the sin of adultery. In view of these advantages, I put up with her excesses. You should also do the same.

Having clarified some of the misconceptions, countered some distortions, we acknowledge, of course, that not all men or women are following the teachings of the Qur’an in their relationships. Rather than looking at the verse holistically, they only focus on it with a bias to their advantage and abuse it. Men exploit and women rebel. Where men have done so, and women have remained ignorant, injustices have taken place even to the point of physical abuse. Some women, in their ignorance on the issue, have taken this as their Islamic plight. So, for their own benefit, women need to acquire knowledge from the Qur’an, become more aware, rally around it and assert themselves for fairness and justice.

The Hadith, which we must realize is a record of the sayings and doings of the Prophet, and the second source of Muslim law and practice, records the Prophet as saying: “The best of you is he who is best to his wife.” Aishah (RA) narrates that the holy Prophet never hit a servant or a woman.

## **(2) HIJAB OR THE VEIL**

No subject seems to receive more attention as an issue unique to Muslims than that of women’s dress. Muslims and non-Muslims alike dwell on

this issue, using women's appearances to categorize others in an effort to understand them. In some instances, the dress of the Muslim woman ends up meaning more to others than it does to the woman herself with often far-reaching political and social implications.

*Say to the believing men that they should lower their gaze and guard their modesty: that will make for greater purity for them: and God is well acquainted with all that they do. And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their zeenah (charms, or beauty and ornaments) except what (must ordinarily) appear thereof; that they should draw their khimar (veils) over their bosoms and not display their zeenah except to their husbands, their fathers .... and that they should not strike their feet so as to draw attention to their hidden zeenah (ornaments). (Qur'an 24:31-32)*

*O Prophet! Tell your wives and daughters and the believing women that they should draw over themselves their jilbab (outer garments) (when in public); this will be more conducive to their being recognized (as decent women) and not harassed. But God is indeed oft-forgiving, most merciful. (Qur'an 33:59)*

*And know that women advanced in years, who no longer feel any sexual desire incur no sin if they discard their thiyab (outer garments), provided they do not aim at a showy display of their zeenah (charms or beauty). But it is better for them to abstain (from this); and God is all-hearing, all-knowing. (Qur'an 24:60)*

These are the only verses in the Holy Qur'an which address the issue of clothing so specifically. Clearly, the basic principle is that of modesty. The first verse emphasizes the importance of one guarding her or his modesty, lowering one's gaze in order to remain pure. This means that, in order for women and men to have respectful relationships (such as at work or school, etc.) they must focus on modesty in their behavior. This is enhanced by dressing in a way that



reinforces one's image as a modest person. It must be emphasized that behavior and appearance are both important in setting the tone of respectful interaction between men and women.

In addition, the second verse shows that the purpose of covering oneself is to "be recognized (as decent women) and not harassed." Many women who cover their hair and dress modestly do notice that men are more respectful and people are more inquisitive about their faith, so they are "recognized" not just as decent women but also as Muslims. Occasionally, women who cover their hair may also experience harassment and discrimination because of stereotyping and misunderstandings about Islam and women.

Interestingly, the Holy Qur'an is really not that explicit about the exact definition of modest dress. By reading the Qur'anic verses above, women are advised to cover their breasts and put on their outer garments in a way that enables them to avoid harassment. In addition, women are advised not to draw attention to their "beauty" (zeenah). This term has been translated as both beauty and ornaments (as women used to strike their feet to draw attention to hidden ornaments such as anklets bracelets). Of note is that the Holy Qur'an uses the term zeenah elsewhere, perhaps showing that in different contexts the word has slightly different meanings:

O Children of Adam! Wear your beautiful apparel (zeenah) at every time and place of prayer... (7:31)

The verse says not to display one's zeenah except to husbands, fathers, sons, etc. except "what naturally appears thereof". Most scholars writing on the subject consider a woman's chest, hips, legs, neck (basically her whole body) as zeenah, which should thus be covered. Yet, as mentioned above, the Qur'an itself reveals that, in different settings, the word may have different implications; also, the (perhaps intentional) lack of specificity in defining zeenah may actually allow for differing interpretations based on a variety of circumstances.

