

**Muslim Women
and
Contemporary Issues**

**Dr. Muhammad Haytham
Al-Khayat**

Dedication

**To my daughters,
Mai and Her Sisters**

Dr. Muhammad Haytham Al-Khayat

- Member of the board of trustees of the International Federation of Muslim Scholars
- Member of the board of trustees of the Islamic Organization of Medical Sciences (IOMS)
- Member of Academy of the Arabic Language in Damascus, the Academy of the Arabic Language in Cairo, the Jordanian Academy of the Arabic Language, the Iraqi Academy of the Arabic Language, the Scientific Academy of India, the Science Academy of New York, and the Academy of Political Science in the United States of America
- Chief Advisor of the East Mediterranean Regional Director of the World Health Organization
- Member of twenty scientific societies in various Arab and Western countries
- Author of twenty published books, including some dictionaries in Arabic, French, and English
- Author of over 150 papers, essays, and articles, which are published in Arabic, French, English, German, and Italian, in various fields



In the Name of God, the Lord of Mercy, the Most Merciful!

Introduction

This book originated as two lectures, one of which I gave in English, at the invitation of Baroness Emma Nicholson of Winterbourne, member of the House of Lords and vice-chairperson of the European Parliament's Committee on Foreign Affairs. It was under the title "Women in Islam: Their Role in Human Development," and formed part of the *Cultural Dialogue Seminar: Improving the Status of Women*, held at the headquarters of the European Union in Brussels in March 2003. The second lecture, "Islam and Gender," was delivered at the Regional Consultation on "Sex and Health within the Socio-cultural Framework of the Eastern Mediterranean Region" at the Eastern Mediterranean Office of the WHO in Cairo in December 2004.

Friends of mine of both sexes suggested I revise the two lectures and elaborate on some aspects that called for more detail. The result is the present book.

A number of people whose judgment of value have read the drafts of

the book and made valuable observations, most of which I took into account when preparing the final version. In particular, I am under a debt of gratitude to Dr. Muhammad Salīm al-‘Awwa, Dr ‘Isā‘ām al-‘Iryān, Dr. Hūsayn A. Gezairy, Dr. Yusra Gezairy, Dr. Qāsim Sārah, Mrs. Shuhrat “Umm ‘Ammār” Khalīl ‘Abd al-Jabbār, Mrs. Joanna Vogel, Shaykh Mahmūd al-Najjār, and Miss Umniyah ‘Alī abū al-Su‘ūd, who read the Arabic version and commented on it. Dr. Hālah abū Tālib proposed to me to re-arrange the chapters of the book in a more logical sequence, and she kindly implemented it, so that it took its actual form. I am also indebted to Mr. Munīr Asbahī who prepared the English text, to Mr. Ya‘qūb Zakī, who kindly edited the text as well as Mrs. Catherine and Mrs. Sara Shukrī for reading the text in its final form and making valuable comments.

A reader of this book might find some of the ideas “shocking” at first reading, due to the fact that certain conventions deeply rooted in our societies on which people have conferred on them a halo of infallibility equal, if not greater than, the infallibility of the sources of Islamic Law. If any reader find some of these ideas shocking, I apologize to him; my excuse is that I adhere to what I mention in the early pages of this book, namely that the reference authorities for Muslims are the book of God, Almighty, and the verified utterances and practices of the Prophet, ﷺ (i.e. his *Hādīth* and

Sunnah). No one but he who might be may formulate a judgment that contradicts with these two sources. God Almighty says, ﴿... Messengers sent to bring good tidings and warnings, so that, after the messengers, people may have no [ground for] argument before God. God is the Almighty and the Sagacious﴾ (*al-Nisā'* IV: 163-64).

Still, I shall be thankful and, stand corrected, if any person can cite evidence from either of the two basic referentials that refutes an argument of mine. All children of Adam are prone to error, and God alone guides people and leads them to the truth, while I, and the Devil, bear the responsibility for any error. I seek God's pardon, and I turn toward Him in penitence.

I pray to God, to benefit us by what He teaches us, and to expand our knowledge. The only knowledge is that which He imparts. He is the Knowing, the Sagacious.

﴿God, we rely on what You have revealed and we have followed Your Messenger, hoping You will list us with those who bear witness﴾.

Muhammad Haytham "Abū al-Ḥamd" al-Khayyāt

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Pre-Islamic Legacies

Towards the end of the Umayyad reign and during the early days of the ‘Abbāsids, when people were embracing Islam in droves, they brought in with them some aspects of their cultures.

As we know, culture is a deep-rooted fundamental that gets implanted in an individual’s personality from birth and early childhood, until they reach the age of discriminating perception. In its collectivity, it conjoins all that they receive from their parents, other family members, kinsfolk, teachers, tutors, and educators, until they are capable of being self independent. Once independence is gained, they resort to their own minds for contemplation, thinking, investigation, search, and expression of personal opinions. The culture of a nation is the collectivity of the cultures of its members. It is therefore a mirror in which is assembled, within its limited space, scattering bits and pieces of the culture of each of its members, with their various

capabilities, inclinations, beliefs, preferences, approaches, and life experiences.

The three most important pillars of culture, are: (1) **language**, which plays the largest rôle in consolidating the implanted fundamentals and conveying the primary knowledge that allows communication; (2) **religion**, which, whether divine or not, has a significant contribution and a major rôle in establishing the cultural foundation of the individual and the community. Or as T. S. Eliot portrays it, “A people’s culture and a people’s religion are two aspects of the same thing, for culture, in essence, is the incarnation of the religion of a people.”¹; and (3) **tradition**, which comprise the concepts, lifestyles, and manners that an individual acquires from his people and kinsfolk, and which are inherited by one generation after another. Traditions are stronger and more deep-rooted than religion. God Almighty says, ﴿If they are told ‘Follow what God has revealed [i.e. religion],’ they say, ‘Nay, we will follow what we have seen our fathers practise [i.e. traditions].’﴾² He also says, ﴿If they commit an atrocity, they say, ‘We found our fathers doing so, and God has enjoined it upon us.’﴾³

¹ T.S. Eliot, *Notes Towards the Definition of Culture*, London, 1948.

² *Luqmān* XXXI: 21.

³ *Al-A‘rāf* VII: 28.

People do many things that stem from tradition and falsely attribute to religion. Indeed, religion is innocent of these things and in no way approves or endorses them. Many pre-Islamic (*ignoremental*) traditions which had been inherited by people who newly embraced God's religion, found their way into the framework of Islamic civilization, with the advent of various cultures.

*

It is true that this introduction of cultures has enriched Islamic civilisation with elements of Nubian, Coptic, and Berberian from Africa, the Syriac, Greek (Hellenistic), Persian, and Khurasanian cultures, as well as to some degree Indian culture from the East. These cultures served as tributaries merging into the unifying stream of Islam, and Muslims benefited from contact with them all, because "Wisdom is a quest for believers; wherever they find it, they are the most entitled to have it."⁴ Along with this great gain, however, certain concepts that belong in customs, particularly customs contrary to Islamic principles, were introduced. Little by little, these customs made themselves felt, forced themselves in, and then became the rule. Some jurisprudence (*fiqh*) scholars even sought to fit them into an Islamic mold, find justification for them, and make them a part of religion.

⁴ Cited by Imām Ahlīmad with a good chain of narrators.

The examples of this are many.

Of these foreign cultures, the first to creep in were beliefs learned from the Followers of Earlier Revelation. Some of these lived in the pre-Islamic Arab world, most of them being Jews who immigrated to Arabia in the old days, and others who arrived when Jews went in the Diaspora in the year 70 AD to escape the torture and oppression they were experiencing at the hands of Titus, the Roman.⁵ Muslim scholars call the items adopted from the Jewish heritage *Al-Isra'iliyāt* (Israelite legends). God, Almighty, tells us that ﴿they knowingly swear to lies﴾⁶, and ﴿they knowingly attribute lies to God﴾⁷. Still, the Prophet's *h□adīth* which says, “Neither believe the Followers of Earlier Revelation, nor accuse them of lying, but rather say, ﴿We believe in God and in what has been sent down to us ...﴾”⁸ was used by some as a justification to introduce such legends, and they did so extensively. They did so, although the opening of the *h□adīth* commands Muslims not to believe them at all, while the command to refrain from accusing them of lying is, most probably, to guard against futile arguments. Thus, legendary matter stemming from Jewish sources have had an

⁵ Dr. Muḥammad Ḥusain al-Tḥahabī, *Al-Isrā'iliyāt fi al-Tafsīr wa al-H□adīth*, p. 15. Also see Israel Wolfenson, *The Jews in Arabia*; Jawwād 'Alī, *Tarīkh al-'Arab Qabl al-Islām*; and Muḥammad 'Izzat Darwazah: *Banū Isrā'il Min Asfārihim*.

⁶ *Al-Mujādilah* LVIII: 14.

⁷ *Āl 'Imran* III: 75.

⁸ Cited by al-Bukhārī, on the authority of Abū Hurayrah. The quoted verse is *Al-Baqarah* II: 136.

unfortunate impact on some interpretations of the Qur'ān and on some statements attributed to the Prophet ﷺ, and his Companions. In fact, the similarities between Jewish and Islamic jurisprudence (*fiqh*) have received the special attention of some researchers.⁹

*

Another culture which succeeded in penetrating Islamic culture is that of Zoroastrianism, which originally believed in a supreme deity, the great creator Ahura Mazda (*Ormazd*). Ahura means creator of the spirit and of life, and Mazda, the Great and Absolute. According to the myth of creation in primitive Zoroastrian belief, Ahura Mazda created two similar human beings from two entangled twigs, one a male called Mesha, the other a female called Meshana. After inserting spirits he had already created into the bodies of Mesha and Meshana, Ahura Mazda told them, “You are the world’s parents. I created you pure and clean, so be pious, wise, and well-spoken, and do not worship false deities.”

Later, in West Iranian regions, late Zoroastrianism, or Zarvanism, developed. From the great creator, according to the myth, two separate deities emerged. Ahura Mazda (*Ormazd*) became the creator of the good

⁹ Dr. Hashim Al-Sa‘īd Sharīf: *Al-Mar’ah al-Muslimah Bayn Haqīqat Al-Sharī‘ah wa Zayf al-Abāt* [il. Also see, J. H. Busike, *Sirr Takawwun Al-Fiqh wa Asl Masādirih*, trans. Bahajāt al-Arāna’ūt [il. in *Hal li al-Qanūn al-Rūmi Ta’tthir ‘ala al-Fikr al-Islāmi*, pp. 47-48. See also note 207, p. 94.

aspects of the world, and he had an evil twin called Ahriman, the creator of the malignant aspects. In this later development, the God of evil, gains independence and great power. In fact, he almost rules the world by himself. Like any domineering power, he needed means and mechanisms to impose his authority. His main instrument in leading the upright astray, was sexual drive, personified by women. Thus, women, were moved from the realm of good to the realm of evil, becoming Ahriman's chief instrument in his plans to lead people astray. This rôle of theirs, according to the myth, began with leading the first human being astray, and the pattern continues.¹⁰

When Islam was introduced into Persia, the population sincerely embraced the new religion; however, Zarvan culture remained embedded in many traditions that controlled the collective mentality of some of these new Muslims, so that every now and then that culture surfaces, and under its influence, women were transported from the sphere of good to that of evil. Having become the instrument of evil, malignance and transgression, she assumed an unenviable position; a woman would be kept away, insulted, and humiliated in order to keep her from leading an upright man to evil. These perverted concepts began to creep into the minds of Muslim jurists (*fuqahā'*) in the mid-Abbāsid era. Later scholars started quoting these

¹⁰ Dr. 'Abdul Hussein Zarrin Kūb: *The History of Iranian People, Vol.1: Iran before Islam* (in Persian).

concepts as part of jurisprudence (*fiqh*) itself. Thus we find in works of jurisprudence chapters about the capacity of women seducing and misleading men, being in the rôle of seductress and temptress, and which caused the need to besiege and suppress these temptresses and make sure they were not given any rôle in society. This is where the focus on the concept of *temptation* comes from. The Arabic term *fitnah*, translated here as temptation or seduction, has six meanings in the language used in the Qur'ān, “trial,” “deprivation of freedom,” “oppression and torture” “alienation,” “admiration,” and “leading people astray.” It is in the latter sense, as in the late Zoroastrianism or the Zarvanism, that women were considered as seductresses. This is where the great deviation in the attitude towards women began and how it started to influence interpretation of passages of the Qur'ān and the *ḥadīth*.

*

The Ancient Greeks classified women as inferior creatures whose sole function was to continue the species and attend to household chores. A woman was forced to have intercourse [with chosen males] and to practise prostitution. Aristotle ranked her with slaves and said she should receive the same treatment of servants because she was an inferior being, with a weak personality and no will of her own. Woman ranks very low in Plato's *The*

Republic: “A man’s courage is in commanding; a woman’s in performing humble duties.” A Greek man had the right to leave his wife to any friend he chose in his will. Thus, not only did he own her in his life, but he also kept her under guardianship from her birth till her death.

The Indian Law of Manu says that “a woman belongs to her father in her childhood and her husband in her youth. If her husband dies, she belongs to her sons, and if she has none, she belongs to her husband’s male relatives, because she should not be left on her own under any circumstances.” A wife was even expected to die with her husband, and burn with his corpse. If she escaped from death, she was damned through eternity.

*

As mentioned above, residues of these foreign cultures infiltrated some reference works of jurisprudence in Islamic countries. We begin to wonder where the truth lies amidst such an accumulation of traditions and customs, and where a Muslim should stand on this issue in our world today.

The arbiter of this question is a passage from Shaykh al-Islām Ibn Taymiyah in which he said, “Although Islamic Law forbids the emulation of foreigners ... this includes the aspects of life that characterise foreigner Muslims and are in conflict with the ways of early Muslims, the same way

that the term Arab ignorance (*Jahiliyyah*) includes the ways of Arabs before Islam and the ignoramous ways many Arabs have reverted to.”¹¹

However, much effort will be required to purify Islamic jurisprudence from the foreign matter and to liberate it from all ignoramous viewpoints.

*

Let us conclude this chapter with two examples of what has remained with us of these pre-Islamic pagan traditions, namely: female circumcision and crimes of honour, being two examples of pre-Islamic practises that some Muslims today, still unfortunately, adhere to.

In the case of **males**, circumcision is the removal of the foreskin known as the prepuce. It is a cavity-like skin flap that covers the glans, i.e. the tip of the male organ. If the cleanliness of this flap is neglected, which is often the case, it might become a source of infection and inflammation. It might become too constrictive for the glans, causing it to stifle. The removal of this prepuce was known to pre-Islamic Arabs, being one of the remaining traditions of Abraham ﷺ. It is also one of the practises of Judaism and a custom commanded to be followed in Islam, as part of the guidance of the Father of the Prophets ﷺ.

¹¹ Ibn Taymiyah, “*Iqtidā’ al-Sīrāt al-Mustaqīm*”, p. 162.

Apparently, some Arabs in the days of pre-Islamic paganism thought that the same operation should be performed on females as well. Thus, they performed an operation known as infibulation or female circumcision. Originally it was the removal of what we call today the clitoral prepuce. The clitoral prepuce however, is much smaller than that of the male organ. Consequently, the clitoris itself or the neighboring area must suffer damage when the prepuce is removed, and this is very harmful and hazardous.

Indeed, some other ignoramous cultures, particularly the Pharaonic Ignorment, introduced a much worse affliction. A custom of that culture is the amputation of most of the exterior parts of the female genitalia. These vile customs, known as Pharaonic circumcision, have survived to our day and are still practised in some African countries which were once ruled by the Pharaohs. It is an outright mutilation, an obvious deformation, an abusive action, and a violation that no sane person would allow.

It is painfully unfortunate that such ignoramous practises are subjected to women in that region of the African continent, **and** are falsely and deceptively attributed to religion, which is innocent of such rulings. Because of this false attribution, the practise acquires a certain degree of sacredness in the behaviour of some of the peoples of that region.

What makes matters worse is that some people judge this practise as legal and recommend it, basing their arguments on poorly supported fabricated statements that are falsely attributed to the Prophet ﷺ. The Prophet ﷺ, would never have ordered, or even allowed, such a practise that causes utmost harm to this sensitive sector of human beings. It is a sector that the Prophet ﷺ, while on his death bed, urged everyone to treat its members fairly: “You [men] are entrusted to be kind-hearted to women”. Indeed, he who forbade all types of harm and injury and “damned, most explicitly, those who disfigure God’s creation”, would not ordain or approve such a thing. What can be more horrible than the disfiguring of God’s creation and aggression against a cardinal female organ?!

Moreover, some of the poorly supported *hādīths* that some people use as evidence¹² do not actually ordain the circumcision of females. What they do, is to instruct the circumciser who perpetrates female circumcision to avoid violating any of the female genitalia and to confine herself to cut off the clitoral prepuce if any, so small a bit that it can hardly be felt. The word

¹² Such as the weakly supported *hādīth* that quotes Umm ‘Attiyah, who used to circumcise females, as saying that she was told by the Prophet ﷺ, “restrain yourself to a sniff, and do not violate; [this way] it is more good-looking and more favourable to the husband.” Another weak *hādīth* says, “Circumcision is an obligation for men and a tribute for women.” Both *hādīths* are weakly supported, with discontinued chains of citation, quoted through sources that are all doubtful, some more so than others. The doubtfulness of these *hādīths* is pointed out in sufficient detail by Professor Muhammad al-Sabbāgh, Ph. D., in the treatise published by the Eastern Mediterranean Regional Office of the World Health Organization as part of *The Right Path to Health*, with the title: *Islamic Ruling on male and Female Circumcision*.

used for this little bit is a sniff, and sniffing, as we know, is a very casual and superficial sensation that is hardly noticed. The most that can be said about the content of these *hādīths*, were they authentic, is that they refine that ignoramous practise. Still, they are untrue statements, and the rules of Islamic Law are derived only from authentic *hādīths*.

The procedure of Pharaonic circumcision calls for cutting off the major part of the labia majora and the complete removal of the labia minora and the clitoris. This done, a match is placed in the labia majora aperture, so that when the wound has healed, a small opening is left from which the urine comes out. When the girl in question reaches puberty, menstrual blood is let out through the same small opening. After the operation, when the match is secure in its place, the girl's legs are tied together for forty days to make sure that the parts of the cut have closed and adhered well.

Thus, quite simply, the girl is deprived of her genitals and denied a main element of her life. Her life becomes complicated by complexes on top of another, and the household is filled with problems it can well do without. Denying the woman to share makes her more passive, and denying her the neural relaxation that accompanies proper sexual intercourse generates in her feelings of great anxiety and loss. In turn, such feelings give rise to several psychological, physical, and sexual disorders. An inferiority complex, a

passive attitude, and a feeling that the man is the dominant master will gradually annihilate her rôle in society. Moreover, feelings of weakness, passiveness, and pain in the marital bed are certain to make her experience various sexual problems, first of which is sexual frigidity, which is a serious impasse and the root of many familial problems.

*

As for the crime of “honour,” the term is used to mean a crime committed by a man against his wife, sister, or any other woman of his paternal or maternal relatives, when she falls in love with a man and they have an extramarital affair, if she loves and marries a man with a different cult or kin, or even when she is raped. The crime is committed to wash away the “disgrace” and protect the family “honour,” in observance of dominant mores and customs. It has been established that brothers come at the top of the list of offenders, then husbands, and then fathers. The majority of victims are teenagers or young women, and eighty per cent of the crimes are motivated by suspicion and delusions.

Some of the methods of executing these crimes are really horrifying and disgraceful. The mind is incapable of comprehending how cruel these methods are. The girl may be burnt alive or dropped from a tremendous height, she may have one of her major organs amputated, she may be buried

to the neck and beaten on her head till she dies, or she may be tortured, naked, in public, where everybody can see her. Her corpse might be thrown in the garbage, while her mother, sisters, and other women of the neighborhood or village cheer to the beat of men engaged in a cheerful dance.

It is unfortunate that our Region is among the world's countries with the highest rate of such crimes of honour, which are concentrated in rural, tribal, poor, or uneducated environments, inhabited by a population that represents various races, denominations, and cults.

It is obvious that this evil practise falls also within the category of customs mentioned by Shaykh al-Islām (cited on page 8 above). It is a custom highly condemned by Islam as a terrible crime, because ﴿For a person who deliberately kills a believer, the punishment is Hellfire where he will remain forever. God's wrath and curse fall upon him and He has prepared for him a terrible scourge﴾¹³.

*

¹³ The *Sūra* of *al-Nisā'* IV: 93.