The basic message and instruction expressed in the Qur'an is for Muslims to act modestly, dress modestly, and avoid drawing attention to oneself, especially those features that are physically attractive and perhaps enticing to the opposite sex. This applies for both men and women.

Now let's see what the word 'Hijab' really means. Literally, the word Hijab means "screen". In the Holy Qur'an, the term Hijab is not used as a reference to women's clothing; rather, it was the screen behind which the Muslims were told to address the Prophet's wives. (The term is also used to describe the "screen" separating God from Moses, as he received divine revelation.) When the Prophet's wives went out, the screen consisted of a veil over their face. It does not appear that covering the face was adopted by the other Muslim women at the time since it was a special injunction for the Prophet's wives as is clear in the verses below:

*And (as for the Prophet's wives) when you ask for anything you want (or need), ask them from behind a Hijab (screen), that makes for greater purity of your hearts. (Qur'an 33:53)*

*O wives of the Prophet! You are not like any of the (other) women: If you do fear (God) be not too complaisant of speech, lest one in whose heart is a disease should be moved with desire: but speak with a speech (that is) just. (Qur'an 33:32)*

Regardless of how we dress, we must have faith and taqwa, God consciousness or righteousness:

*O you Children of Adam! We have bestowed libasan (clothing or raiment) on you to cover your nakedness and as a thing of beauty. But the raiment of righteousness (taqwa), that is the best. Such are the signs of God, that they may receive admonition. (Qur'an 7:26)*

*O Children of Adam! Wear your beautiful apparel (zeenah) at every time and*

*place of prayer: eat and drink: but waste not by excess, for God loves not the wasters. (Qur'an 7:31)*

The hadith also address women's (and men's) dress. The most oft-quoted hadith attributed to the Prophet is as follows:

Aisha said, "Asma, daughter of Abu Bakr (that is, Aisha's sister), entered upon the Apostle of God wearing thin clothes. The Apostle of God turned his attention from her and said, "O Asma, when a woman reaches the age of menstruation, it does not suit her that she displays parts of her body except this and this," and he pointed to her face and hands. (Sunan Abi Dawud)

This hadith is found only in the hadith collection of Abu Dawud (no. 4095). According to Abu Dawud, it is considered weak because the narrator who transmitted it from Aisha is not known (mursal). Other hadith found elsewhere talk about not wearing see-through clothes or clothing intended for wear by the opposite sex. Also, Aisha reported that when the verse above was revealed about covering the breast (Qur'an 24:31), the women tore their thick outer garments to make veils.

Based on the interpretation and understanding of the above verses and hadith, the scholars (namely, from the major Sunni and Shi'a schools of thought) have determined that Hijab (covering from head to toe) is a religious obligation (fard). The notion of ijma'a, or consensus of scholars and or schools of thought, is a well-established component of Islamic jurisprudence from which numerous laws have been derived. Needless to say, determining exactly which scholars and which opinions qualify as "consensus" is not without controversy, a topic that needs expanded discourse among learned Muslims today.

When reviewing both Qur'an and hadith, there is no precedence for how to deal with such violations; the Prophet or his wives and companions simply reminded others to follow the guidelines. Not a single example of violence,

imprisonment, humiliation or coercion can be found during the lifetime of the Prophet that would imply that such practices today are consistent with his example.

The Qur'an does not spell out any punishment (hudud) for violations of a dress code. Also, in the verses outlined above, the Qur'an clearly addresses "the believing women" meaning Muslims, so that it is difficult to find an argument to justify the imposition of an "Islamic" dress code on non-Muslim women. Thus, by inference the decision to dress a certain way is left to the individual who will face the consequences for all actions in this life, to her benefit or detriment, as God sees fit.

The Qur'an also says "There is no compulsion in religion" (2:256)

The scarf, an article of clothing, has sadly become a litmus test for a Muslim woman's faith and devotion to God. Indeed, the importance which some Muslims have attached to Hijab has made some sarcastically refer to it as the "Sixth Pillar" of Islam, on par with prayer, fasting, alms-giving, pilgrimage and bearing witness to the oneness of God.

### **(3). POLYGAMY**

Muslims are often accused of being promiscuous because polygamy is legal in Islam. Islam did not introduce polygamy. Unrestricted polygamy was practiced in most human societies throughout the world in every age. Islam regulated polygamy by limiting the number of wives and establishing responsibility in its practice.

The Verse that allows polygamy was revealed after the battle of Uhud in which many Muslims were killed, leaving widows and orphans for whom due care was incumbent upon the Muslim survivors."

The translation of the verse is as follows:

*"If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; but if you fear that you shall not be able to deal justly (with them), then (marry) only one..." (Qur'an 4:3)*

From this verse a number of facts are evident:

- That polygamy is neither mandatory, nor encouraged, but merely permitted.
- That the permission to practice polygamy is not associated with mere satisfaction of men's sexual desires. Rather, it is associated with compassion towards widows and orphans, a matter that is confirmed by the atmosphere in which the verse was revealed.
- That even in such a situation, the permission is far more restricted than the normal practice which existed among the Arabs and other peoples at that time when many married as many as ten or more wives.
- That dealing justly with one's wives is an obligation. This applies to housing, food, clothing, kind treatment etc., for which the husband is fully responsible. If one is not sure of being able to deal justly with them, the Qur'an says: "then (marry) only one." (Qur'an 4:3)

This verse, when combined with another verse in the same chapter, shows some discouragement of such plural marriages. The other verse plainly states:

*"You are never able to be fair and just between women even if it is your ardent desire..." (Qur'an 4:129)*

The requirement of justice rules out the fantasy that man can "own as many as he pleases." It also rules out the concept of a "secondary wife", for all wives have exactly the same status and are entitled to identical rights and claims over their husband. It also implies, according to the Islamic Law, that should the husband fail to provide enough support for any of his wives, she can go to court and ask for a divorce.

The verse says "marry," not kidnap, buy or seduce. What is "marriage" as understood in Islam? Marriage in Islam is a civil contract which is not valid unless both contracting parties consent to it. Thus, no wife can be forced or "given" to a husband who is already married. It is thus a free choice of both parties.

Polygamy is not encouraged in the Holy Qur'an, nor God allowed it because He really liked it. He was clearly careful to discourage polygamy to men by telling them "but if ye fear that ye shall not be able to deal justly (with them), then only one...(4:3)" which clearly orders men to either be fair or to not marry at all, despite the fact that Muslims lost half of their men folks, God still didn't want polygamy to really take place.

That's why He later told men "Ye are never able to be fair and just as between women, even if it is your ardent desire..." which clearly nullifies the excuse that He gave them to practice polygamy. Is this a contradiction then? Absolutely not! It clearly proves that when God Almighty allowed polygamy, He only allowed it because Muslims had an emergency; they had lost almost half of their men if not even more. When Islam later became much stronger and Muslims won battles that were forced upon them, God Almighty nullified the excuse that He gave to men to practice polygamy, which would then lead to prohibiting polygamy altogether.

God Almighty ordered Muslims to take care of the Orphans in Islamic society (Qur'an 2:177, 2:215, 2:220 and much more). He then commands that if Muslims fear that they will not be able to provide enough support for the too

many Orphans in their society (especially after the battle of Uhud where more than half of the Muslims men were lost), then marry up to four of them to provide a social balance between men and women. But if a person feels that he can't handle multiple women, then one is just fine. That's really all there is to it!

God Almighty left the issue of polygamy open for Muslims in case Muslims face dilemmas in the future like the ones they faced during Islam's weak times by losing too many men. In cases like this, polygamy might be the best solution to many social problems. That's the reason why Polygamy is not prohibited in Islam.

#### **(4) HONOUR KILLINGS**

Due to recent media attention, the problem of "honor killings" has come under increasing global scrutiny. In various countries throughout the world, particularly in the Middle East and parts of South Asia, women who bring dishonor to their families because of sexual indiscretions are forced to pay a terrible price at the hands of male family members. Attempted murder and other forms of corporal punishment have been reported. The most severe manifestations of punishment affect only a small percentage of women, even though the notion of family honor and shame is extremely important in most communities of the Muslim world.

Women from other faith groups, specially Hindu Rajputs in India are also subjected to similar attitudes from within their own communities. Clearly, the prevailing view that devalues and belittles women is derived from socio-cultural factors rather than religious sanctions.