Women in the West

In the West, however, women have fared no better than in Muslim societies; they have been subjected to oppression, exclusion, and humiliation, all of them frequently carried to an extreme. This has resulted in counter-extremism, which is an established law of social motion.

It is known that women count for two thirds of the illiterate population in today's world. The efforts to educate them are slower than those made to educate illiterate men, and in most regions of the world, women receive less formal education than men.

Discrimination in the field of health is still conspicuous. Every year at least half a million women die of pregnancy and childbirth related problems. In addition, there are hundreds of thousands who are victims of abortion procedures performed with no medical justification and under conditions that do not conform to hygienic requirements. According to mortality statistics throughout the world, the main cause of death for large numbers of women is their attempt to be rid of female infants.

In the last two decades, the improvement of the economic status of

women was also limited. Although women make up to 41% of the working class in developed countries and 24% of the world's workers, the wages of women workers are 30-40% lower than those of men doing the same jobs (some statistics put the figure as high as 50-80%), although the difference in wages is less than it used to be. Women are among the lowest paid majority. Although women come next to men in hiring priorities, they are the first to suffer from economic crises that leads to workforce restructuring.

In many countries, women work in the private sector under severe conditions. Even those women who work in governmental sectors prefer to perform simple jobs, such as office work, housekeeping, and similar jobs, for limited wages. Although working hours for women are longer than they are for men, the jobs performed by the former are looked at as less significant or useless. According to a report of the World Health Organization, the working hours of women are twice as long as those of men. In the developing World, women work an average of 12-18 hours a day, while men work 8-12 hours. Significant jobs are determined in light of the money earned from them directly. Therefore, the majority of women are reported in government statistics as unemployed and as representing only an insignificant percentage of productive powers. The nature of jobs performed by women have led to the conviction that they are not only an unproductive

element, but also a burden on society. Yet, United Nations statistics show that housework represents at least 10-35% of total world production.

Women do not hold an important position in economic planning processes. They occupy only 10-30% of all administrative positions and less than 5% of top management positions. According to statistics women hold 3.6% of the positions in the ministries of economy, commerce, and planning, and in central banks. In 144 countries, women hold none of these positions at all.

Poverty is one of the areas in which women's suffering has doubled in the past two decades. The number of women in rural areas living below the poverty line has doubled during that period. Women today account for at least 60% of the one billion villagers living below the poverty line.

The situation of women in the political field is not better than in other fields. The political positions they hold are by no means proportionate to the rôles they play at various levels. Their share of parliamentary seats throughout the world has declined from 12.5% in 1975 to 10.1% in 1993.

There are about one hundred countries in the world where women have no parliamentary seats at all, and the participation of women in other countries is by no means proportionate to the number of women in them. As far as political participation is concerned, the United States of America lags

considerably behind other developed countries and even some developing (“under-developed”) ones.

In internal and international armed conflicts, the damage suffered by women is several times more than what befalls men, although they do not influence the decisions that lead to conflict.

If the military accounted for 90% of war victims in the early twentieth century, the same percentage now represents civilian casualties, most of them being women and children. Statistics show that 80% of world refugees are women.

Another form of injustice suffered by women in most countries of the world is the rape, beating, and insults they are subjected to. Unfortunately, 75% of those responsible for that are husbands or family members. Statistics also show that 90% of the girls between 12 and 16 who become mothers have been raped by their fathers or other family members. In the United States the incidence of rape is high, occurring every six minutes, and, in the world as a whole, about one million girls are forced into prostitution every year. Almost 200,000 women were raped in the first months of the Bosnia war, and rape on such a similarly large scale also took place in Rwanda, Liberia, Somalia, and Uganda. A report of the World Organization of Human Rights mentions that violence against women is used internationally as an

instrument of political pressure against enemy parties. In addition, it is employed in some countries for organizing the sexual conditions of women and their ability to conceive and give birth.

*

Reactions

Under these circumstances, women were subjected to all kinds of oppression and violence and it was natural that moderate feminist movements started advocating, under the banner of women's liberation or emancipation, calling for justice, and abuse to stop towards women. These movements began in the West at the turn of the twentieth century, but only began to show some serious results in the 1960s, when most governments responded and enacted legislations guaranteeing their women rights, equal to those of men with regards to the law, education, and opportunities of economic activity. Women promptly benefited from these opportunities, and the number of female graduate students rose sharply. A similar increase was noted in the various professions, public employment, and elected positions.

These moderate movements, however, were soon to be overtaken by others more extreme. Some of these deplored the biological makeup of women. Simone de Beauvoir, for example, referred in 1949 to what she

called “the slavery of conception”¹⁴ and considered child conception – with all the charm, giving, and sublime emotions it entails – to be an enslavement that should be fought because it restricts women’s freedoms.

In the 1970s, the feminist movement was co-opted by a number of radical groups who, introduced the notion of women as an oppressed social class, and marriage and reproduction as the major mechanisms of its oppression. It seems they were drawing on Frederick Engels’s 1884 book on *The Origin of the Family* in which he says that “the first class antagonism in history coincides with the development of the antagonism between men and women in the institution of marriage, and the first class oppression with that of the female sex by the male.”¹⁵ Shulamith Firestone refers to Engels’s analysis of the class conflict in promoting a sex-class revolution:

The elimination of sexual classes requires the revolt of the underclass (women) to take over the reins of power from men in sexual relations and seize control of reproduction ... so the end goal of the feminist revolution must be unlike that of the first feminist movement, not just the elimination of male privilege but of the sex distinction itself; genital differences between human beings would no longer matter.¹⁶

Like de Beauvoir, Firestone believes that the “heart of women's

¹⁴ Simone de Beauvoir: *Le Deuxième Sexe*, Ballimare, Paris, 1949.

¹⁵ Frederic Engels: *The Origin of the Family, Property and the State*, International Publishers, New York, 1972, pp.65-66.

¹⁶ Shulamith Firestone: *The Dialectic of sex*, Bantam Books, New York, 1970, p. 12.

oppression is their childbearing, child-nursing, and child-rearing rôle.”¹⁷ Thus, she and others, such as her regard to abortion, contraception, absolute sexual freedom, women in the workforce, and children in day-care centres as the necessary preconditions for the liberation of women, for “as long as women are regarded as the primary caregivers, children will grow up seeing humanity divided into two different and unequal ‘classes,’ and this is the cause of the acceptance of ‘class’ oppression.”¹⁸ Some go so far as saying that “Male homosexuality, lesbianism, and extramarital sexual intercourse will no longer be viewed as perverse options.... Humanity could finally revert to its natural polymorphously free sexuality.”¹⁹

All this was but the first step toward full separation between sexual life and conception, especially after the development of the contraceptive pill by Gregory Pincus in the 1950s.²⁰ In this manner Western women have managed to secure their freedom to enjoy their sexual life as they please, being now liberated from the tyranny of man, who monopolized the decision of reproduction, and deciding for themselves whether to reproduce or not. Soon, *in vitro* fertilization consolidated the full separation between sexual life and conception. As the social biological function, which is reproduction

¹⁷ *Ibid.*, p. 72.

¹⁸ Nancy Chodorow: *The Reproduction of Mothering*, Univ. of California Press, Berkeley, 1978.

¹⁹ Alison Jagger: *Feminism and Philosophy*, N. J.: Littlefield, Adams & Co., Totowa, 1977, p.13.

²⁰ Gregory Pincus, *The Control of Fertility*, Academic Press, New York and London, 1965.

has been divorced from the individual biological function, which is sexual gratification, it logically followed that extreme methods of marketing sexual attractions would be explored, one of which is the “merchandising” of women, which means to regard their bodies as a merchandise to be marketed and traded. For evidence of this, one has only to look at the advertisements and commercials in published and visual mass media, and to watch beauty pageants and fashion shows, with their exaggerated manner of displaying the whole, almost the entire female body for viewers.

Next came another step warmly welcomed by those promoting a revolution against the family, who were troubled by the fact that sexual distinction is rooted in the biological differences between men and women. The solution was offered by Dr John Money of Johns Hopkins University in Baltimore. He was the first to coin the term "gender identity" to describe a person's inner sense of himself or herself, *i.e.* whether he or she feel himself/herself as male or female.

As Money looked at it, the gender identity for every person was dependent on how he or she was raised as a child, and it could be different from his or her biological sex. Money held that it was possible to change a person's sex, particularly if that person were born with ambiguous genitalia. He had a golden opportunity when he was consulted by the parents of

identical twins. The genital organs of one of the twins had been partially removed during an unsuccessful circumcision procedure. Money advised the parents to have him castrated and to raise him as a girl. This allowed Money to compare the twin raised as a boy with the one raised as a girl. In his book *Man & Woman, Boy & Girl*,²¹ Money reported the success of the sex change and how the boy had successfully adapted to a feminine identity. The twins were not told about the matter. Money's information found a welcoming audience among prominent feminists. Kate Millet contended that there was no differentiation between the sexes at birth. Psychosexual personality is therefore postnatal and learned.²² Susan Moller Okin wrote that she looked forward to "a future without gender.... Childbearing would be so conceptually separated from child-rearing that it would be a cause for surprise if men and women were not equally responsible for domestic duties."²³

During the 1980s the term "gender" became omnipresent in all women's studies programmes. Thus, the focus of the woman's movement shifted from the mere elimination of policies and practises which discriminated against women to the elimination of everything which

²¹ John Money & Anke Ehrhardt: *Man & Woman, Boy & Girl*, Johns Hopkins University Press, Baltimore, Md., 1972.

²² Kate Millet: *Sexual Politics*, Avon Books, New York, 1971, p. 54.

²³ Susan Moller Okin: *Justice, Gender and the Family*, Basic Books, New York, 1989, p. 170.

suggested that there were differences between men and women or made any direct or indirect reference which supported women as primary caregivers in the home.²⁴

Beginning in the 1990s, these concepts found their way into the United Nations System. One agency defined gender as: "A system of rôles and relationships between women and men that are determined not by biology but the social, political and economic context. One's biological sex is a natural *given*; gender is constructed."²⁵

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Thus, after the movements of *traditional feminism* and *liberal feminism*, a new feminist trend surfaced, later called *gender feminism*. The philosophy of this movement is summed up as "the cancellation of all distinctions between man and woman, considering them artificial and refusing to recognize them, whether they are biological differences related to the physical makeup and the nature of men and women, or distinctions in the rôles allotted to them in society on the basis of those biological differences."

The advocates of this new trend had to come up with a new term to refer to this species whose males and females, as they saw them, had no distinction except for the reproductive system, for which they retained the

²⁴ Dale O'leary: Commentary, *The Problem of Gender Feminism*,
<http://www.ewtn.com/library/ISSUES/GENDFEM.HTM>, 2006.

²⁵ *Gender Concepts in Development and planning: A Basic Approach*, INSTRAW, 1995 p.11

word ‘sex’ when referring to it. The irony is that the only English word they could find for this new being was the one that denotes full distinction between man and woman, even in grammatical usage, where the masculine *gender* is distinguished from the feminine *gender*. So the word *gender* was enlisted, its original denotation was abandoned, and it was introduced to give a neutral image of this human being.

The formation of this new idiom, in its embryo stage, began in the womb of the New World Order in the Conference on Population and Development in Cairo in 1994, where the term “gender” was used about fifty times in the conference’s basic document. Soon the term, with its new signification, was born intact in the basic document of the 1995 UN Conference on Women in Beijing, where it is used more than 230 times, although it referred to both sexes in some cases, to women alone at other cases, and to the rôles played by the two sexes in still other cases. It seems that the title of the document, “Redefinition of the World from a Feminine Perspective,” and the multiple meanings given to the term “gender,” disturbed the delegations and prompted them to demand a clarification of this ambiguous term. Immediately, the management of the conference formed an *ad hoc* committee to define and explain the term. The statement of the committee, dated July 7, 1995, employed a somewhat funny

definition; it said, “We have to understand the term ‘gender’ as used in the document of the Conference on Women in the ‘ordinary’ way in which it was used in the conferences and symposia held at the United Nations earlier. There are no new implications of this term in this document.” As the Arabic saying goes, “After exhausting efforts they used water to define water,” for the meaning of the term as used in earlier conferences was never explained, so how can a meaning not explained to start with be drawn upon?²⁶

Indeed, the translation of the term to other languages posed a problem. The French, Spanish, and all other Latin tongues, for lack of a Latin word that corresponds to “gender,” construed it as *sexospécificité*, which seemed to the translators to convey the meaning intended. The same is true about translation into Arabic. Some translators use the term *al-naw‘ al-ijtimā‘ī* (social species), which is thought to be an extremely unsuccessful translation, one that should not be used at all because the word *al-naw‘* is used to refer to the human species, and the translation seems to imply that women are a different species. Others used *al-jins al-ijtimā‘ī* (social sex) and *khasā‘is al-jinsayn* (Characteristics of the Two Sexes), which seems to be an almost precise rendering of *sexospécificité*. A new word, *al-junūsaḥ*, which signifies the state of belonging to a sex or a gender, is

²⁶ Dr. Amani Abū al-Fadl Faraj: *Tahrīr al-Mar’ah al-‘Arabiyah – Falsafat al-Gender Numut al-hajan: A Study of the Term and the Concept*.

gaining ground, and it is meant to match the Arabic words for masculinity and femininity. Some other translators, however, are content to borrow the English word “gender,” as it is.

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That, however, was not the end of the story!

Notwithstanding the media coverage that promoted the story of Dr. Money and the twins, and the subsequent studies published here and there in support of that new concept, new facts began to surface.

The first of these facts was revealed by Dr. Milton Diamond, an expert on the prenatal effect of testosterone on the organization of the brain. This scientist made attempts to track down the twin Money had castrated to determine how the child had adjusted to the new “feminine” identity. Eventually, Diamond was able to contact a local therapist who had worked with the twin and discovered that the experiment had been a total failure. The twin had never accepted being a girl, never adjusted to a female rôle. By age 14 he was suicidal. The therapist encouraged the parents of this “boy/girl” to tell him the truth. The moment he heard that he was a boy, he regained his psychological stability and decided to live as a male. He underwent extremely difficult and intricate reconstructive surgery, turned back into a boy, and soon got married. Thus the nightmare ended once and

for all.²⁷

Other research on brain development has also proved the complete falsehood of Dr. Money's theory. Research demonstrates that, even before birth, the brains of boys and girls are significantly different and this profoundly affects the ways in which babies, after they are born, see movement, color and form. As a consequence, male children have "biological or natural preparedness" for typically masculine toys and female children for typically feminine toys. Women are, from the womb, being equipped for the rôle of motherhood. Boys grow up to become fathers, and girls to be mothers, and no attempts at social neutralization can change biological reality. Other research on brain development has demonstrated the importance of the relationship between mother and child during the first months of life. The baby becomes used to hearing their mother's voice in the womb and come into the world looking for the light in its mother's eyes. Secure attachment between mother and baby is crucial to its emotional development. This is ignored by those who favour women in the workforce and prefer babies to be sent to daycare centers.²⁸

Since society has removed all obstacles that may hinder a woman's

²⁷ Milton Diamond and H. K. Sigmundson: *Sex Reassignment at Birth: A Long-Term Review and Clinical Implications*, *Archives of Pediatrics and Adolescent Medicine*, CVI (1997) pp.298-304; John Colapinto: *As Nature Made Him*, Harper Collins, New York, 2000.

²⁸ Allan Schore: *Affect Regulation and the Origin of Self, the Neurobiology of Emotional Development*, Mahwah, N. J. Lawrence Erlbaum, 1994, p. 540.

freedom to choose to work whenever she wants, it is not fair to force her to work at a time when she believes her rôle in making the future is not less, if not much more, important than her rôle in making the present.

If women are more sensitive to the needs of a person, and children need mothers who are sensitive to their needs, then presenting motherhood in a positive light is not perpetuating a negative stereotype, but recognizing reality. No injustice is involved, provided women are not prevented from choosing to work outside the home.

It is interesting that in an interview with Betty Friedan, Simone de Beauvoir responded, when asked if women should have the choice to stay at home and raise their children: “Women should not have that choice, precisely because if there is such a choice, too many women will make it.”²⁹ This means that the leaders of the feminist liberation movement deny women the freedom to make their own choice.

Christina Hoff Sommers conclusion in her book *Who Stole Feminism?* is relevant at this point. In this book, Sommers disclosed many cases of false research. One of these is the case of a feminist researcher who claimed that negative gender socialisation caused 150,000 American women a year to die from anorexia, whilst health statistics showed that the number of

²⁹ "Sex, Society, and the Female Dilemma: a dialogue between Betty Friedan and Simone de Beauvoir", *Saturday Review*, 14 June 1975, p. 18.

deaths from anorexia in 1983 was no more than 101. By 1991 the number had declined to 54.³⁰

A study undertaken by the American Association of University Women claimed that gender bias in junior and senior high schools caused teenage girls to suffer a devastating loss of self-esteem. The study received major media coverage and numerous programmes were instituted to correct the problem. After much effort, Sommers obtained a copy of the survey results and discovered that its criterion of "self-esteem" was unscientific and that teenage girls were academically outperforming boys.

Unfortunately, many claims towards the oppression of women made by feminists are often supported by no facts at all, and divert attention from the real problems and causes limited financial resources to be spent on issues of no value. Moreover, these claims have a devastating impact on the credibility of research on the characteristics of the two sexes. Studies have been attempted to prove that same-sex marriages (*i.e.*, marriages of male homosexuals and of lesbians) have no negative effect on children they adopted and raised, and that also, these children differed from those raised by ordinary families with legitimately married couples. When analysed, these studies were found to be invalid and to have no basis in reality

³⁰ Christina Hoff Sommers: *Who stole Feminism*, Simon and Schuster, New York, 1994, pp.137-156.

whatsoever.³¹ As Professor Lynn Wardle puts it, “Most of the studies of homosexual parenting are based on unreliable quantitative research, flawed methodologically and analytically (some are of little more than anecdotal quality), and provide a very tenuous empirical basis for setting public policy.” Rather, numerous documented studies show that the presence of a father and a mother guarantees the well-being of children as they grow. Many studies even demonstrate that the importance of a father’s love for the healthy development of offspring is as great as, if not greater than, that of the mother’s love. Only legitimate marriages guarantee the healthy growth of children, who always need a father and mother, with the bonds of love and compassion between them. Patrick Fagan cites massive evidence on the importance for children to have a father and mother who remain married. He proves beyond doubt that children born out of wedlock or whose parents are divorced are much more likely to experience poverty, abuse, behavioural and emotional problems, and drug addiction, and have lower academic achievement. Meanwhile, children whose parents remain married are less likely to be depressed, less likely to perform poorly in school, and less exposed to various developmental problems.

To conclude this chapter we quote some interesting passages from a

³¹ Robert Lerner & Althea Nagai: *No Basis: What the Studies Don’t Tell Us about Same-Sex Parenting*, Marriage Law Project, Washington, D. C., 2001.

highly important lecture by Dr. Ilhām Mansūr. She says:

The first written work I have undertaken was an academic study on women's liberation. I was at the time an advocate of women's liberation in Lebanon. Later, I discovered that I was advocating the rights of a human being (woman) on the grounds of her being similar to man, trying to undervalue any difference between them. Most women's movements in the world were taking that direction in their struggle, and some are still holding to that position. It is from that position that the gender theory emerged, with all the other, similar assertions currently in vogue.

She goes on to say:

I begin by responding to the famous statement of Simone de Bouvoir which says that a woman is not *born* a woman but rather *becomes* one. Thanks to the struggle and the doctrines of women's movements, she becomes almost a man. Why do I say *almost a man*? Because, due to the emphasis on her similarity to man, she turns into a castrated man; she is no longer a woman, and she does not transform into a man. She turns rather into a new type, with no identity other than the ambition to be a male.

She adds:

Someone, male or female, may object that that struggle has achieved many gains for women, so could the call for women's rights to be equal to those of men be a wrong thing? I hasten to say no, the demand is not wrong in itself. What is wrong is the basis on which the demand is made. What is wrong is the attempt to prove that there is no difference between man and woman, so

that such a proof makes their equality of rights necessary and taken for granted. However, does our admission of differences between them obliges us to conclude that differentiation in rights between them is valid? Of course not. The mistake that bases one's rights on one's nature is a common one, even among sociologists and others, or at least among some who claim to be political and sociological theorists. This means it is a mistake common in several fields and not merely in the woman question. Now I want to correct this mistake and say to women that rights are not derived from nature (and that is the mistake which gave birth to all the racial discrimination in the world). Nature allows us to deduce laws, whilst rights – which are man-made and subject to varying conditions – have always, throughout history, been determined by the strongest. (Strength as well changes its denotation through history; it has changed from physical strength at the beginning to financial power in our days, and has passed through different denotations in between.)