Islam recognizes and celebrates the inherent dignity bestowed by God upon all human beings regardless of race, ethnicity, gender or religion. The Qur'an is explicit in its emphasis on the equality of women and men before God:

*And their Lord has accepted of them and answered them, "Never will I suffer to be lost the work of any of you, whether male or female, you are members, one of another..." (3:195; see also 33:35)*

Individual accountability before God is stressed throughout the Qur'an, beginning with the story of Adam and Eve: as a result of their transgression (committed together and simultaneously) they were banished from Paradise and made to toil on Earth. God chose to forgive them both and so their sin is not inherited by subsequent generations. Similarly, as exemplified in the following verse:

*Whoever chooses to follow the right path, follows it but for his own good; and whoever goes astray, goes but astray to his own hurt; and no bearer of burdens shall be made to bear another's burden (Qur'an 17:15)*

It is clear that one individual, no matter how guilty, cannot transfer that guilt to another. So for a woman who does engage in illicit sexual activity (zina), she and she alone bears the consequences as determined by God.

The problem of "honor killings" is not a problem of morality or of ensuring that women maintain their own personal virtue; rather, it is a problem of domination, power and hatred of women who, in these instances, are viewed as nothing more than servants to the family, both physically and symbolically.

Islam is clear on its prohibition of sexual relationships outside of marriage. This prohibition does not distinguish between men and women, even though, in some countries, women are uniformly singled out for punishment of sexual crimes while men, even rapists, may be treated with impunity. In order for a case to even be brought before a Muslim court, several strict criteria must be met. The most important is that any accusation of illicit sexual behavior must have been seen by four witnesses; and they must have been witness to the act of sexual intercourse itself. Other forms of intimacy do not constitute zina



and therefore are not subject to any legal consequences even though they are not appropriate and are considered sinful.

On the other hand, a woman falsely accused of zina has in her support the Qur'an, which spells out harsh consequences for those accusers who are unable to support their allegations with four witnesses. The Prophet Muhammad was known for his clemency, even if the accusations met the criteria, for he recognized the seriousness of the matter. In addition, there is no evidence whatsoever that he condoned any form of retribution that singled out women and he was swift to ensure that those accused of any crime received due process to guarantee justice.

Unfortunately, the legal safeguards to protect women and men from indiscriminate and unlawful enforcement of presumed Islamic injunctions have been forgotten. Indeed, the legal system and law enforcement agencies including police officers and prison guards, have been implicated in the perpetuation of the problem by their willful lenience towards men who have carried out an assault in the name of "honor" and by their abuse and denigration of women who stand accused.

Muslims unequivocally reject this distortion of Islam that is used to violate the most basic Islamic rights of human decency, integrity and justice. Unwillingness on the part of few Muslim communities to address these issues is more because of social factors and has nothing to do with Islam.

Confronting the problem of "honor killings" and other crimes that disproportionately affect women requires a change in attitude that pervades all levels of society where such attacks occur. Muslim leaders can provide an important example to their followers by taking an unequivocal stand against behavior that is in direct violation of Islam. In addition, legal reform must occur with the intention to protect the victims and punish the perpetrators, all totally possible within a legitimate Islamic legal framework. Concomitant attention must be paid to meeting basic human needs and solving problems

stemming from poverty and illiteracy that are often at the root of disturbing social trends that seek out the most disenfranchised to serve as scapegoats.

*O you who believe! Stand out firmly for justice, as witnesses to God, even as against yourselves, or your parents, or your kin, and whether it be (against) rich or poor: For God can best protect both. Follow not the lusts (of your hearts), lest you swerve, and if you distort (justice) or decline to do justice, verily God is well-acquainted with all that you do.*

#### **(5) DENIAL OF EDUCATION TO MUSLIM WOMEN**

Another major accusation on Islam is to its alleged ruling against women education. The root of this misconception is the ruling of Taliban in Afghanistan a few years ago where they banned girls from attending schools. The media flew away with this news and portrayed all Muslim societies as a part of this misconduct, which was perpetrated by an insignificant fraction of Muslim population.