Therefore I believe it is necessary to stress the difference between man and woman and the need for women to have their own platform, in which they show how they differ and get in harmony with their true selves. If men are in harmony with themselves and their platform through the identity principle based on “he → he,” women, as things stand now, are trying to apply the identity principle based on “she → he,” while what is needed is to realise that principle on the basis of “she → she.”³²

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³² Ilhām Mansūr: “*Man Hiya al-Mar'ah?*” *op. cit.*, pp 130 – 31. Dr. Mansūr prefers to use the Arabic expression *insa* rather than “woman.” *Vide infra* p. 50 of this book, note 105 .

The Muslim's Referential

In addressing the subject of Muslim Women and Contemporary Issues, reference authorities are limited to the Glorious Qur'ān; verified verbal and practical traditions (*ḥadīth* and *sunnah*) of God's Messenger ﷺ; and what can be deduced by reference to these sources. God, Almighty, says, ﴿If you are in dispute over anything, *refer it* to God and the Messenger﴾³³. This is a principle that is summed up by Imām Ibn al-Qayyim in an all-inclusive sentence: "Compared to statements by God and His Messenger, no other statement is valid."³⁴

No one can be cited in argument along with God's Messenger ﷺ, for God, Almighty, says, ﴿... so that people may not have [ground for] dispute with God once these messengers [have come]﴾³⁵. The only exception is following the tradition of the Rightly-Guided Caliphs, as it represents a truthful understanding of the Qur'ān and *sunnah* and demonstrates their

³³ *Al-Nisā'* IV: 59.

³⁴ Shams al-Dīn Muḥammad ibn abī Bakr (Ibn Qayyim al-Jawziyah), *A'lām al-Muwaqqi'īn*, Dar al-Fikr, Beirut, 1980, III: 282.

³⁵ *Al-Nisā'* IV: 165.

practical implementation. A verified statement of God’s Messenger ﷺ, says, “Follow my *sunnah* and that of the rightly-guided caliphs; hold to it by your teeth.”³⁶ As for others, the only statements that can be accepted from them are those that are supported by reference to God’s Book and the *sunnah* of His messenger. In verified statements, Imām Muḥammad ibn Ishāq ibn Khuzaymah says, “No statement by any person is admitted alongside a statement by God’s Messenger ﷺ, when his is verified”; Imām Yahya ibn Adam says, “No statement by anyone is needed when one by God’s Messenger ﷺ, is available”; and Imām al-Shāfi‘ī says, “The Original sources are the Qur’ān and *sunnah*; otherwise, an analogy based on them can be made,” and, “Muslims unanimously agree that when one learns of a *sunnah* of God’s Messenger ﷺ, he may not depart from it to follow a statement by any other person.” Shaykh al-Islam Ibn Taymiyah perfectly expresses the point when he says, “There is none of the notable early and subsequent *imāms* but has made statements and performed actions without being aware of the relevant *sunnah*.... This is a very wide, infinite domain. Although it does not lower their status, no one is justified in following them in such statements and actions.”³⁷

³⁶ Cited by Abū Dawūd and al-Tirmidhī, on the authority of al-‘Irbādī ibn Sāriyah.

³⁷ Cited by Ibn al-Qayyim: *A‘lām al-Muwaqqi‘īn*, III: 284.

Islamic Law (*Sharī‘ah*) is the coherent texts that include God’s Book and the authenticated *sunnah* of His Messenger ﷺ. These are what we refer to in writing this book. As for the works of Islamic thought on the application of these texts, they are collectively known as *jurisprudence* (i.e. *fiqh*), which is a *human effort*, undertaken by specialised jurists to clarify for people the ruling of *Sharī‘ah* on everything that these people are interested in. **The statements of jurists are not regarded as *Sharī‘ah***, and cannot be cited as religion in any argument. They can only be cited as an **interpretation of the texts** of the *Sharī‘ah* and an **application of these texts to reality**. A jurist (*faqīh*) is not infallible; he is as likely to be mistaken, as he is to be correct. A qualified, diligent jurist gains a double reward when he is right and a single one when he is wrong.

The criterion in all this is the statement of the Prophet ﷺ, that “Anything done by someone which departs from our directive shall be rejected.”³⁸ Another version – cited by Imām Ahmādh, on the authority of the Mother of the Believers ‘Ā’ishah, and judged by the criteria of al-Bukhārī and Muslim to be authentic – says, “Any practise by someone in contrast with our commandment is rejected.” The origin of this is in God’s Book: ﴿Do not regard the messenger’s summons to you like one of you summoning

³⁸ Cited by Muslim, on the authority of ‘Ā’ishah.

another.... Those who disobey his [i.e. the Messenger's] order should beware lest an affliction strikes them or they suffer a painful scourge³⁹. Similar to this is the Prophet's statement, "Everyone is admitted into Paradise except those who decline." When he was asked, "Who would decline, God's Messenger?" he said, "Whoever obeys me is admitted into Paradise, and whoever disobeys me declines!"⁴⁰

Both the verse and the *h□adīth* make it clear that **disobedience** is **failing to obey an order**, rather than failing to emulate a certain action.⁴¹ The verse that says, ﴿‘If you do love God, follow me and God will love you and forgive you your sins’﴾⁴², does not mean, "Do what I do;" it rather calls for obeying his orders. As for things performed by the Prophet ﷺ, without him ordering Muslims to do them, they are only set as an example; God Almighty says, ﴿You have in God's Messenger an excellent model﴾⁴³. If a Muslim does one of these things, following the example of God's Messenger, well and good, and if he does not, he has nothing to worry about, God willing. Had emulation been obligatory, God, Almighty, would have said, "You *shall have* in God's Messenger an excellent model". The form

³⁹ *Al-Nūr* XXIV: 63.

⁴⁰ Cited by al-Bukhārī, on the authority of Abū Hurayrah.

⁴¹ Imām Ibn H□azm, *Al-Ih□kām fī Usūl al-Ah□kām*, IV: 45.

⁴² *Āl ‘Imrān* III: 21.

⁴³ *Al-Ah□zāb* XXXIII: 21.

He uses (“You *have*”) implies no obligation.⁴⁴ Nobody, as Imām Ibn Hāzīm said, departs from the view that the actions of the Prophet ﷺ, are not obligatory for him in themselves. It is, therefore, impossible for them to be obligatory for us while they are not for him.

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As Arabic is the language in which the Qur’ān was revealed, it is imperative for a good understanding of the content of the Qur’ān and Prophetical tradition and to be aware of what the words meant to the Arabs at the time when the Qur’ān was revealed. Referring to His Book and addressing His Prophet, God says, ﴿We have made it easy in your tongue﴾⁴⁵. This means two things: First, the Qur’ān is easy to understand: ﴿We have made the Qur’ān easy to remember﴾⁴⁶. Second, it was revealed in the Prophet’s tongue, the language he spoke: ﴿We never sent a Messenger that did not speak his people’s tongue, so he will make things clear to them﴾⁴⁷. Thus the Qur’ān was revealed in the Arabic current at the time, which was the language of the Mudāʿar tribe, including Quraysh and its Arab neighbors. ‘Uthmān ibn ‘Affān, the third rightly-guided Caliph رضي الله عنه,

⁴⁴ Imām al-Shawkany: *Irshād al-Fuhūl*, p. 37.

⁴⁵ *Maryam* XIX: 97.

⁴⁶ *Al-Qamar* LIV: 17-18.

⁴⁷ *Ibrahīm* XIV: 004.

instructed some immigrant (*muhajir*) scribe entrusted with copying the Qur'ān to “write it in the language of Quraysh, for it was revealed in their language.”⁴⁸ Hence, Ibn Khaldūn, the great scholar, says, “Attention was focused on the language of Mudḥar ... the Qur'ān being revealed and the Prophet's *hādīth* expressed in that language.”⁴⁹

Many are the words in the language used by common people, and even by scholars and interpreters of the Qur'ān, are removed in meaning from what they denote in the Qur'ān or in the Prophet's *hādīth*. Later, they began to twist texts of the Qur'ān or *hādīth* to accommodate the meanings of idioms of their age. Shaykh al-Islām Ibn Taymiyah رحمه الله, draws attention to this point, saying, “One of the greatest causes of the failure to understand the words of God and His Messenger is when an innovated idiom is familiar to a person since his early years and, therefore, he wants to interpret the words of God according to that idiom and comprehend them in terms of the language with which he is familiar.”⁵⁰ Thus, a return to the primordial meaning is imperative for understanding and reciting of the Qur'ān. Earlier, Ibn Khaldūn, wrote, “The language of this whole generation [*i.e.*, his own] is different from that of Mudḥar, in which the Qur'ān

⁴⁸ Cited by al-Bukhārī, on the authority of Anas.

⁴⁹ ‘Abd al-Rahmān ibn Khaldūn: *Al-Muqaddimah*, p. 634.

⁵⁰ Ibn Taymiyah: *Al-Rasā'il wa al-Fatawa*, III: 101.

was revealed; it is another language.”⁵¹

Abū ‘Amr ibn al-‘Alā’ (d. 154 A.H.), a well-versed scholar of Arabic and its vocabulary and style, affirms, “The tongue in which the Qur’ān was revealed and which was spoken at the time of the Prophet ﷺ, is another Arabic, different from this tongue of ours.”⁵²

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One of the most important issues to bring up in this context is that of discourse in the Qur’ān. In the Glorious Qur’ān, and in Arabic in general, two forms of address are used, one for females alone (the feminine form) and the other for both males and females (the common or the masculine-feminine form). **There is no [masculine] form that is used for males exclusively.** The more widely-used form in the Qur’ān is the common one. Needless to say, for example, that the command, ﴿Believe in God and His Messenger﴾⁵³, is not addressed to men alone.

Imām al-Khatib al-Bīhārī – commenting on the Prophet’s statement, “Women are but siblings of men”⁵⁴ says, “When the masculine gender is used to address listeners, women are [also] addressed, except in specified contexts,

⁵¹ *Ibid*, p. 638.

⁵² This statement is quoted by Abū ‘Abdullāh, Muḥammad ibn Sallām al-Jumhūrī in *Tabaqāt Fuhūl al-Shu‘arā’*, vol. I, p. 10 (of the edition edited and annotated by Mr. Muḥammad Muḥammad Shakir رحمه الله), and also by Abū Sulaymān al-Khatib al-Bīhārī in *Bayān I’jāz al-Qur’ān*, p. 42, and al-Rāzī in *Kitāb al-Zīnah*, I: 143.

⁵³ *Al-Hadīd* LVII: 7.

⁵⁴ Cited by Imām Aḥmad, on the authority of ‘Ā’ishah.

where clues indicate a specified audience.”⁵⁵ Imām Ibn al-Qayyim said, “It is established in legislative terminology that rulings stated in the masculine form in general and containing no specific reference to females include both men and women.”⁵⁶

Imām Ibn Hajar al-‘Asqalānī said, “Women are the siblings of men in all rulings, except where specified.” He quotes al-Karmānī’s statement that “The rule for man and woman is the same in stipulations of the Law.”⁵⁷ This is similar to Imām Ibn Rushd observation: “The normal thing is that the rule for men and women is the same, unless a distinction in the Law be demonstrated.”⁵⁸ Earlier, Imām Ibn Hāzīm said:

No two Arabs or speakers of Arabic, in the past or in the present, disagree that when men and women, males and females, are grouped together and addressed or referred to, the address or report is made in the same form used to address or refer to males when they are alone. There is no difference between the two situations, and this is invariably the case. It is thus correct that **addressing male listeners specifically has no special mode in Arabic, independent of the one that includes both them and females**, except when an additional clue is present to show that males alone, and no females, are meant. Since

⁵⁵ Al-Khatīb al-‘Asqalānī: *Ma‘ālim al-Sunan*, I: 161.

⁵⁶ Ibn al-Qayyim: *A‘lām al-Muwaqqi‘in*, I: 92.

⁵⁷ Ahmād ibn ‘Alī ibn Hajar al-‘Asqalānī: *Fat-h al-Bār bi Sharh Sahīh al-Bukhārī*, Beirut, Dar Ihya’ al-Turāth al-‘Arabī.

⁵⁸ Abū Muḥammad, ‘Alī ibn Hāzīm, *Al-Ihkām fi Usūl al-Ahkām*, Beirut, Dar al-Āfāq al-Jadīdah, 1980, III: 80.

this is established ... it is not right to interpret something as valid for men and not for women, unless a clear text support it or there be a consensus of opinion regarding it.

He goes on, after referring to the wives of the Prophet ﷺ, and a number of female Companions رضي الله عنهم – to say:

No one among all the Muslims of the world would dispute that women are addressed when God, Almighty, says: ﴿Perform prayers and pay *zakāt*﴾⁵⁹; ﴿Whoever of you is present in that month shall fast it through﴾⁶⁰; ﴿Abandon what usury interest is left﴾⁶¹; ﴿For those of your slaves who desire to obtain a deed of freedom, write it out for them﴾⁶²; ﴿Have witnesses when you make business transactions﴾⁶³; ﴿Pilgrimage to this House is a duty owed to God by all people who are able to undertake it﴾⁶⁴; ﴿Surge onward from the place where all other people surge﴾⁶⁵; ﴿Will you, then, not desist﴾⁶⁶; ﴿Test the orphans until they reach marriageable age﴾⁶⁷; and all other commands in the Qur’ān.⁶⁸

‘Amr ibn al-‘Ās once asked God’s Messenger ﷺ, “Who is the

⁵⁹ *Al-Muzzammil* LXXIII: 10.

⁶⁰ *Al-Baqarah* II: 185.

⁶¹ *Ibid.*: 278.

⁶² *Al-Nūr* XXIV: 33.

⁶³ *Al-Baqarah* II: 282.

⁶⁴ *Āl ‘Imrān* III: 95.

⁶⁵ *Al-Baqarah* II: 199.

⁶⁶ *Al-Mā'idah* V: 91.

⁶⁷ *Al-Nisā'* IV: 6.

⁶⁸ Ibn Hāzīm: *Al-Ihkām fī Usūl al-Ahkām*, III: 83.

dearest person to you?” He said, “‘Ā’ishah” ‘Amr asked again, “And of men?” The Messenger said, “Her father”⁶⁹ The Messenger knew the language in which he received his mission better than all people, and he took the question to be general, with women included along with men.”⁷⁰

A female Companion, Umm ‘Imārah of the Supporters (*al-Anṣār*) approached the Prophet ﷺ, and said, “I only see that everything is for men, while I do not see women referred to in anything. Thereafter the verse was revealed: ﴿Male and female Muslims, male and female believers, devout males and females, truthful males and females, patient males and females, humble males and females, charitable males and females, chaste males and females, fasting males and females, and males and females who often invoke the name of God – for **them** God has in store forgiveness and great reward﴾⁷¹.

By saying ﴿for **them** God has in store﴾, God, Almighty, shows that the common pronoun **them** is used for both men and women,⁷² without any distinction. He does so, yielding to the wish of that female Companion and

⁶⁹ Cited by al-Bukhārī and Muslim.

⁷⁰ Ibn Hāzīm, *op. cit.*, III: 83.

⁷¹ Told by Umm ‘Imārah herself and cited, with an authentic chain of attribution, by al-Tirmidhī. The verse quoted is verse 35 of the *Sūra of al-Aḥzāb* (XXXIII).

⁷² The Arabic pronoun *them* is called a masculine pronoun and is distinguished from another female pronoun that is used exclusively for women. Prof. ‘Abdul Sābūr Shāhīn kindly drew our attention of this Qur’ānic nicety.

using the feminine form along with the masculine form in referring to Believers and their characteristics throughout the verse, while using the common (masculo-feminine) form at the end in referring to both of them together.

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No person doubts that the speech or statement is addressed to, or refers to, women as much as to men, when God, Almighty, says:

- ﴿Compete over all that is good﴾⁷³;
- ﴿Submit to God, all of you﴾⁷⁴;
- ﴿Spend on others out of the good things you have earned and out of what We bring forth for you out of the earth﴾⁷⁵;
- ﴿Do not withhold a testimony﴾⁷⁶;
- ﴿Believers, fear God, and say something valid﴾⁷⁷;
- ﴿Let there be among you a group that promotes what is good﴾⁷⁸;
- ﴿You have in God's Messenger a good example﴾⁷⁹;
- ﴿Those who avoid major sins and indecencies and only commit minor

⁷³ *Al-Baqarah* II: 147.

⁷⁴ *Ibid.*: 208.

⁷⁵ *Ibid.*: 267.

⁷⁶ *Ibid.*: 283.

⁷⁷ *Al-Ahḳzāb* XXXIII: 70.

⁷⁸ *Āl 'Imrān* III: 104.

⁷⁹ *Al-Ahḳzāb* XXXIII: 21.

offenses...﴾⁸⁰;

- ﴿For the God-fearing there are, with their Lord, gardens through which running waters flow, where they shall dwell forever, and spouses of perfect chastity, and God's good pleasure﴾⁸¹;
- ﴿And those in the forefront; are the ones brought near; in the gardens of blessing﴾⁸²;
- ﴿They will recline on couches, lined with thick brocade, with the fruit of the two gardens close at hand﴾⁸³;
- ﴿Believers, among your spouses and children, there are enemies of yours; beware of them﴾⁸⁴;
- ﴿Obey God, obey the Messenger, and do not cause your deeds to be void﴾⁸⁵;
- ﴿Every soul is held in pledge for its deeds; except the Fellows of the Right ...﴾⁸⁶;
- ﴿Hurry to forgiveness by your Lord﴾⁸⁷;

⁸⁰ *Al-Najm* LIII: 32.

⁸¹ *Āl 'Imrān* III: 15.

⁸² *Al-Wāqī'ah* LVI: 10-12.

⁸³ *Al-Rahīmān* LV: 54.

⁸⁴ *Al-Taghābun* LXIV: 14.

⁸⁵ *Muhāmmad* XLVII: 33.

⁸⁶ *Al-Muddathir* LXXIV: 38-39.

⁸⁷ *Āl 'Imrān* III: 133.

- ﴿Do not consume your property among yourselves in vanity﴾⁸⁸;
- ﴿Fulfill your contract obligations﴾⁸⁹;
- ﴿Fulfill your duties to God and be true witnesses﴾⁹⁰;
- ﴿Do not forbid the good things which God has made permissible for you﴾⁹¹.

There are many other verses like that in the Divine Book.

The same applies to the statements of the Prophet ﷺ, that

- “An act of civility [*Sādaqah*] is due from every Muslim;”⁹²
- “Seeking knowledge is an obligation for every Muslim;”⁹³
- “When a person relieves an agony felt by a Muslim, God will relieve one of the agonies he will be exposed to on the Day of Resurrection;”⁹⁴
- “God helps a servant of His so long as that servant helps his brother;”⁹⁵
- “God meets the need of a person who meets a need of his brother’s;”⁹⁶ and
- “The people God likes most are the ones most helpful to others.”⁹⁷

⁸⁸ *Al-Nisā’* IV: 29.

⁸⁹ *Al-Mā’idah* V: 1.

⁹⁰ *Ibid.*: 9.

⁹¹ *Ibid.*: 90.

⁹² Cited, by al-Bukhārī and Muslim on the authority of Abū Mūsa al-Ash‘arī.

⁹³ Cited by Ibn Mājah, on the authority of Anas ibn Mālik.

⁹⁴ Cited by Muslim, on the authority of Abū Hurayrah.

⁹⁵ Also cited by Muslim, on the authority of Abū Hurayrah.

⁹⁶ Cited by al-Bukhārī and Muslim, on the authority of Ibn ‘Umar.

⁹⁷ Cited by Ibn ‘Asāker, on the authority of Ibn ‘Umar.

There are many other similar statements of the Prophet ﷺ.

A unique feature of Arabic is that it clearly denotes the equality of man and woman, for it uses one word, *zawj* (spouse), for a husband and a wife. Thus “a man is the *zawj* of his wife, and she is also his *zawj*.” This is the high level of the language, and it is the language of the Qur’ān, as stated in the dictionaries of *Al-Misbāh* □ *al-Munīr* and *Tāj al-‘Arūs*, and this is the term used in the Glorious Qur’ān. Only later did, the word *zawjah* (the feminine form of *zawj*) came to be used and recognized. Also the word *‘Arūs* is equally applicable to a bride and to a bridegroom.

We may also find this feature in love poetry in Arabic, where the form common to both sexes is used, even when the lines are devoted to a beloved female.⁹⁸ Such a usage can by no means be taken ambiguously, as some superficial scholars hold.

In fact, the Arabic word equivalent to “man” is used in the Divine Book and the *ḥadīth* of the Prophet ﷺ, to mean “a person,” whether male or female. It only refers to a male human being when there is a contextual indication of that, as when women are referred to along with men in the same context. Otherwise, the reference is to both sexes, as when God, Almighty, says:

⁹⁸ It should be noted here that the singular pronouns and noun forms in Arabic are definitely either male or female, but in poetry the male form is often used to address or refer to a female.

- ﴿God has not made for a *man* two hearts within his body﴾⁹⁹;
- ﴿Among believers, there are *men* who fulfilled their contract with God﴾¹⁰⁰;
- ﴿God cites the example of a *man* with wrangling partners and a *man* submitting to another *man*﴾¹⁰¹;
- ﴿In it there are *men* who like to be purified, and God likes people who purify themselves﴾¹⁰² and;
- ﴿His limitless glory is extolled, morning and evening; by *men* whom neither commerce nor profit can divert from the remembrance of God﴾¹⁰³.

The Prophet ﷺ, is even quoted as saying, “Give legal heirs their prescribed shares, and whatever remains goes to the most entitled **male man**”¹⁰⁴.

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Dr. Ilhām Mansūr has an interesting and valid point of view, for she expresses, as a woman, her pride in the Arabic language, “Arabic is the only

⁹⁹ *Al-Ah*□*zāb* XXXIII: 4. In this and the following verses, a more accurate translation into English would probably use “person,” rather than “man,” and “people,” rather than “men.” But this translation tries to convey the idea which the author is advancing, namely, that in Arabic the equivalent words for “man” and “men” are often used for people of both sexes.

¹⁰⁰ *Ibid.*: 23.

¹⁰¹ *Al-Zumar* XXXIX: 29.

¹⁰² *Al-Tawbah* IX: 108.

¹⁰³ *Al-Nūr* XXIV: 37.

¹⁰⁴ Cited by Al-Bukhārī and Muslim, on the authority of Ibn ‘Abbās.

language [among those she is familiar with] that refers to a human being which a word in the dual form, *insān*,¹⁰⁵ which suggests a conscious or subconscious recognition that two different beings, the male and the female, are referred to by the term, which means that Arabic recognizes the entity of a woman as a being.”¹⁰⁶

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¹⁰⁵ *Insān*, which means a human being, is also the dual form of the word *ins*, which has two meanings: the whole human race and one member of that race. The latter meaning is the one used in the Qur’ān verse: ﴿On that day neither a human being [an *ins*] nor a *jinn* is asked about his sin﴾ (*al-Rahīmān* LV: 39).

¹⁰⁶ “*Man Hiya al-Mar’ah?*” *Al-Fikr al-‘Arabi al-Mu’āsir* (Summer-Autums 2004), pp. 130-31. The article is originally an input in a symposium at the Frankfurt Book Exhibition, Autumn 2004.

Misunderstanding of Texts

We would like at this point, to say something between parentheses, and cite two or three examples to illustrate the point I want to make.

The first example is the statement of God, Almighty, that ﴿Far better and more durable is what God will give to those who believe and trust in their Lord; who shun great sins and gross indecencies; who forgive when they get angry; respond to their Lord, and keep up the prayers; conduct their affairs by mutual consultation; spend from what We have provided for them; and defend themselves when they are oppressed﴾¹⁰⁷. All the descriptions and rulings are inclusive of both sexes, including the statement that “they conduct their affairs by mutual consultation.” Some hold that this clause applies to men alone, and exclude women from the mutual consultation process. This constitutes an affront to God’s Book and contradiction of a specific, unambiguous ruling.

There is no example more telling of how the consultation rulings apply to both sexes than the action of the Prophet’s Companions, who were among

¹⁰⁷ *Al-Shūra* XLII: 36 – 39.

the best to understand the Qur'ān as taught by the Prophet ﷺ. Before the Prince of Believers 'Umar ibn al-Khaṭṭāb died the death of a martyr, he nominated six Companions with whom God's Messenger ﷺ, was pleased until his death. One of them, 'Abd al-Rahmān ibn 'Awf, pulled out of the list of candidates, so the other five asked him to take a general poll to elect the Prince of the Believers. He did; he consulted everyone regardless of sex, *even maidens in their abodes*. Then the consultation committee met in *the house of a lady*, namely Fāṭimah bint Qays of the Quraysh tribe.¹⁰⁸ 'Abd al-Rahmān ibn 'Awf reported the result to the other Companions.¹⁰⁹ The consensus of those Companions demonstrates that consultation involves both men and women. This, in turn, is evidence that the clause referred to above, must be understood in the same sense, and that the whole discourse of the Qur'ān is understood. As already mentioned, every statement or report in the Glorious Qur'ān relates to both men and women, unless there be clear and explicit evidence to the contrary.

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The second example is the utterance of God, Almighty: ﴿Work, for God

¹⁰⁸ Ibn al-Athīr: *Uṣd al-Ghābah*, V: 526; Ibn Hajar: *Al-Isābah*, VIII: 164.

¹⁰⁹ 'Imād al-Dīn (Abū al-Fidā') Ismā'īl ibn 'Umar ibn Kathīr, *Al-Bidāyah wa al-Nihāyah*, Dar al-Hadīth, Cairo, VII: 138.

will witness your work, and so will His messenger and the Believers ﴿110; ﴿Work advantageously﴾¹¹¹; also, ﴿Let him who hopes to meet his Lord perform advantageous work﴾¹¹². These verses, which one in the imperative mood are addressed irrespective of gender. The obligation, applies unless some legitimate factor negate it. Such as the pursuit of knowledge, and work is obligatory for every able-bodied Muslim, therefore, it is wrong to contend that it is not lawful for a woman to go out to work. A woman is *required* to work, and for both sexes, work naturally means advantageous work, which in turn means *every type of work that serves the interests of the community*. Imām Ahmāḍ quoted ‘Abdullāh ibn ‘Umar رضي الله عنه, as saying, “God’s cause is every advantageous type of work.” Because of this, we find in eighty-two verses of the Divine Book reference to “Those who believe and perform advantageous deeds.”¹¹³ The insistence on linking faith with advantageous works is noteworthy. Sometimes, God, Almighty, likes to make the point even clearer: ﴿To whoever works advantageously, *whether male or female*, and is a believer, we will grant a blissful life﴾¹¹⁴. He also says, ﴿I will not waste the work of *any worker among you, be he male or*

¹¹⁰ *Al-Tawbah* IX: 105.

¹¹¹ *Saba’* XXXIV: 11.

¹¹² *Al-Kahf* XVIII: 110.

¹¹³ For example: *al-Baqarah* II: 82; *al-Nisā’* IV: 56, 121.

¹¹⁴ *Al-Nahḍ* XVI: 97.

female; each is like the other [in reward] ﴿115. The obligation to work, applies categorically. Otherwise, if there is some reason to depart from the universal obligation, the details must be scrutinized.

The third example: It is a strict obligation for men and women to enjoin the righteous and forbid the reprehensible. ﴿Believers, [Male and female] are charge-takers of each other; they enjoin the righteous and forbid the reprehensible﴾¹¹⁶. Yet some people, particularly in our time, resist in distorting the meaning of right conduct, restricting it only to a small code of superficial details of little import. In point of fact, the righteous includes “*everything that common sense recognises as serving the interests of the individual and the community,*” and the reprehensible covers “*everything that common sense condemns as posing harm or corruption to the individual and the community.*” When a mother breastfeeds her baby, this is a right conduct, and in promoting it, we are enjoining right conduct. Having our children vaccinated against contagious diseases is a right conduct, because it protects them from infectious diseases, and advocating its application as a general practise is enjoining right conduct. All types of ecological damage are reprehensible, and censoring such damage is forbidding something reprehensible, while advocating a clean environment is enjoining the right

¹¹⁵ *Āl ‘Imrān* III: 195.

¹¹⁶ *Al-Tawbah* IX: 71.

conduct. Smoking is reprehensible,¹¹⁷ because of the harm it causes to the individual and the community, and therefore when we call for campaigns against smoking, we are forbidding and denouncing a thing which is reprehensible, and endeavouring to stop it. Respecting the system of traffic lights and signals that aims at protecting people from accidents is righteous. Dropping litter in the ground is reprehensible. “Removing a harmful thing from a road is an act of civility [*Sādaqah*]”¹¹⁸. Discouraging people from dropping litter and garbage on a public road is enjoining the righteous and forbidding the reprehensible.

The Rightly-Guided Caliphs did not think the instruction to enjoin right conduct and forbidding the reprehensible was enough, and they proceeded to institutionalise it. The Caliph ‘Umar set up a control system called the *hishbah*, which means price, weight, and measure control. It is in fact the first institution in history to entrust the highest authority with guaranteeing quality in all activities undertaken in a country, and of ensuring that all economic, scientific, and professional operations, and all activities related to people’s interest, be carried out in accordance with the stipulations of

¹¹⁷ See *Al-Hukm al-Shar‘ī fī al-Tadkhīn*, a book in the series of *Al-Hady al-Sūhūh* (Health Education through Religion) published by the Eastern Mediterranean Regional Office of the World Health Organization. Also see the poster entitled “*Al-Tadkhīn Harām Shar‘an*” (Smoking is Forbidden in Islamic Law) that contains the *fatwa* (legal ruling) of His Eminence the former Mufti of Egypt, Dr. Nasr Farīd Wāsīl.

¹¹⁸ Cited by Abū Dawūd on the authority of Abū Tiharr.

Islamic Law. This requires both a control system and an executive power¹¹⁹.

‘Umar ibn al-Khat^ṭāb, the second of the Rightly-guided, Caliphs, created the first quality assurance system and appointed a **lady** called al-Shifā’ bint ‘Abdullāh as its head; a lady well-known of combating illiteracy among women, and ‘Umar who valued her opinion, used to attend to her, and regarded her highly.¹²⁰ The appointment meant that she had overall authority **over all men and women** in the marketplace. This institutionalized system was paralleled by another similar institution in Makkah. The first chief of *h^ḥisbah* in Makkah was also a **lady** called Samrā’ bint Nuhayk. Yah^ḥya ibn Sulaym, the well-known *rawī*, said, “I saw Samrā’ bint Nuhayk, who had encountered the Prophet ﷺ. She wore a coarse dress and a coarse head cloth, and she held a whip to discipline people, enjoin good conduct, and forbid the reprehensible.”¹²¹ This is how things used to be in the early days of Islam, more than fourteen centuries ago, before deviation and decline set in.

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Let us now, address referential passages that seem to differ to some extent. The source of the verses of the Qur’ān and the statements of the

¹¹⁹ Developed countries recently established such a system under the rubric of *Stewardship*.

¹²⁰ Ibn al-Athīr, *Usd al-Ghabah fi Ma’rifat al-Sah^ḥābah*, VII: 162–63; Ibn Sa’d, *Al-T^ṭabaqāt al-Kubra*, VIII: 196; and Ibn H^ḥajar al-‘Asqalānī, *Al-Is^ṣābah fi Tamyīz al-Sah^ḥābah*, IV: 333.

¹²¹ Cited by al-T^ṭabarānī, on the authority of trustworthy narrators.

Prophet is the same, and that is God, Almighty, Who says, ﴿Had it been from a source other than God, they would have spotted in it a lot of discrepancy﴾¹²². Since it comes from God, however, there is neither a lot nor a minimal amount of discrepancy. If we come across two seemingly conflicting or paradoxical referential passages, we should never set one passage in opposition to another, but rather seek to reconcile them as much as possible. An example is a statement by the Prophet ﷺ, that says, “I do not shake hands with women.”¹²³ The meaning of this statement is made clear in another version of the same statement to the effect that “He used not to shake hands with women offering *a pledge of allegiance* [bay‘ah]”¹²⁴, or as put by ‘Ā’ishah رضي الله عنها, “He never touched a woman’s hand in *a pledge of allegiance process*.”¹²⁵ God makes a distinction between the pledge of allegiance made by men [who pledge to fight] and that made by women [who pledge to observe high moral standards]. It is only natural that the two pledges should be given different forms by the Prophet ﷺ, the same way they are given different significance. Thus, he shook hands with men when they pledged allegiance to him but not with women.

In this way, the general version of the *hādīth* is interpreted through

¹²² *Al-Nisā’* IV: 76.

¹²³ Cited by Mālik, al-Nasā’ī, al-Tirmidhī, and Ahmād, with a verified chain of citations.

¹²⁴ Cited by Imām Ahmād, with a verified chain of citations.

¹²⁵ Cited by al-Bukhārī and Muslim.

the evidence of the specified one, an interpretation in accordance with the principles of jurisprudence (*fiqh*). This interpretation explains the seeming discrepancy between the *hādīth* that denies his shaking hands with women and the injunction of God, Almighty: ﴿If you are offered a greeting, respond with a better one or return the same greeting﴾¹²⁶. It also explains the discrepancy with the verified *hādīth* according to a “bondmaid of Madīnah would hold God’s Messenger ﷺ, by the hand and take him where she wanted.”¹²⁷ In another version, “One of the maids of Madīnah would come to God’s Messenger ﷺ, and take him by the hand, *and he would not free his hand out from hers* until she had taken him where she wanted.”¹²⁸

Moreover, the fact that he declined to shake hands with women when pledging allegiance process does not mean that other Muslims should also decline to do so, “*because, the mere performance of an action does not turn it into an obligation,*” a rule, early mentioned in pp. 38&39 of this book.

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¹²⁶ *Al-Nisā’* IV: 86.

¹²⁷ Cited by al-Bukhārī, on the authority of Anas.

¹²⁸ *Fat-h al-Bārī*, a version cited by Ahmad and Ibn Mājah, on the authority of Anas, vol. XIII, p. 102.

A full-scale equality

In Islam, however, the question is not only one of being equal in the discourse of the Qur’ān and of the Prophet, as mentioned in pp. 41-50 of this book, but goes beyond that to include many details and finer points. Islam, for one thing, makes women and men equal in their creation; it holds that God created people, ﴿from one soul, and from it created its mate. From the two of them He filled the earth with many men and women﴾¹²⁹. God says, ﴿People, We have created you from a male and a female﴾¹³⁰. God also states that this human being, whether male or female, is created in a sound form, **with no distortion**:¹³¹ ﴿... by the soul and its sound fashioning...﴾¹³²; ﴿[He] created and fashioned you, and gave you an upright form﴾¹³³; ﴿He created and fashioned; and out of it made the pair: the male and the female﴾¹³⁴; and ﴿We have created human-beings in the finest form﴾¹³⁵.

¹²⁹ *Al-Nisā’* IV: 1.

¹³⁰ *Al-Hujūrāt* XLIX: 13.

¹³¹ The statement of the Prophet ﷺ, that “Woman was created from a rib,” which in another version goes as: “A woman is like a rib,” is similar to the verse ﴿Man is a creature of haste﴾ (*al-Anbiyā’* XXI: 37). As for the report that woman was created from one of Adam’s **physical ribs**, it is merely part of the distasteful Israelite legends.

¹³² *Al-Shams* XCI: 7.

¹³³ *Al-Infītār* LXXXII: 7.

¹³⁴ *Al-Qiyāmah* LXXV: 38-39.

¹³⁵ *Al-Tīn* XCV: 4.

God has made men and women equal in responsibility for all they have done wrong after their creation:

﴿Satan whispered to them to reveal to them their nakedness that had been hidden from them; he said, ‘Your Lord forbade you this tree only lest you become as angels or turn immortal. He swore to them that ‘I am giving you good advice’. When they tasted the tree, their nakedness was revealed to them, and they started to cover themselves with leaves from the trees of Heaven. Their Lord called, addressing them. “Have I not made this tree forbidden to you and told you that Satan is a declared enemy of yours?” They said, “Lord, we have been unjust to ourselves, and unless You forgive us and have mercy on us, we shall be among the losers﴾¹³⁶.

It is not true that Adam’s wife fell for the tricks of the Devil and then seduced her husband, as it is told in the accounts common to the People of the previous revelations. As a matter of fact, it is Adam who bears the major share of responsibility: ﴿Earlier, We made a covenant with Adam; but he forgot it, and We found him lacking in firmness of purpose﴾¹³⁷; ﴿But Satan whispered to him﴾¹³⁸; ﴿And Adam disobeyed his Lord and strayed into error﴾¹³⁹.

¹³⁶ *Al-A‘rāf* VII: 20-23.

¹³⁷ *Tāhā* XX: 115.

¹³⁸ *Ibid.*: 120.

¹³⁹ *Ibid.*: 121.

God also holds the two sexes equal in responsibility. He declares that ﴿A person who commits a bad deed will be paid back only in kind, and a person who works righteously, whether male or female, and is a believer, those will be admitted into Paradise and receive blessings without measure﴾¹⁴⁰.

Likewise, the Qur'ān holds them equally responsible to observe the Divine Code and religious injunctions: ﴿When God and His Messenger decide an issue, no believer, male or female, is to have a choice of his own﴾¹⁴¹. From this it follows that both male and female believers have full choice on every issue that is not decided by God and His Messenger. The Qur'ān holds them equal in the reward they receive from Him, Almighty: ﴿Muslim men and women, believing men and women, devout men and women, truthful men and women, patient men and women, humble men and women, charitable men and women, chaste men and women, fasting men and women, and men and women who often invoke the name of God, for them God has in store forgiveness and ample reward﴾¹⁴². The Qur'ān holds them equal in the political responsibility for a healthy society: ﴿Male and female believers are charge-takers, of each other; they enjoin right conduct

¹⁴⁰ *Ghāfir* XL: 40.

¹⁴¹ *Al-Ahḳāz* XXXIII: 36.

¹⁴² *Ibid.*: 35.

and forbid what is reprehensible ﴿﴾¹⁴³.

In this type of charge-taking, there is no distinction between the common people and the notables. All male and female believers are equal as suggested by one of the stories related in the Glorious Qur'ān to guide and teach ﴿There is in their stories a lesson for people of good sense﴾¹⁴⁴.

This is the story of the Queen of Sheba. When she receives the letter of Solomon ﷺ, she has the prudence and common sense to regard it as a valuable letter in spite of the warning and threat it implies. She promptly assembles her council of advisers and reports the matter to them. Thus, she proves to be a responsible woman, rather than one that seeks to impose her own opinion. She tries to assess the situation and its consequences with the help of the members of her Advisory Council. She asks them to apply all their intellectual power to the matter. However, they all display muscular power and express readiness to defend her physically. Again, she resorts to reasoning: ﴿‘When kings enter a country, they despoil it and make the noble among its people the most abject’﴾¹⁴⁵. “Kings” in this verse are equivalent to what is known today as the powers of hegemony and imperialism. God,

¹⁴³ *Al-Tawbah* IX: 71.

¹⁴⁴ *Yusuf* XII: 111.

¹⁴⁵ *Al-Naml* XXVII: 34.

Almighty, endorses her opinion, saying, ﴿Thus they indeed behave﴾¹⁴⁶.

Although the reaction of her advisers to Solomon's warning was nervous and agitated, she, with sound reasoning, handled the matter with diplomacy.

Events follow as described in the Qur'ān up to the meeting of the Queen with Solomon, when his advocacy of God's religion convinced her. Still, she retained her independence of mind up to the last minute; she did not submit **to** Solomon, but rather, ﴿She said: '... now I submit myself, **along with** Solomon, to God, the Lord of the worlds'﴾¹⁴⁷. Her acceptance of God's religion led her and her people, whom she managed their affairs with success.¹⁴⁸

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Women and men are also equal in Islam in the right of their entitlement of what they have earned, either through their own work or through any other legitimate way: ﴿Men are entitled to a share of what they earn, and

¹⁴⁶ *Ibid.* This is based on the interpretation of al-Qurtūbī and others, on the authority of Ibn 'Abbās.

¹⁴⁷ *Ibid.* XXVII: 44. The account given here is based, with modifications, on Ayatollāh al-'Uzma, Sayyed Muḥammad Ḥusayn Fadl Allāh: *al-Insān wa al-Hayāt*, Dar al-Malāk, Beirut.