Education and knowledge are mandatory upon men and women in Islam. Let us look at what God in The Holy Qur'an and Prophet Muhammad said:

*"...Are those equal, those who know and those who do not know? It is those who are endowed with understanding that receive admonition. (The Holy Qur'an, 39:9)"*

*"...Those truly fear God, among His Servants, who have knowledge: for God is Exalted in Might, Oft-Forgiving. (The Holy Qur'an, 35:28)"*

Narrated Abu Musa Al-Ashari: "The Prophet said, 'He who has a slave-girl and teaches her good manners and improves her education and then

manumits and marries her, will get a double reward; and any slave who observes Allah's right and his master's right will get a double reward'.<sup>1</sup>

This Saying of Prophet Muhammad came when he was gradually eliminating slavery among Muslims. If women are prohibited to be educated in Islam, as few of the extremists claim, then how the above saying of the Prophet is supposed to NOT contradict that! It is clear that the right for education in Islam sees no gender discrimination between men and women.

arrated AbuDarda': "Kathir ibn Qays said: I was sitting with AbudDarda' in the mosque of Damascus. A man came to him and said: AbudDarda, I have come to you from the town of the Apostle of Allah for a tradition that I have heard you relate from the Apostle of Allah. I have come for no other purpose.

He said: I heard the Apostle of Allah: If anyone travels on a road in search of knowledge, Allah will cause him to travel on one of the roads of Paradise. The angels will lower their wings in their great pleasure with one who seeks knowledge, the inhabitants of the heavens and the Earth and the fish in the deep waters will ask forgiveness for the learned man. The superiority of the learned man over the devout is like that of the moon, on the night when it is full, over the rest of the stars. The learned are the heirs of the Prophets, and the Prophets leave neither dinar nor dirham, leaving only knowledge, and he who takes it takes an abundant portion. (Translation of Sunan Abu-Dawud, Knowledge (Kitab Al-Ilm), Book 25, Number 3634)"

In the above Qur'anic Verse and Sayings, we clearly see that knowledge and education are a must on both Muslim men and women. Those who know are better than those who do not know. Those who are rich in knowledge are the most that fear God through glorifying Him, appreciating Him and Respecting His Mighty Power, for they would have more knowledge about Him than those who don't know.

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<sup>1</sup> Translation of *Sahih Bukhari, Manumission of Slaves*, Vol. 3, Book 46, Number 723

Hence it is a wrong notion that Islam doesn't allow Muslim women to be educated. Ruling against Muslim women was only given by Talibans in Afghanistan which did not have any sanction from the Qur'an and the Hadith and the religious leaders and the scholars. Moreover, this ruling had more to do with reasons like political motives and illiteracy rather than the teachings of Islam. The rest of the 1.1 Billion Muslim living in various countries including Muslim nations don't have any laws that prohibit women to be educated or seek the highest academic degrees they desire.

## **CONCLUSION**

## CONCLUSION

In concluding this paper, it can be safely said that indeed Islam is the only religion in this world which has written legal rights for Muslim women which are equivalent to their male counterparts, are practical and are relevant to all ages, nationalities and cultural regions.

Muslims are a big family now, 1.2 billion at the last count and growing at a rate which is far quicker than any other religions of this world. Followers of Islam are spread in every nook and corner of this world, spread across the continents. In such circumstances it is but natural that cultural and local traditions will become a part of people's lifestyle. Out of these cultural practices, some will be against women as well. However for these malpractices, religion of Islam has nothing to do. They are social evils and hence should be dealt with like any other social evils.

The state to which the great majority of Muslim women in India are reduced today is a libel on Islam, a crime for which the Muslim community as a whole will have to suffer in increasing social degradation, in the weak and the sickly, in increasing child mortality, so long as that crime is perpetuated. An unconscious crime on the part of the majority, begun in ignorance, through pursuit of an un-Islamic tradition of false pride. But ignorance of the law is no excuse for anybody to escape its penalties—least of all, in the case of the operation of natural laws can the mere plea of ignorance exempt a man from undergoing the natural consequences of transgression.

The laws of the Shari'ah [Islamic Law] are natural laws, and the consequences of transgressing them are unavoidable, not only for Muslims, but for everyone. The fool who does not know that fire will burn him, is burnt by fire just

like anybody else. And the excuse of ignorance, in the case of Muslims and the Shari'ah, is worse than the offence. Since they, of all mankind, should have that special knowledge which it is their mission to convey to all mankind.