¹⁴⁸ The *ḥādīth*, "No people who turn over their affairs to a woman succeed," is cited by al-Bukhārī and others, on the authority of Abū Bakrah, who was sentenced to the prescribed penalty for slander. God, Almighty, says about people who receive such punishment, ﴿... do not accept their testimony ever after....; Excepted are those who afterwards repent﴾ (*Al-Nūr* XXIV: 4-5). Abū Bakrah, though one of the best of such people, did not repent, and, therefore, *Muslims never accepted his testimony*. He was a good Muslim, and 'Umar said to him, "Repent, and I will accept your testimony." (Ibn Taymiyah: *Daqā'iq al-Tafsīr*, IV: 426.) Thus, his quotation of the *ḥādīth* cannot be admitted. Still, even if we suppose the *ḥādīth* to be authentic, it cannot be admitted at its apparent meaning, which is in conflict with the Glorious Qur'ān.

women are similarly entitled ﴿﴾¹⁴⁹. Islam holds them equal in financial and economic independence. As a wife, she is not entitled to dispose of her husband's property, neither is he entitled to dispose of hers, even when she is rich and he is poor. In fact, the Prophet ﷺ, allows a wife to take out of her husband's funds what is needed to sustain the family: "Take what is reasonably enough for you and your children."¹⁵⁰ She can even give charity out of his money, without extravagance.¹⁵¹ No similar right is given by the Prophet to the husband.

It holds them equally entitled to inherit from parents and close family members: ﴿Men are entitled to a share of what parents and close family members leave, and women are similarly entitled; whether it be little or much - a share ordained [by God] ﴿﴾¹⁵². Although for the sake of equitable equality, rather than mere equality, God makes the percentage inherited by each of them according to three criteria.

¹⁴⁹ *Al-Nisā'* IV: 32.

¹⁵⁰ Cited by al-Bukhārī and Muslim, on the authority of 'Ā'ishah.

¹⁵¹ "When a woman spends out of her husband's house [in another version: "out of her household food"], without impairment, she will be rewarded for what she spends, and her husband for what he has earned" (Cited by al-Bukhārī and Muslim, on the authority of 'Ā'ishah). Another *ḥadīth* says, "When a woman spends out of her husband's earnings without having been ordered by him, she will receive half his reward" (Cited by al-Bukhārī and Muslim, on the authority of Abū Hurayrah).

¹⁵² *Al-Nisā'* IV: 7.

The first is the closeness of relation between the heir, whether male or female, and the inherited (deceased) person. The closer the relation is, the higher is the share of inheritance.

The second criterion is the position of the inheriting generation in the chronological sequence of generations. Generations that are beginning their life receive higher shares than those close to departure from this life, regardless of gender. A daughter inherits more than a mother, and even more than a father. A son inherits more than a father.

The third criterion is the financial support burden placed on the heir by the *Sharī'ah* to meet. When the degree of relation is the same, and they belong to the same generation, the male members of a family are required to support the female members, by virtue of the statement by God, Almighty: ﴿Men shall be attenders on women﴾. (See pp. 80-83 of this book.)

The inheritance system in Islamic law observes the following three levels, arranged according to priority.

1. *Inheritance by legal shares (farā'id□)* ordained by the *Sharī'ah* as specified in Qur'ān and *Sunnah*. Each individual named in these decrees receives a specified share, whether it is two thirds, a third, a sixth, a half, a quarter, or an eighth.

2. *Inheritance by agnation* [through male lines], which is the distribution of what remains, if anything, of the inheritance, after the individuals entitled by legal shares receive their shares. This follows the instruction of the Prophet ﷺ, who said, “Give legal heirs their prescribed shares, and whatever remains goes to the most entitled male man.”¹⁵³ In Arabic these male-line or agnate relatives are called *‘asabah*, (being the plural of *‘āsib*). It should be noted that if there is no legal heir, those agnate relatives, the *‘asabah*, get the whole inheritance.
3. There remain *relatives on the maternal side* [through female lines], who, when no individuals of the first two categories exist, get **equal** shares of the inheritance, regardless of whether they are male or female, and of how close to the deceased they are. Thus if a dead person is survived by a maternal granddaughter [daughter of one’s daughter], a maternal grandson [son of one’s daughter], a maternal aunt, and a maternal uncle, the four of them equally share the inheritance, each receiving a quarter.

The highest decreed share in the Glorious Qur’ān is **two thirds** of the inheritance. No male members are entitled to it; it **only goes to females** (two or more daughters; two or more agnatic [male line] granddaughters; two or more full sisters; two or more agnatic sisters).

¹⁵³ Cited by al-Bukhārī and Muslim, on the authority of Ibn ‘Abbās.

The next highest is **one half** of the inheritance. The only male entitled to it is the husband of a deceased woman when there exists no entitled offspring. The other half goes to four types of woman relatives: an only daughter, an agnatic granddaughter, a full sister, or an agnatic sister).

Next is **a third**, and it goes to two types of woman relatives: the first is the mother of the deceased when there is no entitled offspring, or when the deceased does not have two or more brothers; and the second type is uterine sisters when there are no entitled parents, grandparents, etc., or offspring. The same is true of maternal brothers.

The next share is **a quarter** of the inheritance. It goes to the husband when his deceased wife has entitled offspring, and to the wife when her deceased husband has no entitled offspring.

Next to that is **one sixth** of the inheritance. It goes to five types of women – the deceased's mother, grandmother, agnatic granddaughter, or agnatic or maternal sister – and three types of men (a maternal brother, the father, or the grandfather).

The share next in size is **one eighth**, and it goes to the deceased's wife when he has entitled offspring.

Thus within the set of shares specified in Islamic Law, **women are entitled to inherit in seventeen cases**, while men in only six. This specific

distribution is to the real advantage of women and may allow a woman to inherit more than a man.

Consequently:

- **A man's share of inheritance is larger than that of a woman** in four cases:

1. When the deceased has a daughter along with a son: ﴿Concerning your children, God commands you that a male should have the equivalent share of two females﴾ (*al-Nisā'* IV: 11);
2. When the deceased is survived by one's father along with the mother, but not by any children or spouse: ﴿If he leaves no children and his parents inherit him, a third goes to his mother﴾ (*al-Nisā'* IV: 11);
3. When a full or an agnatic sister survives the deceased, along with a full or an agnatic brother: ﴿If there are surviving brothers and sisters, the male is entitled to twice the share of the female﴾ (*al-Nisā'* IV: 176); and
4. When one of the spouses is survived by the other, whether the survivor has children or not: ﴿You inherit half of what your wives leave behind if they have no children, and if they do have, you inherit a quarter of what they leave behind and they inherit a quarter of

what you leave behind if you have no children, and if you do have, [your wives] inherit an eighth of what you leave behind ﴿ (al- Nisā' IV: 12).

- **A woman's share of inheritance is equal to that of a man** in seven cases:

1 & 2. When the deceased is survived by a son or one daughter or more, the share of the deceased's mother or his maternal grandmother is equal to that of his father.

3 & 4. If the deceased, whether male or female, is survived by maternal sisters, along with full or maternal brothers, all of them receive *equal* shares: ﴿If a man or a woman has no heir in the direct line, but has a brother or a sister, then each of them shall inherit one-sixth; but if there be more, then they shall share one-third between them﴾ (al-Nisā' IV: Verse 12.)

5. If the deceased has a single male or a single female heir, the male receives the whole inheritance by combining his specified share with that of an agnatic relative, and the same goes for the female, who receives first her specified share, and then the rest of the inheritance is passed on to her, due to the absence of any other heir.

6. When a deceased man is inherited by his wife and one single sibling, a brother's share is equal to that of a sister.
 7. When a deceased woman is inherited by her husband alone or her husband and daughter, along with one single sibling, a brother's share is equal to that of a sister.
- **A woman inherits more than a man** in ten cases:
 1. When a woman is survived by her husband and parents, and two daughters or two sons, the husband inherits one fourth of the inheritance, the father one sixth, and the mother also one sixth. The two daughters get two thirds (one third for each), while the two sons together get $\frac{5}{12}$ of the inheritance, i.e. about one fifth each.
 2. When a woman is survived by her husband and mother and either two full sisters or two full brothers, the husband gets one half, and the mother one sixth. The two sisters get two thirds (one third for each), while the two brothers get one sixth each.
 3. When a woman is survived by her husband, father, and mother and a daughter or a son, the husband gets one fourth and the parents one sixth each. The daughter gets one half, while the son gets less than a half.

4. If a woman is survived by her husband and mother, and either two full sisters or two full brothers, the husband gets one half of the inheritance, the mother one third, and a full sister one half, while a full brother gets, as an agnatic relative, one sixth.
5. In the case of a man survived by his wife and mother, and two maternal sisters and two full brothers, the wife gets a quarter, the mother one sixth, the two sisters one third (one sixth each), and the two brothers, as agnatic relatives, one quarter (one eighth each).
6. When a woman is survived by her husband, a maternal sister, and two full brothers, the husband gets one half, the maternal sister one third, and the rest is left for the two brothers, as agnatic relatives, so they get one quarter each.
7. When a woman is survived by her husband and parents, the husband gets one half, the mother one third, and the father, as an agnatic relative, one sixth (according to the school of Ibn ‘Abbās).
8. In the case of a woman survived by her husband and mother, a maternal sister, and two full brothers, the husband gets a half, the mother one sixth, the maternal sister one sixth, and the two brothers, as agnatic relatives, one sixth (one twelfth each).

9. When a man is survived by his wife and parents, one daughter, and one agnatic grandchild, the wife gets one eighth, each parent one sixth, the daughter one half, the agnate granddaughter one sixth, while the grandson, as an agnatic relative, gets a share of $1/24$.
10. When a person is survived by two grandmothers (one maternal and the other paternal) and one parent, the mother gets one sixth as her prescribed share and the rest of the inheritance, because she blocks the entitlement of the two grandmothers, while the father, as an agnatic relative, gets five sixths, with the one remaining sixth going to the maternal grandmother, who is not blocked by him, while he does block the entitlement of his mother, i.e. the paternal grandmother. In other words if the surviving parent is the mother, she gets the whole inheritance, and if it is the father, he gets only five sixths, with one sixth going to the maternal grandmother. What is meant by blocking is that the share to which a relative is entitled is entirely or partially canceled by another inheriting relative.
- **In four cases, a woman inherits a share, while her male counterpart does not:**
 1. When a woman is inherited by her husband and father, one daughter, and one agnatic granddaughter, each of them is entitled to a share,

- while if the survivor is an agnatic grandson instead of a granddaughter, he gets nothing.
2. When a woman is inherited by her husband, a full sister, and an agnatic sister, each of them gets a share, while if the survivor is an agnatic brother instead of an agnatic sister, he gets nothing.
 3. An agnatic grandmother inherits, while a maternal grandfather does not.
 4. A maternal grandmother inherits, while a maternal grandfather does not.¹⁵⁴

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Islam holds women and men equal with the right to have professional occupations. During the lifetime of the Prophet ﷺ, women were engaged in agriculture, cattle herding, textile industries, domestic industries, the management of professional enterprises, treatment of the sick and the injured, and nursing. They even fought in battles!

Al- Hafiz ibn Hajar says that al-Hākīm, in the chapter on *al-Manāqib* in his *Al-Mustadrak*, quotes ‘Ā’ishah as saying that “Zaynab [the Prophet’s wife] was a dexterous woman who dyed and sewed leather and

¹⁵⁴ Dr. Sālih al-Dīn Sultān: *Women Inheritance and the Equality Question*, pp. 10 and 46; Dr. Muḥammad ‘Imārah’s *Introduction*, the *Islamic Enlightenment Series*, Dār al-Nahḍah, Egypt, 1999.

gave charity to please God.”¹⁵⁵

Jābir ibn ‘Abdullāh is quoted as saying, “My aunt was divorced. She wanted to pick the dates of her palm trees, but a man reproached her for going out [while in her waiting period]. Therefore she went and asked the Prophet ﷺ. He told her, ‘Go ahead, and pick your palm dates’.”¹⁵⁶

Qaylah al-Anmariyah, a female trader who used to live in Madīnah, said, “God’s Messenger, I am a woman who buys and sells. When I want to sell an item, I ask for more than the price I want to sell it for, then I go down until I sell it for the price I want.” He ﷺ, told her, “Do not do that, Qaylah! When you want to buy an item, offer the price you want to pay for it, whether you get it or not.”¹⁵⁷

Anas ibn Mālik رضي الله عنه, says, “A spice-dealer woman of Madīnah was called al-Hawlā’. Once, she visited ‘Ā’ishah, the Prophet’s wife رضي الله عنها, to complain of her husband. God’s Messenger ﷺ, came in later, and he said, “I detect the scent of al-Hawlā’; has she visited you? Did you buy anything from her?”¹⁵⁸ The same is true of Malīkah al-Thaqafiyah, mother of al-Sā’ib ibn al-Aqra’, who went to the Prophet ﷺ, to sell him perfume.¹⁵⁹

¹⁵⁵ Al-Hākim said this *hādīth* meets Muslim’s criteria.

¹⁵⁶ Cited by Muslim.

¹⁵⁷ Ibn al-Athīr: *Usd al-Ghābah*, V: 535.

¹⁵⁸ *Ibid.*, V: 432.

¹⁵⁹ The story is told in *ibid.*, V: 549.

A similar woman was Sa‘īrah al-Asdiyah, who used to collect and spin wool, animal hair, and fibers.¹⁶⁰ There is even the case of Umm Ra‘lah al-Qushayriyah, who said, “God’s Messenger, I am a hair-dresser; I groom the hair of women and make them up for their husbands. Is that a sin that I should desist from?” He told her, “Umm Ra‘lah, groom them and make them up.”¹⁶¹

Anas رضي الله عنه, says, “On the day of [the battle of] Uhūd, people started to retreat away from the Prophet ﷺ. I saw ‘Ā’ishah bint Abī Bakr and Umm Sulaym, with their gowns pulled up that I could see their anklets. They were almost jumping as they carried skin pouches on their back, emptied them in the mouths of fighters, went back, filled them again, came again, and emptied them in the mouths of fighters.”¹⁶² Al-Rubayyi‘ bint Mu‘awwitah, says, “We [*i.e.* women] used to go out to battle with the Prophet ﷺ. We would give water to the fighters and serve them, and we would take the killed and wounded back to Madīnah.”¹⁶³ On the same subject, Hafsa bint Sirīn says, “A woman arrived and dwelled at the Banī Khalaf Palace. I visited her, and she told me that her brother-in-law went out with the

¹⁶⁰ Ibn Hajar, *Al-Isābah*, VIII: 108.

¹⁶¹ Ibn al-Athīr, *Usd al-Ghābah*, V: 582; Ibn Hajar, *Al-Isābah*, VIII: 231. Imām Ahmad in his *Musnad* and al-Humaydī in his *Musnad* on the authority of Asmā’ bint Yazīd ibn al-Sakan as saying, “I groomed ‘Ā’ishah for God’s Messenger ﷺ, then went to him and invited him to see her.”

¹⁶² Cited by al-Bukhārī and Muslim.

¹⁶³ Cited by al-Bukhārī.

Prophet ﷺ, on twelve campaigns. Her sister went along with her husband on six, and she said, ‘We would tend the sick and treat the wounded.’¹⁶⁴

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Islam also holds man and woman equal in the wages they receive for the same job, while in most “advanced” countries today men still receive higher wages than women for identical jobs.¹⁶⁵

Islam holds them equal in the right to pursue learning, and including the obligation to do so. The Prophet ﷺ, says, “The pursuit of learning is an obligation binding on every Muslim.”¹⁶⁶ This means Islam aims at a zero-per-cent illiteracy rate for both sexes. It holds them equal in the protection of their reputations and social status, and in guarding them against slander, defamation, ridicule, or backbiting: ﴿Believers do not let a group of you mock another group, who are perhaps better than them; nor some women, other women, who are perhaps better than them. Do not defame one another or insult each other with epithets. . . . And do not backbite each other﴾¹⁶⁷.

Islam stresses that a Muslim, whether male or female, should speak of a

¹⁶⁴ *Ibid.*

¹⁶⁵ In France, for example, women wages are, on the average, about 30% less than men’s. Nicole Ameline, the French Minister for Parity and Equality issued a statement calling for support for the process of effecting equality at work. She says, “We should step out of the *twentieth century mentality*, when women were regarded as a reserve army serving the labour market.” French President Jacques Chirac also called for ending the discrimination between men and women in jobs, and expressed his hope for a radical mentality change for improving work conditions for women.

¹⁶⁶ Cited by Ibn Mājah, al-Bayhaqī, and al-Tirmidhī in *Al-Awsat*, on the authority of Anas.

¹⁶⁷ *Al-Hujurāt* XLIX: 11.

fellow Muslim, regardless of gender, with due respect. “It is evil enough in a person to deprecate a fellow Muslim.”¹⁶⁸ Such respect is often lacking among men, even among some who claim to be spokesmen of Islam, when talking of women.

Islam holds men and women equal in legal and criminal liability. The penalties they receive are the same, and receiving compensation for injuries they suffer applies to them equally. They are also held equal in legal competence. This includes holding **the testimony of a woman to be equal to that of a man**, something about which many people are confused.

The prominent scholar Ibn al-Qayyim said, “God does not impose on judges to judge only when two male witnesses are available. God rather orders a claimant [*i.e.* a creditor] to guard his right with two witnesses, or one male witness and two female ones. This does not mean that a judge cannot make a decision unless he has that number of witnesses. In fact, the Prophet himself ﷺ, made a decision on the basis of the testimony of one witness....”¹⁶⁹

Shaykh al-Islām Ibn Taymiyah said, “As respects the methods of decision to be followed by a judge, the Qur’ān makes no mention of two male witnesses or one man and two women. It refers rather to these two

¹⁶⁸ Cited by Muslim, on the authority of Abū Hurayrah.

¹⁶⁹ Ibn al-Qayyim: *Al-Turūq al-Hukmiyah fī al-Siyasah al-Shar‘iyah*, Dar Ihya’ al-‘Ulūm, Beirut, p. 77.

options as classes of evidence for a person to protect his right. God, Almighty, orders people to ensure their rights with written documentation, and orders a person who owes something to dictate it to the scribe, *etc....* All this is in the way of advice, education, and guidance for people on how to protect their rights. **What protects rights is something, and what a judge decides is something else. Methods of decision are not restricted to two witnesses and two women.**¹⁷⁰

Even in the case of witnessing for the sake of protecting a person's right that involves a man and two women, it is a case of two witnesses, the man and one of the women, called a *witness*. As for the other woman, called the *reminder*, she is not a witness as such, but rather serves as a legal adviser for the first woman. The testimony of the *female* witness in this case is equal to that of the *male* witness, but the woman has an advantage in that if the man needs someone to remind him, his testimony would be void.

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Islam holds man and woman also equal in making the decision to marry and in their right to choose their spouses. No marriage may take place without the consent of either, the woman and the man.¹⁷¹ It also holds them equal in their domestic responsibilities: "A man is a carer in his house, and a

¹⁷⁰ *Ibid.*, pp. 81-83.

¹⁷¹ *Vide infra* pp. 130-134.

woman is likewise.”¹⁷² God’s Messenger ﷺ, used to “mend his shoes, patch his gown, and sew;”¹⁷³ “serve his family;”¹⁷⁴ and, in addition, “do the jobs a man usually takes care of in his household.”¹⁷⁵ In their house, the wife and husband live a life of serenity, affection, and compassion; enjoin on each other what is good; and decide domestic questions through mutual consultation and consent. It holds them equal in attending ritual worship performances, celebrations, and benevolent gatherings.

These are but a few examples of the equality endorsed by Islam and put into practise through the actions of the Messenger ﷺ.¹⁷⁶

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¹⁷² Cited by al-Bukhārī, on the authority of Ibn ‘Umar.

¹⁷³ Cited by al-Bukhārī in “*Al-Adab al-Mufrad*”, on the authority of ‘Ā’ishah.

¹⁷⁴ Cited by al-Bukhārī, on the authority of ‘Ā’ishah.

¹⁷⁵ An authentic tradition cited, with accreditation, by al-Bukhārī in “*Al-Adab al-Mufrad*” and by Abū Ya‘la and Ibn Hibban.

¹⁷⁶ *A letter to the Women of the World*, by Sheikhs Muḥammad al-Ghazālī and Yusuf al-Qaradāwī, Ayatollāh Muḥammad ‘Alī Taskhīrī, ‘Abd al-Halīm Abū Shuqqah, Muḥammad ‘Imarah, Dr, Zahīrah ‘Ābdīn, Fahmī Hwaidī, and Muḥammad Salīm al-‘Awwa, 1995.

Equitable equality

To guarantee equitable equality¹⁷⁷ not mere equality, Islam shows special consideration for women in a number of questions, particularly those related to their physical and physiological health. Because **women are favoured by God above men** at being entrusted with the task of making the future, and in the prime of her life, she has to carry out the biological function that God has assigned to her alone – which God describes as “going from weakness to weakness” – she needs full health care. Such care means that good nourishment should be provided for her from the time of her birth and that she should not be forced, at any stage of her life, particularly the age of maturity to perform tasks that affect her health or might entail the deformation of her body. It can be argued, that this is the reason behind the statement of God, Almighty, that ﴿Men shall be attenders on women, because of the advantage He has given the one over the other﴾¹⁷⁸.

In Qur’ānic Arabic, the phrase, ﴿the advantage He has given the one

¹⁷⁷ The term "equitable equality" was suggested by Dr. Muthanna Amīn al-Kurdī: *Al-Harakah al-Nasawiyyah wa Afkārūhā, A Critical Islamic Assessment*, p. 50, and by Dr. Makārim al-Dayrī, “*Al-Musāwāh al-‘Ādilah Bain al-Jinsayn fī al-Islām*”, Conference of Women Liberation in Islam, Dār al-Qalam, 2003.

¹⁷⁸ *Al-Nisā’* IV: 34.

over the other ﴿﴾, means that, in certain things, women are at an advantage over men and in others men have the advantage.

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What is, then, the meaning of men “shall be attenders” on women, and what does “attend” mean in the language used in the Qur’ān and in the Prophet’s statements?

The natural thing is to interpret the Qur’ān in the light of other verses or of statements of the Prophet; God, Almighty, describes the Divine Book as ﴿a book consistent with itself﴾¹⁷⁹. This means that some verses share a similarity by virtue of which we can use one to interpret another. Attender “*qawwām*” is explained by a statement according to which the Prophet ﷺ, said, “A group of my nation continues to be *attenders on* God’s cause until the fate ordained by God be fulfilled while they are in power.”¹⁸⁰ The meaning of being “attenders on God’s cause” is that this group serves that cause, takes full care of it, and is watchful over it. This is then the meaning of men being *attenders on* women; men must take care for them, seek their comfort, and provide them with whatever they need, because God has favoured women with the task of engendering life and making the future. Thus, society is responsible for ensuring that from the moment they are

¹⁷⁹ *Al-Zumar* XXXIX, 23.

¹⁸⁰ Cited by Ibn Mājah, on the authority of Abū Hurayrah.

born, all means of good health and well-being, including healthy nutrition, healthy lifestyle, and a pleasant life are provided to them. All contrary situations should be rejected. One of the contrary situations is to *force* a woman to work, even if only one period of her life. She may work, and it is even an obligation of hers to work, if she finds that she is capable of doing so.

Thus God has honoured men by putting them in charge of women, taking care of them, attending on them, protecting their rights, and sparing them hardships and responsibilities of life, as suggested by a statement of the Prophet ﷺ, which states, “They are entitled to be reasonably provided for and clothed by you.”¹⁸¹ When a marriage contract is concluded, the man gives the woman, as a symbolic gesture, a dowry (*mahr*). It symbolises his undertaking to be an attender in the sense explained above. God, Almighty, says, ﴿Give women their *credences* gratis﴾¹⁸². A dowry is therefore a *credence*, i.e. a gesture, that certifies the truthfulness of this commitment. It is entirely for the woman, as the possessive pronoun “*their*” signifies. It is *gratis*, with nothing expected in return. It is a gesture that can be counteracted through another symbolic gesture by the wife if she later dislikes living with her husband: she returns him back the money of the

¹⁸¹ Cited by Muslim, on the authority of Jābir.

¹⁸² *Al-Nisā'* IV: 4.

dowry as part of what is known as *al-khul'* (discarding, or divorce by the wife), which signifies that she now relieves him of the responsibility of being an attender and rejects his care and responsibility. Imām Ibn Rushd says, “As God gives a man the right of divorce if he dislike his wife, he gives a woman the right of *al-khul'* if she dislikes her husband.”¹⁸³

Moreover, in the verse already quoted, God does not say that “husbands shall be attenders on wives,” but rather “men shall be attenders on women.” Thus, when a woman has no husband, another male relative – such as her father, brother, *etc.* – is in charge of her. The males of the family have to attend to her; otherwise, the males of the community as a whole have the responsibility of providing for her needs. God, as already mentioned, has favoured women with this vital rôle of generating life and future making. Meanwhile men often destroy life in the wars they wage, and they do not make the future but rather the present, and the former is, in the Islamic view, much more important than the latter. Because of this, God, Almighty, has made men show consideration to, be an attender on, serve, and strive for the comfort of women, so that all circumstances are favorable for a woman to perform, in the best and fullest way possible: making the future.

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¹⁸³ Ibn Rushd: *Bidāyat al-Mujtahid*, vol. II, p. 50.

As for the “degree” mentioned when God, Almighty, says that ﴿... men excel them by one degree﴾¹⁸⁴, it is interpreted by Imām al-Tābarī as follows:

“... man’s forgiveness of his wife for [neglecting] some of her duties, overlooking this failing, and meeting all *his* duties towards her. This is the meaning intended by Ibn ‘Abbās when he says, “I groom myself for my wife as she does for me, and I do not like to claim all the obligations she has towards me. This is because God, Almighty, says, ﴿and men excel them by one degree﴾ just after saying, ﴿They [*i.e.* women] have, reasonably, as many rights as they have obligations﴾. . . . Although this is expressed in the affirmative mood [*i.e.* as a statement], it is meant to urge men to exceed women in kindness if the latter neglect some of the obligations ordained by God for them, so men may enjoy the advantage of a degree above women.”¹⁸⁵

The prominent scholar Mahmūd Muḥammad Shākir, the editor of al-Tābarī’s *Exegesis*, said:

Abū Ja‘far [al-Tābarī] did not write what he did with the purpose of preaching ... he rather cites evidence and sound argument, and he deduces that from the context of the successive verses.... [God, Almighty, points out] the equality of a man’s claims upon a woman and hers upon him, and He then goes on to urge on men one of the virtues of manliness, the nobleness of

¹⁸⁴ *Al-Baqarah* II: 228.

¹⁸⁵ Al-Tābarī’s *Tafsīr*, ed. by, Ahmād Muḥammad Shākir and Mahmūd Muḥammad Shākir, Al-Ma‘ārif Publishing House, Cairo.

which can be acquired only through determination and sublimity. It is to overlook some of their claims on their women. When a man does that, he will have reached a stage of high moral standards and refined manners that makes him excel his woman by one degree. To make this subtle association between meanings of this eloquent Book, Abū Ja‘far intends this sentence to encourage and urge men to aspire to the distinction, rather than a statement about a distinction, which God has ordained for them, whether they perform well or badly what he Has ordered them [to do].

Therefore, the meaning of the verse is that *men excel by one degree that they gain if they forego some of their claims on their women.*

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When God, Almighty, speaks of sons and daughters, he starts with females and uses the indefinite form when speaking of them. He says, ﴿He grants **female** offspring to whoever He will and **the male** offspring to whoever He will﴾¹⁸⁶. In Arabic, this is called *the indefinite form signifying grandeur*, indicating the advantage of having female children.

Another example of how women have the advantage over men is the concept of *‘iddah* (waiting period) in Islamic Law, meant in the first place to honour women. When a woman’s husband dies, and his house is inherited by members of his family, they may try to have her evicted immediately.

¹⁸⁶ *Al-Shūra* XLII: 49.

That is how things used to be prior to Islam, but with the advent of Islam, people were told, ﴿Do not expel them out of their houses﴾¹⁸⁷, and they were allowed ﴿a year's maintenance and residence without being evicted﴾¹⁸⁸. This is a strict regulation that provides for one of a wife's rights which she can take advantage of for a full year. As stipulated in the verse, this period allows a widow to organise her affairs, secure and furnish a new dwelling, and make all necessary arrangements without being rushed. This way, her dignity is safeguarded. On the other hand, she is free to leave that house whenever she wants: ﴿But if they leave of their own accord, you are not blamed for what they reasonably do to themselves﴾¹⁸⁹. While a widowed man living in a house owned by his deceased wife and inherited by her family members can be evicted from the dwelling the day that follows her death, and he is not entitled to even a single word of protest.

Another example of a privilege enjoyed by women is that nothing prejudicial to a woman's reputation is allowed under any circumstances.

She should never be slandered merely because she does something that brings discredit on her husband or the community. Even if a woman misbehaves, Islam has established a way out for her. In the Farewell sermon

¹⁸⁷ *Al- Tā'ālāq* LXV: 1.

¹⁸⁸ *Al-Baqarah* II: 240

¹⁸⁹ *Ibid.*

one of the last verified utterances of the Prophet ﷺ the latter, exhorts, “You are urged to be good to women, for they are dedicated¹⁹⁰ to you ... unless they commit *a clearly foul deed* [indicating action that is proved beyond doubt] . If they do [meaning *in that case alone*], admonish them, consign them to beds apart, and beat them *but not over-severely*.”¹⁹¹ This is the explanation of the “ill-conduct” which God, Almighty, mentions when He says, ﴿If you fear ill-conduct by them, admonish them, consign them to beds apart, and beat them﴾¹⁹². Imām al-Shawkānī, referring to this *h□adīth* which ‘Amr ibn al-Ah□was□ quotes from the Prophet’s Farewell Sermon, says, “The obvious meaning of the *h□adīth* is that consigning wives to beds apart¹⁹³ and beating them is **unlawful** for any reason at all, unless they commit a demonstrably foul deed. ***Forbidding the beating of women as a rule is indicated*** when the Prophet ﷺ, exhorts, ‘Do not beat God’s female servants. . . .’”¹⁹⁴ ‘Ā’ishah said, “God’s Messenger ﷺ, never beat, with his

¹⁹⁰ The Arabic term, which is a special usage by the Prophet ﷺ, is derived from a root that denotes being fully occupied with something, and it is used to indicate how a wife applies herself unpreservedly to the task of taking care of her husband and his affairs.

¹⁹¹ Cited by Ibn Mājah and al-Tirmidhī, on the authority of ‘Amr ibn al-Ah□was□, and describing it as a well verified *h□adīth*.

¹⁹² *Al-Nisā’* IV: 34.

¹⁹³ It is noteworthy that the expression used is “consigning them to bed apart,” rather than “abandoning the bed.” This means that the husband does not stay away from the marital bed; he sleeps in it, but makes no love to his wife.

¹⁹⁴ Al-Shawkānī, *Nayl al-Awtār*, the Part on Feasting , Being Wed, and Being Nice to Women: Chapter on Pleasant Marital Relations and Pointing out the Rights of the Two Spouses. VII: 412. The tradition quoted is cited by Abū Dawūd, on the authority of Iyās ibn ‘Abdullāh , with verified attribution; and by Ibn Mājah. Its attribution is verified by Ibn H□abbān.

hand, any woman or maid servant.”¹⁹⁵ It happened once that a young girl made him angry, but all he came up with to discipline her was to shake a tooth-brushing twig (*siwāk*) at her and said, “Were it not for my fear of God, I would have inflicted pain on you with this twig.”¹⁹⁶ Shaykh al-Dardīr said, “Severe beating is unlawful, even if the husband knows his wife will not stop her unlawful conduct otherwise. ***If he does beat her, she is entitled to a divorce and he becomes subject to retribution***, as pointed out in the words of God, Almighty, ﴿An eye for an eye and a tooth for a tooth﴾¹⁹⁷. Ibn Hāzīm said, “If he beats her for no error on her part, he has to face retribution.”

The three steps of the solution that a husband may resort to, are aimed at keeping the whole matter within the family and refraining him from slandering his wife before his family or her own, before a court of law, or in any other forum. If the matter be solved in this manner, it is satisfactory, and God forgives former mistakes.

That solution applies to wives only and not to a husband guilty of a misconduct. In the latter case, the first step in resolving the matter is to refer it to a family council: ﴿If a woman fear misconduct or being abandoned by

¹⁹⁵ Cited by Muslim.

¹⁹⁶ *Ibid.*

¹⁹⁷ Shaykh al-Dardīr: *Elucidation*, vol: II, p. 401. Also see *Mawāhib al-Jalīl*, vol. IV, p. 195.

her husband, they will incur no blame if they seek [mediated] conciliation¹⁹⁸.

This kind of conciliation council comes as the fourth step of attempting a solution in the wife's case, another of the advantages enjoyed by women in Islam.

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¹⁹⁸ *Al-Nisā'* IV: 128.

Islam and Gender

Now, what is the attitude of Islam in regards to gender?

Islam makes full distinction between three spheres: (a) the sphere of biology; (b) the sphere of society and public activity; and (c) the sphere of the family.

a. The sphere of Biology

In the sphere of biology, the distinction between male and female is clear genetically, as well as in anatomy and hormones. The femininity of woman, as opposed to the masculinity of man, finds its clearest expression in this sphere. Femininity is inherited; it is a given attribute with potential and talents that can be developed or neglected, and in this, the rôle of upbringing gains its true significance in the spheres of the family, the immediate community, and society at large with its various, larger spheres.

If the gender concept means that all the biological differences between man and woman are artificial, and no consideration should be given to them, nor to the consequent psychological and social differences, the experience of

real life leads to a contrary conclusion, particularly when matters are seen in their totality rather than treated partially. Take for example, emotion. It is true that, in the origin of emotion, a woman does not differ from a man, but she certainly differs in the area of emotion, whether in the intensity and surge of emotion or in the favorite forms of expression of both transmitted or received emotions. It is highly interesting that this fact has led to a controversy between two groups, as yet unresolved. One group persists in making a great effort to deny that fact and to emphasise that this question of emotion, if valid at all, results from a particular method of family and social upbringing and education. The other group, meanwhile, has built on this difference in disposition and emotion a strict division of social rôles. According to the advocates of such division, the chances of a woman are restricted to working and teaching in the fields appropriate “for her nature as a woman” [*sic*]. She can work as a teacher, nurse, or doctor, while any employment that requires intellectual activity is regarded as inappropriate to her “by virtue of her nature”!

In spite of the superficial difference between the two groups they share a common attitude, that emotion is a flaw, or that it is an inferior to reason, as if it were a malformation from which some would like to dissociate themselves. Others want women to put up with emotion as an inevitable fate

that must be accepted and used as a basis for assigning social rôles. The truth, however, is altogether different. Emotions are **not** inferior to reason. Actually, recent trends in psychological research suggest that no sound reasoning can take place without warm feelings, and *vice versa*. This means that a woman's emotional difference from a man, by no means make her intellectually inferior, thereby justifying the consequent distribution of rôles. She differs only in her method of comprehension, and in dealing with issues, a difference which, when rightly exploited, can serve to **enrich** the activities of society, rather than **exclude** women from it.¹⁹⁹

Moreover, what cannot be denied is the physical delicacy and vulnerability of women and their being more susceptible to various effects on health and wellbeing than man. God, Almighty, alludes to this when He describes pregnancy as ﴿going from weakness to weakness﴾²⁰⁰ and when He speaks of the hardships suffered by a woman throughout her pregnancy and during delivery: ﴿His mother bears him with much pain and delivers him with much pain﴾²⁰¹. Probably it was for that reason that the Prophet ﷺ, said, "I prohibit violating the right of two vulnerable beings: an orphan and a

¹⁹⁹ Dr. Ahmad Muhammad 'Abdullāh, *Al-Mar'ah al-Untha wa al- Mar'ah al-Insān*.

²⁰⁰ *Luqmān* XXXI: 14.

²⁰¹ *Al-Ahqāf* XLVI: 15.

woman.”²⁰² He also gave a mother three quarters of the dutifulness of a child; he was asked, “Who is the person most worthy of my companionship?” and he replied, “Your mother, then your mother, then your mother, then your father.” Probably for that reason also, the Prophet ﷺ, compares a woman to crystal in its great value and fragility. Anas ibn Mālik رضي الله عنه, said that the Prophet ﷺ, was traveling, and there was a boy, called Anjishah, urging on the female camels by singing. The Prophet ﷺ said, “Take it easy, Anjishah, you are driving *qawārīr*.”²⁰³ The Arabic word, *qawārīr* means, what is referred to today as crystal, as its usage in the *Sūras* of *al-Naml* (XXVII: 44) and *al-Insān* (LXXVII: 15) suggests.

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These are things related to nature, and neither men or women bear any responsibility for them, having been created that way. This is supported, by the example of the Mother of the Believers ‘Ā’ishah, who on one occasion found that her menstruation period had commenced before she had completed a pilgrimage she was engaged in performing. The Prophet ﷺ, found her weeping from frustration and said, “What is wrong? Do you have your menses?” “Yes,” she said. He replied, “That should not bother you. You are a female of the human race, and God has ordained for you the same

²⁰² Cited by Ibn Mājah, on the authority of Abū Hurayrah, with a good chain of attribution.

²⁰³ Cited by al-Bukhārī and Muslim, on the authority of Anas.

that He has for all human females.”²⁰⁴ The Prophet meant the physiological condition was neither a disgrace nor a shortcoming. This interpretation is supported by a statement attributed to ‘Ā’ishah, the Mother of the Believers: “I used to drink water, while in my period, then give it [the mug or cup] to the Prophet ﷺ, and he would place his lips where mine had been and drink....”²⁰⁵ She is also quoted as saying, “God’s Messenger ﷺ, used to come into physical contact with his wives over their garments, while they are in menses.”²⁰⁶ In another version, she says, “When he wanted something from a wife in her period, he would put a garment on her pudendum and then do what he wanted.”²⁰⁷ He did so because of God’s command: ﴿Keep away from women at their *mahīd*﴾²⁰⁸. *Mahīd* in this verse is a noun defining a *location*, and it means *the location of menstruation*, which is *the pudendum alone*.

When a woman’s menstruation period is completed and no more blood is detected, her husband may have sexual intercourse with her, after she had a total ablution (*ghusl*). This is the viewpoint of the majority of

²⁰⁴ Cited by al-Bukhārī and Muslim on the authority of ‘Ā’ishah.

²⁰⁵ Cited by Muslim.

²⁰⁶ Cited by Imām Ahīmad, with verified attribution that meets the criteria of al-Bukhārī and Muslim.

²⁰⁷ Cited by Abū Dawūd, with verified attribution that meets the criteria of Muslim.

²⁰⁸ *Al-Baqarah* II: 222. Muslim quotes Anas as saying that Jews used to refrain from eating with their women or dwelling with them in the same chambers when the latter had their period. The Prophet ﷺ, was asked by his Companions about this, and the verse quoted here was revealed. Therefore the Prophet told his Companions, “You may do everything other than sexual intercourse.”

jurisprudents (*fuqahā*). A number of most venerated second generation figures – Mujāhid, Qatādah, and ‘Atā’ – and some leading scholars – such as Imām al-Awzā‘i and Imām Ibn Hāzīm – believe that when menstruation is completed, intercourse is permissible after the woman in question merely has taken ablution or washed her private parts. Their evidence is in the words of God, Almighty: ﴿When they have cleansed themselves, you may go in unto them where God has bidden you﴾²⁰⁹. Cleansing is a general term that, in Qur’ānic language, is used for either partial or total ablution. It is also applied to the washing of private parts alone, as evidenced by a statement cited after ‘Ā’ishah رضي الله عنها, which says, “A woman asked the Prophet ﷺ, about washing after menstruation, and he said, ‘Take a musk-scented piece of wool or cotton and cleanse yourself.’ She said, ‘How do I cleanse with it?’ He said, ‘Glory be to God! Just cleanse yourself!’” ‘Ā’ishah goes on to say, “I pulled the woman towards me and said, ‘Follow with it the track of blood,’”²¹⁰ meaning, “Clean the traces of blood in your private parts.” A similar evidence is God’s description of the Mosque of Qubā’ congregants: ﴿In it there are men who like to be cleansed, and God likes people who cleanse themselves﴾²¹¹. These people were asked by the

²⁰⁹ *Ibid.*

²¹⁰ Cited by al-Bukhārī and Muslim.

²¹¹ *Al-Tawbah* IX: 108.

Prophet ﷺ, “What type of cleansing do you use yourselves?” They said, “We used to have Jews for neighbours, and they would wash their asses after defecation. So we started to wash as they did.” He said, “That is it; carry on doing so!”²¹²

It is imperative at this point to draw attention to the well-known and widespread prohibition of a woman in menses to touch or recite the Qur’ān throughout her period. This cuts her off from contact with the Divine Book for one quarter or one fifth of her life. However, ‘Ā’ishah, according to her own report, was told by God’s Messenger ﷺ, “Hand me the small rug from the mosque.” She replied, “But I am having my period.” He said, “Your menstruation is not in your hand.”²¹³ Therefore, I hope I am right in contending that it is lawful for a menstruating woman to touch the Qur’ān, because it is not her hand that menstruates and because “a Muslim does not become impure.”²¹⁴ “Whatever his condition was, God’s Messenger ﷺ, used to invoke God’s name.”²¹⁵ As for the Qur’ānic passages, ﴿... safeguarded in a Book; which none but the purified can touch﴾²¹⁶, that refers to the “imperishable tablet”. The purified mentioned in these verses are the

²¹² Verified by al-Ḥākim and al-Tahabī.