“Thus have We set you as a middle nation that ye may bear witness against mankind and that the Messenger may bear witness against you.” [Qur'an 2:143]

Surely the Messenger of Allah bears witness against you today in this matter of the status and the rights of woman. Only recall his words: “Education is a sacred duty for every Muslim and every Muslimah.” [Muslimah = Muslim female] An influential group of men among Muslims have decided in their mind that knowledge [ilm] must be taken here in the restricted “theological” sense as meaning only knowledge of a “religious” nature. The Holy Prophet and the Holy Qur'an never made a distinction between the religious and secular. For the true Muslim, the whole of life is religious and the whole of knowledge is religious.

So according to the proper teaching of Islam, the man with the widest knowledge and experience of life is the man best qualified to expound religious truths to resolve the problems which arise among Muslims in connection with the practice of religion. Men with limited knowledge and outlook have no right to exclusive interpretation. Their conclusions and their premises are unacceptable.

Let all the Muslim women be given education which is their birthright. All the rest will follow naturally. Qur'an and Sunnah are full of rights for women as we have already seen in this paper and it is up to the Muslim women to gain knowledge and learn to stand up and be reckoned with. Most of the Muslim women suffer due to the two main social evils like poverty and illiteracy. If someone is really interested in improving the Muslim women folks, he should work to remove these social evils rather than blaming everything on the religion of Islam.

# **BIBLIOGRAPHY**



## BIBLIOGRAPHY

### PRIMARY SOURCES

1. The Holy Qur'an
2. The Hadith

### SECONDARY SOURCES

1. Abu Nasr, Julinda, eds., *Women Employment and Development in the Arab World*, (Berlin: Mouton Publishers, 1985)
2. Abu Shaqqa, Abd al Halim, *Tahrir al Mar'a fi'asr ar-risala*, (Kuwait: Darul Qalam Li n-nashr wa t-Tawzi, 1990)
3. Abu Zahara, Muhammad, *Faith and Freedom: Women's Human Rights in the Muslim World*, (London: I. B. Tauris Publishers, 1995)
4. Ahmad, K. N., *Muslim Law of Divorce*, (New Delhi: Kitab Bhawan, 2000)
5. Al Hussaini, Aisha Ahmad Abdel Rahim, *Women and Administrative Development in KSA*, (Kuwait: Womens' Cultural and Social Association, 1982)
6. Al Rumeihi Muhammad, *The Conditions of Gulf Women*, (Kuwait: Womens' Cultural and Social Association, 1975)
7. Al Sharastani, *Kitab al-milal wa n-nihal*, (Cairo: Maktaba al Azhar, 1910)

8. As-Sayyid Sabiq, *Fiqh us-Sunnah*, vol. 2  
(New York: American Trust Publications, 1989,)
9. Ash-Sharawi, Mutawalla Muhammad, *al Mar'a fil Qur'an al karim*,  
(Cambridge: C.U.P., 1992)
10. Barkat, Halim, *Women and the Family in the Middle East: New Voices of Change*, (Austin: University of Texas Press, 1985)
11. El Saadawi, Nawal, *The Hidden Face of Eve: Women in Arab World*,  
(Boston: Beacon Press, 1980)
12. Engineer, Asghar Ali, *The Rights of Women in Islam*,  
(London: C. Hurts & Company, 1992)
13. Farag, Abdul Majid, *Women's Role in Development in the Arab World*,  
(Paper presented at Cyprus Statistics and Research Deptt., Nicosia, 1985)
14. Ghazali al Muhammad, *Sunnah al-Nabawiya Bayna Ahl al-Fiqh wa Ahl al-Hadith*, (Dar al-Shuruq: 1980)
15. Hammudah Abd al Ati, *The Family Structure in Islam*  
(American Trust Publications, 1977)
16. Hausfater Glen, et al, ed. *Infanticide*  
(New York: Aldine Publishing Company, 1979)
17. Hibri al Azizah , *A Study of Islamic Herstory: Or How Did We Ever Get Into This Mess?*, (Women's Studies International Forum. Oxford: Pergamon Press, 1982)