²¹³ Cited by Imām Ahmad, with verified attribution that meets the criteria of Muslim.

²¹⁴ Cited by al-Bukhārī and Muslim, on the authority of Abū Hurayrah.

²¹⁵ Cited by Muslim, on the authority of ‘Ā’ishah.

²¹⁶ *Al-Wāqī‘a* LVI: 78-79.

angels, as the case is in: ﴿It is set down on honoured pages; exalted, purified; by the hands of scribes; who are noble and dutiful﴾²¹⁷.

In forbidding a woman in menses to touch or recite the Glorious Qur’ān, the majority of scholars rely on a *h□adīth* cited in the anthologies of al-Tirmit□hī and Ibn Majah which says, “A woman in menses or a man in a state of major impurity may not recite any part of the Qur’ān.” However, al-Tirmit□hī himself admitted, “We only know this *h□adīth* through Ismā’īl ibn ‘Ayyāsh, on the authority of Ibn ‘Umar after Mūsa ibn Nāfi’. I have heard Muh□ammad ibn Ismā’īl [*i.e.* Imām al-Bukhārī] say, ‘Ismā’īl ibn ‘Ayyāsh attributes to the people of Hijāz and of Iraq disaffirmed *h□adīths*!’” Thus, the *h□adīth* in question is poorly verified and cannot be used as evidence. The same in poor verification and disaffirmance is the *h□adīth* cited by Ibn Majah and Abū Dawūd, saying, “Nothing kept God’s Messenger ﷺ, from the Qur’ān except the state of major impurity.”²¹⁸

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²¹⁷ ‘Abas LXXX: 13-16.

²¹⁸ Prof. Muh□ammad al-S□abbagh, professor of Islamic studies in the University of Riyād□, kindly drew our attention to this issue and to the corresponding ruling.

b. The sphere of society

The second sphere is that of society and public activity. In this sphere, equality between men and women is complete, for the Prophet ﷺ, says, “Women are nothing but siblings on a par with men,” [also meaning their other halves]²¹⁹. But as suggested in this *hādīth*, the parity meant is the parity of brothers and sisters, rather than competitive parity in which rights are usurped. Any merit is based on performance alone, and equal opportunities should be guaranteed. It is unfair to keep a woman from practising a particular activity that she wants to engage in and is capable of doing so, on the pretext that it is not compatible with her nature. The argument should be whether a particular activity and its requirements be appropriate for the circumstances of *a particular woman* or not. What is suitable for one woman might be unsuitable for another, and what is unsuitable for a woman at a particular age may be suitable for her at an earlier or a later stage of her life. Naturally, the same holds true for men.

Even what is referred to mistakenly as the “veil” is used by many people as a target of attack, and by others as something indispensable. One meter of material has become the focus of all our discussions and social

²¹⁹ Cited by al-Tirmidhī.

undertakings, and we forget all the major issues that should be the real focus of attention.

People use “veil” or “screen” [*hijāb*] to refer to the proper dress of a Muslim woman. Yet this particular word is not met with either in the Qur’ān or the sayings of the Prophet regarding the relationship between men and women, save to refer to a something peculiar to the Prophet’s wives, designed to express reverence and respect for their status. Judge ‘Iyād said, “The wives of the Prophet ﷺ, in particular are asked to cover their faces and hands.”²²⁰ Anas – in the context of his report of the marriage of the Prophet ﷺ, and Sāfiyah bint Hūyay – said, “... Then Muslims said, ‘if he have her covered, she is one of the Mothers of the Believers.’”²²¹ Ibn Qutaybah said, “God, Almighty, ordered the wives of God’s Messenger ﷺ, to cover, for he commands us to speak to them only with a screen between us and them.... This is peculiar to the wives of God’s Messenger ﷺ. They are also set apart as not being allowed to remarry.”²²² God, Almighty, tells the Mothers of the Believers, ﴿Women of the Prophet, you are unlike any other woman﴾.²²³ As prescribed in the Qur’ān and the *hādīths*, the clothing of a Muslim woman includes a **headcovering**, and there are various

²²⁰ *Fat-h al-Bārī*, vol. XIII, p. 260.

²²¹ Cited by al-Bukhārī and Muslim.

²²² Ibn Qutaybah: *Ta’wīl Mukhtalif al-Hādīth*, Al-Maktab al-Islāmi, Beirut, 1999, p. 328.

²²³ *Al-Ahḍāb* XXXIII: 32.

words in Arabic to refer to such clothing, such as *khimār*, *jilbāb*, *nasīf* and *miqna‘ah*. In Arabic, the word *jilbāb* is synonymous with *khimār*, and may mean a gown. In his introduction, al-Hāfiz Ibn Hajar quotes al-Nadīm as saying, “A *jilbāb* is a gown shorter and looser than a *khimār*; it is what is called *miqna‘ah*.” The word *khimār* signifies any kind of covering, and it is most often used to refer to a *headcovering* for either a woman or a man. For example, “the Prophet ﷺ, wiped over the shoes and the *khimār*.”²²⁴ (Another version reads “over the shoes and the *‘imāmah*.” [turban]) Thus, both *khimār* and *jilbāb* refer to what we call today a “shawl” or a “scarf.” Originally women used to cover their heads with a *Khimār* or *Jilbāb* and let it fall against their backs. They were commanded by God, Almighty, to draw their *khimārs* over their collars and cast their *jilbābs* over their bodies. The collar of a woman’s gown used to reveal the upper part of her chest, and it is this that God orders to be covered. On the exact meaning of casting a *jilbāb* over the body, Ibn Kathīr quotes ‘Ikrimah as saying that a woman should cover her lower neck. Thus casting the *jilbāb* over the body and drawing the *khimār* over the collar are the same thing.

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The subject of women’s clothing originates in the fact that God, as

²²⁴ Cited by Ibn Mājah, on the authority of Bilāl. The meaning of this is that, in ablution, instead of wiping his head with a wet hand, he wiped over his head cover.

stated above, has ordered women and men to work, which means that He allows women to go out, the same as men. But He makes a distinction between the house and the world outside: when a man goes out and joins society, he goes out *as a human being, not as a male*, and when a woman goes out, she does so also *as a human being, not as a female*.

When a woman covers some of her feminine features by wearing clothes of a special nature, she does so to highlight her being a human being and interact as one in the public field. And when the humanity of a woman is highlighted in this way, it emphasizes the basic principle that has already been mentioned, which is her full and absolute *equality with man, on the basis of competence* and equal opportunity. Competition between her and man is restricted to the field of human talents and skills alone, for **when the femininity factor and its physical and biological features, together with the attraction and temptation that come with them, are introduced into the competition, equity, justice, and equality between the two sexes are all cancelled.**

Thus, the specifications of clothes for both men and women are determined by what the community calls for and accepts, provided that, in the case of a woman, these clothes cover her physical charms in a suitable manner. “Otherwise, she can wear whatever clothes she likes: safflowered

[rosy-colored], silk, ornamented material, **trousers**, a dress ...” as the Prophet ﷺ, said.²²⁵ One condition has to be met: *these clothes should be fine-looking*, for the Prophet ﷺ, says that “God is beautiful, and He likes beauty.”²²⁶ He says that in answer to someone who tells him, “I like to have a *nice gown* and nice shoes.” He also says, “Have nice clothes, so that you may look like a mole amidst people. God does not like hideousness and opting for what is hideous.”²²⁷

God, Almighty, uses the word adornment for clothes; He says, ﴿Adorn yourselves whenever you go to pray﴾²²⁸. Thus, when He says that women should ﴿exhibit of their adornment only what is normally visible﴾²²⁹, that indicates that the outer garment should be adorned. Adornment, as al-Qurtūbī says, is “of two types: natural and acquired. The natural is a woman’s face, which is the essence of adornment and physical beauty, and the meaning of vitality.... Acquired adornment is what a woman applies to improve her natural looks, such as clothes, jewellery, *kuhl* [eyeliner], and *khidāb* [the application of *hinnā*, i.e. hand dye].” Al-Qurtūbī goes on

²²⁵ A verified *hādīth* cited by Abū Dawūd on the authority of ‘Abdullāh ibn ‘Umar, who said that he heard God’s Messenger ﷺ, forbidding women, when they are in ritual consecration, to wear gloves, *niqāb* [face cover that reveals only the eyes], and any clothes that are touched with saffron. Otherwise she can wear whatever she likes:

²²⁶ Cited by Muslim, on the authority of ‘Abdullāh ibn Mas‘ūd.

²²⁷ Cited by Ahmād and Abū Dawūd with a satisfactory chain of attribution; verified by al-Hākim, with the endorsement of al-Tahabī. A mole on the skin is regarded as an embellishment in Arab societies.

²²⁸ *Al-A‘rāf* VII: 31.

²²⁹ *Al-Nūr*, XXIV: 31.

to say, “Adornment is either visible or hidden. What is visible is always permissible before all people, whether close relations or others.... Hidden ornaments can be displayed only before those whom God, Almighty, mentions in this verse.”²³⁰ What is meant by visible is what is ordinarily apparent while in action. In his book *Al-Nazāʿar fī ahkām al- Nazāʿar*, a manuscript quoted by Shaykh Nāsīr al-Dīn al-Albānī (folio 21/2), al-Hāfiz abū al-Ḥasan ibn al-Qatān al-Fāsī states, “What we mean by “ordinarily” here is the ordinary behaviour of the people to whom the Qur’ān was revealed; who reported Islamic Law as expounded by the Prophet ﷺ; and who were amongst the audience of his verbal discourse relevant to the Law, and also the ordinary behaviour of the people who succeeded them and observed the same behaviour, and so on.”

An adorned garment is neither white nor black, but rather red, green, yellow, blue, *etc.* That was how female believers dressed in the Prophet’s lifetime.

In the Farewell Pilgrimage, the only pilgrimage performed by the Prophet ﷺ, he ordered people who had not intended to combine *Hajj* (major) and ‘*Umrah* (minor) pilgrimage, but rather to perform them sequentially, to break ritual consecration and enjoy what is lawful to them of

²³⁰ *Al-Jāmi‘ li Ahkām al-Qur’ān*, vol. 12, p. 229.

dress, perfume, and all other things in between. ‘Alī ﷺ joined the pilgrims, coming from Yemen, and found his wife Fāṭimah رضي الله عنهما among those that had broken their consecration and was **wearing coloured clothes and kuhḥl**. He censured that [on the basis that during pilgrimage, one should refrain from wearing any adornment], and she said, “My father ordered me to do so.” When ‘Alī approached God’s Messenger ﷺ, faulting Fāṭimah for what she had done, seeking the Messenger’s opinion on what she had told him, and saying that he had censured her for her action, the Prophet said, “She told the truth! She told the truth! I ordered her to do so.”²³¹ Ibn Jurayj said, “‘Atā’ told me ‘I used to go, together with ‘Ubayd ibn ‘Umayr, to ‘Ā’ishah whilst she was staying on Thabīr [a mountain on the way to Minā].’ I asked, ‘What kind of screen did she have?’ He said, ‘It was a Turkish dome [*i.e.* a small tent] with a thin screen, which was the only thing to separate us from her. I saw her with *a rose-coloured dress*.’”²³² A version quoted by ‘Abd al-Razzāq adds, “I was a boy then,” which explains why he could see her. A unanimously cited *ḥadīth* says that Subay‘ah of the Aslam tribe gave birth a few nights after the death of her husband. When she recovered and completed her postpartum period,

²³¹ Cited by Muslim, on the authority of Jābir.

²³² Cited by al-Bukhārī.

she wore make up to beautify herself for suitors.²³³ A version cited by Imām Ahmāḍ says that she wore *kuḥḥl*, applied *hinnā'*, and got herself ready [to receive them]. According to 'Ā'ishah, the Mother of the Believers رضي الله عنها, the Prophet, speaking about Usāmah ibn Zayd, whom he loved dearly, “Had Usāmah been a maiden, **I would have put jewelry and make up on her** in order to get her married.”²³⁴ This describes the normative situation, a situation we should emulate, rather than look at the two sexes in society in two colours only: one in white, which is the male sex, and the other in black, which is the female.

The Prophet ﷺ, and his Companions considered the failure of a woman to adorn herself an evidence of her dissatisfaction with her marital life, resulting from her husband's failure to gratify her physical desire. 'Ā'ishah is quoted as saying, “Khuwaylah bint Hākīm, who was the wife of 'Uthmān ibn Mazūn, came to see me. The Prophet ﷺ, saw how plain she looked. He said to me, ‘‘Ā'ishah, what makes Khuwaylah look so plain?’ I said, ‘God's Messenger, she is a woman with no husband’” [meaning that she was virtually unmarried because her husband failed to satisfy her]. In another version:

The wife of 'Uthmān ibn Mazūn used to apply *hinnā'* and

²³³ *Ibid.*

²³⁴ Cited by al-Bukhārī and Muslim.

perfume, but she gave up all that. She came one day to see me, and she was with neither perfume nor *hinnā*. I asked her, “What is wrong with you?” She said, “‘Uthmān does not care for worldly things, nor for women.” The Prophet ﷺ, met him and said, “‘Uthmān, do you find me a good model to follow?” He said, “I do.” The Prophet said, “I do . . . and I do Your wife has a claim on you.” Later, the wife came to visit and was perfumed like a bride. They said, “Well?” She said, “What usually happens to people is happening to me.”²³⁵

A third version says:

The Prophet ﷺ, established a fraternal bond between Salmān and Abū al-Dardā’. Salmān visited Abū al-Dardā’ on one occasion and saw Umm al-Dardā’, to have changed [her dress]. He said, “What’s the matter with you?” She said, “Your brother Abū al-Dardā’ has no interest in worldly matters.” Salmān thereupon approached Abū al-Dardā’ and said, “Your Lord has a claim on you, your wife has a claim, and you yourself have a claim, so duly meet everybody’s claim.” Subsequently, Abū al-Dardā’ met the Prophet ﷺ, and recounted the story, whereupon the Prophet said, “Salmān told you the

²³⁵ The two versions are cited by Imām Ah̄mad, on the authority of ‘Ā’ishah. The statement of ‘Ā’ishah that Khuwaylah used to wear perfume, and that she later came to them, perfumed as a bride, shows that what is forbidden is not perfume in itself, but for a woman to plan for men to smell her scent, that amounts to a type of display of finery in public. That type is what is referred to by the Prophet ﷺ, when he says, “When a woman wears perfume and refinery and passes by a group of people **so that they may smell her scent**, she is such and such!”

truth!”²³⁶

As a matter of fact, a reasonable minimum of adornment is a religious duty for a Muslim woman in ordinary situations.²³⁷ The religious requirement that makes *a certain degree of adornment an obligation* is clear from the fact that God’s Messenger ﷺ, criticized a woman for failing to apply *h[□]innā’*. Ibn ‘Abbās is quoted as saying, “A woman with no *h[□]innā’* on her hands wanted to pledge allegiance to the Prophet ﷺ, but he declined to accept her pledge until she have applied *h[□]innā’*. Likewise, the Mother of the Believers ‘Ā’ishah, is quoted as having said, “A woman extended her hand to give a letter to the Prophet ﷺ, but he closed his fist. She said, “God’s Messenger, I offered to give you a letter, and you declined to take it.” He said, “I could not tell whether it were the hand of a woman or of a man.” She said, “It’s a woman’s hand.” He said, “If you were a woman, you would have changed [the appearance of] your nails with *h[□]innā’*.”²³⁸

Since *h[□]innā’* was the kind of make-up during the Prophet’s lifetime, the ruling on changing the look of fingernails is not restricted to the application of *h[□]innā’*, and I trust I am right in believing that anything that serves the same purpose today would meet the Prophet’s recommendation,

²³⁶ Cited by al-Bukhārī, on the authority of Abū Juh[□]ayfah, who in turn quotes his father.

²³⁷ ‘Abd al-Halīm Abū Shuqqah, *Tahrīr al-Mar’ah fi ‘Asr al-Risālah*, vol. 4, pp. 253-54.

²³⁸ Cited by Al-Nasā’ī.

even if it keeps water from washing the nails in ablution. *Hinnā'* itself insulates nails, forming a layer that bonds with the nail coating, although this is not clear at first glance.

Moreover, the Prophet ﷺ, performed pilgrimage with his hair glued (*mulabbidan*).²³⁹ Hafṣah, the Mother of the Believers, said to him, “How is it that people have released themselves from ritual consecration, having performed *‘Umrah* (minor pilgrimage), and you have not released yourself from yours?” He said, “I had my hair glued....”²⁴⁰

As some general statements already cited suggest, the need for adornment and beautification is not restricted to women, for men are also required to adorn themselves, and God’s Messenger ﷺ, was himself an example and a model in doing so.

Al-Barā’ ibn ‘Āzib said, “The Prophet ﷺ, was of medium stature, broad-shouldered, and with hair that reached his earlobes. I saw him **wearing a red gown**, and I have never seen anyone better looking.”²⁴¹

Wahb ibn ‘Abdullāh also said, “... then the Prophet ﷺ, came out **wearing a**

²³⁹ Cited by al-Bukhārī.

²⁴⁰ The Arabic word “*talbid*” translated as “glued” here is defined in *Al-Sihāh* Dictionary as a verb referring to the application of some glue or honey so that the hair may stick together to keep it from getting dusty and disheveled during ritual consecration. This is similar to the oils and gel used today. It is clear that glue and similar materials keep water from getting to the hair. Both hair and nails are not live tissues. However, nails should not be left untrimmed over forty days, as indicated by a *ḥādīth* cited by Muslim, on the authority of Anas ibn Mālik, “God’s Messenger ﷺ, determined for us the period for having our moustaches cut, *trimming our nails*, and plucking our armpit and pubic hair: we should not neglect them for over forty nights.”

²⁴¹ Cited by al-Bukhārī and Muslim.

red gown on.”²⁴²

Qatādah is quoted as saying, “I asked Anas, ‘What kind of clothes did the Prophet ﷺ, like the most?’ He said, ‘*al-Hibarah.*’”²⁴³ [*al-Hibarah* means high-quality Yemeni clothes **of green color.**] Rifā‘ah al-Tamīmī said, “I saw God’s Messenger ﷺ, with **two green gowns** on.”²⁴⁴

Sahl Ibn Sa‘d says, “A woman approached with a shawl and said, ‘God’s Messenger, I have knit this with my own hand; shall I put it on you?’ God’s Messenger ﷺ, who needed it, took it from her. Later, he came out to us, and the shawl was his wraparound.”²⁴⁵

According to the Mother of the Believers ‘Ā’ishah, the Prophet ﷺ, “used to prefer starting on the right side, whenever he could, in **grooming his hair and beard** and in ablution.”²⁴⁶

Abū Hurayrah quotes God’s Messenger ﷺ, as saying, “A person who has hair should take good care of it.”²⁴⁷ He, “ﷺ, used to anoint his head liberally and to wet his beard and comb it.”²⁴⁸ He, “ﷺ, used to have with him whenever he traveled a comb, a mirror, hair-lotion, and *kuhḥāl*.”²⁴⁹ Ibn

²⁴² *Ibid.*

²⁴³ *Ibid.*

²⁴⁴ Cited by Abū Dawūd and al-Tirmidhī.

²⁴⁵ Cited by al-Bukhārī.

²⁴⁶ Cited by al-Bukhārī and Muslim.

²⁴⁷ Cited by Abū Dawūd .

²⁴⁸ Cited by Ibn Sa‘d, on the authority of Anas.

²⁴⁹ Cited by al-Qurtūbī, on the authority of Khālid ibn Ma‘dān.

Makhūl quotes ‘Ā’ishah as saying, “A group of the Companions of God’s Messenger ﷺ, were waiting for him at the door, and he went out to see them. In the yard there was a container that had some water. He kept using the water to dress his beard and hair. I asked, ‘You, God’s Messenger, do such a thing?’ He said, “Yes! When a man goes out to see his friends, he should be groomed, for God is beautiful and loves beauty!”²⁵⁰

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In order to know the proper rôle of women in society and public activities, the *Qur’ān* and the *Sunnah* should be referred to infer therefrom the rôle of Muslims in general, whether male or female, in developing the globe and in building the society.

The first passage that should be referred to is the utterance of God, Almighty, ﴿Believers, [male and female] are charge-takers of one another; they enjoin the righteous and forbid the reprehensible﴾²⁵¹. This mutual charge-taking signifies the solidarity, cooperation, and mutual backing and assistance that all believers, irrespective of sex, are expected to share. This is illustrated by the Prophet ﷺ, where he said, “An analogy for believers in their mutual affection, sympathy, and compassion is a single body: when one of its organs suffers, the whole body is immobilised through vigilance and

²⁵⁰ Cited by al-Qurtūbī, on the authority of ‘Ā’ishah.