18. Hijab Nadia, *Women Power: The Arab Debate on Women at Work*, (Cambridge: C.U.P, 1988)
19. Ibn Hazm, *Al-Muhalla bil Athar*, vol. 8, (Dar Al-Kutub Al-Ilmiya, 1988)
20. Jarullah, Abdullah, *Mas'uliya al Mar'a al muslima*, (Saudi Arabia: Ministry of Information, 1983)
21. Jaweed, Haifa, *The Rights of Women in Islam: An Authentic Approach* (Hounmills: Mcmillan Press, 1988)
22. Kamali Mohammad Hashim, *Principles of Islamic Jurisprudence* (Islamic Texts Society, 1991)
23. Kennedy Hugh, *The Prophet and the Age of Caliphates* (New York: Longman Inc., 1986)
24. Khan, Wahiuddin, *Women Between Islam and Western Society*, (New Delhi: The Islamic Centre, 2000)
25. Khan, Wahiuddin, *Women in Islamic Shariah*, (New Delhi: The Islamic Centre, 2001)
26. Maududi, Abul. Ala, *Purdah and Status of Women in Islam*, (New Delhi: Markazi Maktaba Islami, 1997)
27. Mernissa, Fatima, *Beyond the Veil: Male-Female Dynamics in a Modern Muslim Society*, (Cambridge: Schenkman Publishing Company, 1975)

28. Mernissa, Fatima, *The Veil and the Male Elite: A Feminist Interpretation of Womens' Rights in Islam*, (London: Reading, 1991)
29. Mohiuddin, S. H. A., *Divorce and Muslim Women*, (Jaipur, Rawat Publication, 2003)
30. Naseef, Umar, ed., *Women in Islam*, (New Delhi: Sterling Publication, 1995)
31. Nicholson, R.A., *A Literary History of The Arabs* (Cambridge: Cambridge University Press, 1966)
32. Noor Ephroz, *Women and Law: Muslim Personal Law*, (Jaipur, Rawat Publication, 2003)
33. Rushd, Ibn, *Bidaya al-Mujtahid wa Nihaya al-Muqtasid*, vol. I., (Dar al-Fikr)
34. Sethi, Navneet, *Women as Seen by a Women: A Study of Afro-American Women*, (New Delhi, Reliance Publication, 2003)
35. Sharma, Arvind, ed., *Women in World Religions* (Albany: State University of New York Press, 1987)
36. Sherif, M.H., *The Muslim Woman Between the Truth of Sharia and the Fallacy of Falsification*, (Dar al Marifa al Jamiyya, 1987)
37. Siddiqui, M. M., *Women in Islam*, (New Delhi: Adam Publication, 1982)

38. Smith Jane, *Women, Religion, and Social Change in Early Islam, Women, Religion, and Social Change*, (New York: State University of New York Press, 1993)
39. Smith W. Robertson, *Kinship & Marriage in Early Arabia* (London: Adam and Charles Black, 1903)
40. Wadud- Mohsin, Amina, *Qura'n and Women*, (Kuala Lumpur: Penerbit Fajar Bakti, SDN. BHD., 1992)

#### NEWS PAPERS:

The Hindu  
The Times of India  
The Hindustan Times  
The Indian Express  
The Telegraph  
The Gulf Times

#### ELECTRONIC SOURCES:

[www.angelfire.com/sd/iranupdate/arj.html](http://www.angelfire.com/sd/iranupdate/arj.html)  
[www.angelfire.com/sd/saudiarabupdate/news.tjarc.html](http://www.angelfire.com/sd/saudiarabupdate/news.tjarc.html)  
[www.meabooks.com/page5.html](http://www.meabooks.com/page5.html)  
[www.tc.umn.edu/nlhome/g057/sklar001/bib.html](http://www.tc.umn.edu/nlhome/g057/sklar001/bib.html)  
[www.dur.ac.uk/~dec0raw/islam.html](http://www.dur.ac.uk/~dec0raw/islam.html)  
<http://www.indiana.edu/~anthro/faculty/nazif.html>  
<http://www.uwyo.edu/A&S/anth/AudreyShalinky.html>  
[dir.yahoo.com/Regional/Countries/ Arab/cweb2.loc.gov/tmtoc.html/](http://dir.yahoo.com/Regional/Countries/Arab/cweb2.loc.gov/tmtoc.html/)  
[dir.yahoo.com/Regional/Countries/ Kuwait/cweb2.loc.gov/cs/rutoc.html/](http://dir.yahoo.com/Regional/Countries/Kuwait/cweb2.loc.gov/cs/rutoc.html/)  
[www.resources.net](http://www.resources.net)