²⁵¹ *Al-Tawbah* IX: 71.

fever.”²⁵²

Every Muslim should be of use to their fellow Muslim and do the best they can to secure the latter’s interest. Islam does not allow a Muslim to be passive or indifferent; every individual who does not care about the interests of others is no longer considered to belong in the Islamic community because, “A person who shows no interest in the affairs of Muslims is not one of them.”²⁵³

Islam requires every Muslim, to prove, at a minimum once a day, that he belongs in the Muslim community through at least one civilized act of the type known in Arabic as *Sādaqah*. It is called so because it affords evidence²⁵⁴ of a Muslim’s membership of that civilised community, as suggested by the statement of the Prophet ﷺ, that “*Sādaqah* constitutes a proof.”²⁵⁵ In a general instruction issued by the Instructor of this nation ﷺ, he said: “Every soul, on every day on which the sun rises, has to exercise a civility [*Sādaqah*] from himself onto himself.”²⁵⁶ He points out that there are many categories of *Sādaqahs*:

You enjoin the righteous and forbid the reprehensible; you remove thorns, bones, and stones from people’s path; you guide a blind person; you convey a

²⁵² Cited by al-Bukhārī and Muslim, on the authority of al-Nu‘mān ibn Bashīr.

²⁵³ Cited by al-Tabarānī in *Al-Mu‘jam al-Awsat*, on the authority of Huthayfah ibn al-Yamān.

²⁵⁴ The word for evidence in Arabic “*misdaq*” is derived from the same root as the Arabic *sādaqah*.

²⁵⁵ Cited by Muslim, on the authority of Abū Mālik al-Ash‘arī.

²⁵⁶ Cited by Ahmad, on the authority of Abū Tharr, with a good chain of citations.

message to a deaf and dumb person and ensure he comprehends it; you guide a person asking for help to an object which he is seeking and you know where it is located; you hurry as fast as your legs can carry you to assist a person eagerly calling for rescue; and you lift with all the strength in your arms to help a weak person. All these are categories of civility [*Sādaqah*] [granted] by you on your own behalf.”

Another version, quoted by Abū Tāharr, says:

Your smiling in the face of your brother is a civility [*Sādaqah*]; your enjoining what is good and forbidding what is wrong is a civility; your guiding a man in a land where he is lost is a civility; your removal of a stone, a thorn, or a bone from a road is a civility; and pouring out of your bucket into your brother’s is a civility.²⁵⁷

A third *ḥadīth* says, “Every kind word uttered is a civility [*Sādaqah*]; the help of a man to his brother is a civility; a drink of water offered to someone is a civility; and removal of a harmful object from a road is a civility.”²⁵⁸

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After this list of things that are righteous, advantageous and benevolent deeds, an image shines before our eyes, illumined by the Qur’ānic verse which says, ﴿Male and female believers are charge-takers of one another; they enjoin the righteous and forbid the reprehensible﴾. We realise more

²⁵⁷ Cited by al-Tirmidhī, and this is his phrasing; by al-Bukhārī in *Al-Adab al-Mufrad*; and by Ibn Ḥibbān.

²⁵⁸ Cited by al-Bukhārī in *Al-Adab al-Mufrad*, with a good chain of attribution.

clearly the importance of enjoining the righteous and forbidding the reprehensible, because human nature recognises instinctively what serves the interests of the society and rejects what is harmful.

If we add to the above the genuine view of enjoining the righteous and forbidding the reprehensible, the image of the advantageous society advocated by Islam becomes even brighter and more splendid, as the concept of what serves interests and what causes harm is extended.

A Muslim woman, like a Muslim man, is called upon to perform the long list of community requirements, some of which are cited above. For a certain foresight, faith is indissolubly associated with advantageous deeds in the Qur'ān. Faith, after all, is not wishful thinking; it is what resides in the heart and is expressed by action: ﴿It will not be according to your hopes or those of the People of the Previous Revelations; a person who does evil will be paid back in kind; and, without God, he will find no supporter or helper; and those who perform advantageous deeds, whether male or female, and are believers, shall be admitted into Paradise and shall not be wronged by as much as the dip in a date-stone﴾²⁵⁹.

Before anything else, a Muslim woman has a major rôle in the field of health education and awareness, which is a way of enjoining the righteous

²⁵⁹ *Al-Nisā'* IV: 123-24.

and forbidding the reprehensible. Already mentioned are some of the things that are righteous and things that are reprehensible in the field of health, breastfeeding and child vaccination, and smoking and ecological pollution as reprehensible. The list of righteous things and reprehensible things in the field of health, however, is very long, and women are the best people for enjoining and forbidding in this field.

Women also have their rôle in nutrition; they actually feed the whole world. The scope of this work does not allow going into details of their rôle in food production, but it is a great rôle as demonstrated in the reports of the UN Food and Agriculture Organization (FAO). Let us, however, call to mind the women's rôle in selecting food for their families and preparing the food in accordance with the best health rules, as well as of their rôle in guiding all members of her family to the ingredients of healthy food, the way of observing healthy conditions in preparing food, and the method of maintaining food fresh safely. Most important of all is the rôle of women in implanting sound nutrition habits in their children.

Women play a leading rôle in child vaccination. In the World Health Organization campaign of vaccination for children in Afghanistan, we had only to extend the invitation to women on the radio, and Afghan women, who were usually falsely accused of being backward, responded in a way

beyond everybody's expectations. Multitudes of women brought their children to vaccination centers, and, in spite of the war and stress prevailing in the country at that time, the rate of vaccination coverage was very high, comparable to rates in other advanced countries.

A woman bears the main responsibility of providing her family with drinking water; she often carries water over a long distance. She teaches the members of her family personal hygiene habits and methods of disposing of trash and garbage.

It is a woman who assumes the rôle of birth attendant, takes care of children pregnant or nursing women. She also takes the initiative in emergency cases for children that require first aid, and decides on the question of using health services for both herself and her family.

It is the woman in the family who most often makes treatment arrangements for many simple cases of sickness, for which usually no doctor is consulted, such as headaches, constipation, diarrhea, sore throat, common cold and flu cases, and a mild fever. She is the one who takes the necessary measures to protect the members of the family and prevent the recurrence of disease.

She is the one who administers medicine to sick family members and she keeps all medications away from moisture, heat and children.

With all this said, we still have not mentioned the rôle of women as physicians, nurses, health visitors, and professional workers at health centers or institutions.

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Many sincere people are concerned that when a woman performs the social activities made obligatory to her by God, she would be imitating those whose societies suffer from moral chaos and social disintegration. We would like to remind these good fellows of a very valuable statement made by Ibn Taymiyah رحمه الله. He says, “What is told is that we are forbidden to imitate [non-believers] in things other than what was practised by the early generations of this nation. As for what early generations used to do, there is no doubt concerning that; whether non-Muslims perform or abandon such things, **we do not abandon what God has commanded us to do just because it is also performed by infidel people.**”²⁶⁰ In another valuable statement, the “Sultān” of scholars al-‘Izz ibn ‘Abd al-Salām says, “The prohibition of doing what [non-believers] do is restricted to things that are contrary to the requirements of our *Sharī‘ah*. Things that they do and are recommended, made obligatory, or permitted in our *Sharī‘ah*, cannot be abandoned just because others do them. Islamic *Sharī‘ah* does not forbid

²⁶⁰ *Iqtidā’ al-Sīrāt al-Mustaqīm*, p. 177.

imitating someone in doing what is permitted by God, Almighty.”²⁶¹

When a woman works in her house and society, her work is not supposed to affect the sound upbringing of her children, as demonstrated by the practise of women in the Prophet’s lifetime. Asmā’ bint abī Bakr رضي الله عنها is quoted as saying, “Al-Zubayr married me and he had no property, aides, or anything else on earth, except for a water-carrying camel and his mare. I used to feed the mare, fetch water, sew his pack, and knead. I used also to carry seeds for al-Zubayr’s land, given to him by God’s Messenger ﷺ, which was at a distance of two thirds of a *farsakh* [*i.e.* more than three kilometers] from my house . . . until Abū Bakr sent me a maid that spared me the need to take care of the mare. It was as if he emancipated me.”²⁶² Did all this work make the famous *Two-Girdled Lady*²⁶³ err or be negligent in bringing up her and al-Zubayr’s two sons, ‘Abdullāh and ‘Urwah? May God forgive!

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²⁶¹ Al-‘Izz ibn ‘Abd al-Salām: *Al-Fatāwa al-Mawsū‘iliyyah*, p. 23.

²⁶² Cited by al-Bukhārī and Muslim, on the authority of Asmā’ herself.

²⁶³ An epithet by which Lady Asmā’ was known.

c. The sphere of the family

The third sphere is that of the family, which is the basic social unit, the nucleus of society, as seen in Islam; the healthier this unit is, the more stable and stronger the society is. This social unit begins to form with marriage, which is a practise of God's messengers, as stated by God, Almighty: ﴿We sent messengers before you, and we provided them with spouses and offspring﴾²⁶⁴. Marriage is cited by God as one of His signs, and of the blessings He bestows upon His servants: ﴿One of His signs is that he created for you spouses from among yourselves﴾²⁶⁵. He also says, ﴿God has given you spouses of your own kind and has given you, through your spouses, children and grandchildren, and provided you with wholesome sustenance. Will they, then, believe in falsehood and deny God's blessings?﴾²⁶⁶ The Prophet ﷺ, instructs Muslims and encourages them to marry: "Marriage is part of my *sunnah*, and those who do not follow my *sunnah* do not belong to my *ummah*"²⁶⁷. Moreover, "God's Messenger ﷺ, disallowed celibacy,"²⁶⁸

²⁶⁴ *Al-Ra'd* XIII: 38.

²⁶⁵ *Al-Rūm* XXX: 21.

²⁶⁶ *Al-Nah*l XVI: 72.

²⁶⁷ Cited by Ibn Mājah, on the authority of 'Ā'ishah.

²⁶⁸ Cited by al-Nasā'ī, on the authority of 'Ā'ishah and Samurah ibn Jundub.

and he said, “I have not been ordered to be ascetic.”²⁶⁹ He addressed the youth of his nation, irrespective of sex: “Young people, those of you who can afford it [*i.e.* can meet the physical, psychological, and financial requirements], let them get married.”²⁷⁰ It is obvious that this statement of the Prophet ﷺ, implies that the decision to marry is to be made by the young man or woman, which in turn suggests that the *hādīth* of the girl about to be married should have a warden²⁷¹ is the more perfect model, a model that respects the parent-child relationship and family links, but it is not a condition for the marriage to be valid.

Islam is not content to make marriage an individual obligation only; it is made a social obligation as well, one of the responsibilities of society. God addresses the Muslim community, saying, ﴿Let the single among you marry﴾²⁷². At the same time, He asks those who are unmarried to be chaste, until they have the chance to marry: ﴿Let those who cannot afford to get married keep themselves chaste, until God of His bounty makes provision for them﴾²⁷³. Islam considers the failure of individuals to get married and the failure of society to facilitate marriage a cause of trouble, as suggested

²⁶⁹ Cited by al-Dārimī, on the authority of Sa’d ibn abī Waqqās.

²⁷⁰ Cited by al-Bukhārī and Muslim, on the authority of Ibn Mas’ūd.

²⁷¹ The reference here is to the *hādīth* that says, “No marriage [contract] is to be concluded without a warden and two witnesses’ (cited by al-Tabarānī). It is more likely that “no” here indicates discouragement rather than prohibition. (Also *vide infra* pp. 130-134).

²⁷² *Al-Nūr* XXIV: 32.

²⁷³ *Ibid.*

by the words of the Prophet ﷺ: “If you get a marriage proposal from someone with whose religiousness and integrity you are satisfied, accept his proposal. If you fail to do so, there will be disturbance on earth and a great deal of trouble.”²⁷⁴

In Islam, since the inception of the mission, the state acts on behalf of the community by getting the single married. ‘Abd al-Mutṭalib ibn Rabī‘ah quotes God’s Messenger ﷺ, as saying to Mahṭmīyah, [who was in charge of one fifth of the war spoils] “Pay the dowry on their behalf out of the Fifth [*the khums* being one of the treasury resources], to the amount of such and such,” referring to al-Fadḥl ibn al-‘Abbās and ‘Abd al-Mutṭalib ibn Rabī‘ah.²⁷⁵

Al-Mustawrid ibn Shaddād said, “I have heard the Prophet ﷺ, say, ‘When a person is employed by us, let him get himself a wife.’”²⁷⁶

The obstacles created by society today that prevent early marriages²⁷⁷ are in flagrant contradiction of the commands of God and His Messenger, and the entire community bears responsibility for them. One of the best ways of overcoming such obstacles is that which is promoted by the Eastern

²⁷⁴ Cited by Ibn Mājah, on the authority of Abū Hurayrah.

²⁷⁵ Cited by Muslim.

²⁷⁶ Cited by Abū Dawūd .

²⁷⁷ By **early marriage**, we mean that which takes place as early as possible after a young person reaches puberty. Physical maturity is one part of the “affordability” [*bā’ah*] that is mentioned in the *ḥadīth* quoted above. The best age is eighteen. Before that age, a marriage is not classified as early, but rather as **premature**, for its failure to meet the condition of “affordability” set by the Lawmaker.

Mediterranean Regional Office of the World Health Organization. It calls for a marriage contract to be concluded between a young man and a young woman, and for each of them to continue to dwell with his or her parents until the young couple can obtain a suitable house with furniture of their own. The couple, meanwhile, arrange, by themselves or in agreement with their parents, for a suitable place where they can be alone, enjoying the solitude recommended in Islamic Law. The only condition for such a marriage is for the young couple to observe family planning,²⁷⁸ postponing conception until they move to their marital dwelling. No additional costs are borne by the families of the couple in this arrangement, because the young man and woman are already living in their parents' houses.

Naturally, this marriage is entirely legal and legitimate, meeting all the marriage conditions laid down by the Lawmaker, whilst the marriage known as “off-the-record” ‘*urfi*’ marriage, where the contract is not documented and certified in accordance with Islamic Law, is not proper.²⁷⁹

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²⁷⁸ Family planning – which is the postponement of the first pregnancy and keeping pregnancies far apart [it is referred to as “‘*azl*’” (= *coitus interruptus*) in Islamic Law] – is permissible by evidence of a *hādīth* of the Prophet ﷺ, that says, “Interrupt the coitus, if you wish” (Cited by Muslim). It has to be, however, by the mutual agreement of husband and wife, like all other decisions on family issues, which the Glorious Qur’ān says should be taken, ﴿by mutual agreement and after consultation﴾ (*al-Baqarah* II: 233)..

²⁷⁹ There is also the so-called “ambulatory” [*misyār*] marriage, where the contract is usually witnessed and documented, and it entails, in regard to inheritance and the parenthood of children, the same things entailed by regular marriage. However, the husband and wife do not live together on a permanent basis. They often live in two different towns or countries. There is nothing legally wrong with such a marriage, as long as the conditions mentioned above are met.

This nucleus of society, that is the family is based on a contract, or covenant, to which God, Almighty, refers when He says, ﴿They have received from you a firm covenant﴾²⁸⁰, and is referred to by the Prophet ﷺ, where he says, “Fear God in regards to women; you have taken them under God’s security.”²⁸¹ This contract is supported and its stipulations and consequences defined by a strict Law,²⁸² although in itself it is a simple civic marriage without complications. During the lifetime of the Prophet ﷺ, it was conducted in the manner described by Abū Dawūd: “The Prophet ﷺ, once said to a man, ‘Would you accept my marrying you to so-and-so?’ The man said, ‘Yes!’ The Prophet asked the woman, ‘Would you accept my marrying you to so-and-so?’ She said, ‘Yes!’ Thus he had them married, and the marriage was then consummated.”²⁸³

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However, Islam does not leave a question so important as marriage to coincidences, but takes the precautions that guarantee its success physically, psychologically and socially.

First, the characteristics of a wife are defined. The Prophet ﷺ, said, “A

²⁸⁰ *Al-Nisā’* IV: 21.

²⁸¹ Cited by Muslim, on the authority of Jābir.

²⁸² Abū Shuqqah, *op. cit.*, vol. 6, p. 70.

²⁸³ Cited by Abū Dawūd, on the authority of ‘Uqbah ibn ‘Āmir. Obviously, the Prophet did that as the Head of state conferring on it the official character.

woman is sought in marriage for four things: her piety, her descency, wealth, and beauty, just do not miss the pious out.”²⁸⁴ This does not mean we should underestimate beauty, wealth or descency, for he also said, “The best wife is one that pleases you when you look at her,”²⁸⁵ and “God is beautiful and loves beauty!”²⁸⁶ It is rather to stress the priority of piety without which the others lack significance. The Prophet also said, “The best wife you may have is one that is affectionate, fertile, compassionate and acquiescent.”²⁸⁷

Islam, nonetheless, stresses the element of love and the inclination of the heart be taken into consideration. A man came to the Prophet ﷺ, and told him, “We have a maiden [*i.e.* a virgin daughter], and a destitute man and a rich one have both proposed to her. She loves the poor man and we like the rich one.” The Prophet ﷺ, said, “There is nothing better for those in love, like getting married.”²⁸⁸ In speaking of his wife Khadijah, the Mother of the Believers, was known to say, “I was given the gift of her love.”²⁸⁹

Thus, Islam allows a woman the freedom of choice and forbids getting her married without her consent. It also forbids preventing her from marrying someone of whose piety, morals and manners she approves,

²⁸⁴ Cited by al-Bukhārī and Muslim, on the authority of Abū Hurayrah.

²⁸⁵ Cited by al-Tabarānī, on the authority of ‘Abdullāh ibn Salām.

²⁸⁶ Cited by Muslim, on the authority of ‘Abdullāh ibn Salām.

²⁸⁷ Cited by al-Bayhaqī, on the authority of Abū Utaynah.

²⁸⁸ Cited by Ibn Mājah, on the authority of Ibn ‘Umar.

²⁸⁹ Cited by Muslim.

because that is her concern alone; indeed, it is the most intimate of her concerns, and she is entitled to act on it, in the proper way, in accordance with what she believes will guarantee her a settled and affectionate life. The Prophet ﷺ, addresses this point where he says, “A warden of a previously married woman has no say [in the matter] whilst a maiden is asked for her decision. Her silence is to be taken as consent.”²⁹⁰ He also says, “A maiden is asked for a decision about herself. If she maintains silence, she is giving her consent. If she declines, no marriage can take place.”²⁹¹ The idea is that a maiden is asked to give her own decision, and no marriage contract can be made for her before she is consulted and asked to decide. The Prophet also says reflecting this matter: “A previously married woman cannot be given in marriage before she is asked for her permission, and a maiden cannot be given in marriage before she is asked for her decision [*i.e.* before she expresses her consent explicitly].”²⁹² In another version of this *ḥadīth*, ‘Ā’ishah, commenting on what the Prophet ﷺ had said, observed: “A maiden asked for her permission may feel shy.” He said, “Her permission is her silence.”²⁹³ This means that if she feels too shy to express her explicit consent and falls silent but makes no objection, that is taken as

²⁹⁰ Cited by Abū Dawūd and al-Nasā’ī.

²⁹¹ Cited by al-Nasā’ī with a good chain of attribution.

²⁹² Cited by al-Bukhārī, Muslim, and al-Nasā’ī, on the authority of Abū Hurayrah.

²⁹³ Cited by al-Bukhārī, Abū Dawūd, al-Tirmidhī, and others.

consent to proceed with the marriage. Imām Ibn al-Qayyim explains this in the following way: “The father of a competent and rational adult female has no right to deal with the least amount of her money without her consent, and he cannot force her to spend even a small amount of it unwillingly. How then can it be possible for him to dispose of her herself against her will? It is clear that if he spends all her money without her permission, it is not as serious as marrying her to someone she has not chosen.”²⁹⁴ If the father violates his reluctant daughter’s right, she has the choice, whether she has been married before or not, either to acquiesce to her father’s will or, if she so chooses, to have the marriage annulled.

Ibn ‘Abbās is quoted as saying that a maiden approached the Prophet ﷺ, and told him that her father had had her married against her will. The Prophet allowed her to choose for herself [whether to hold to the marriage or not].²⁹⁵ Khansā’ bint Khitāhām of the *ansār* said that her father had her married – it was not her first marriage [another version²⁹⁶ says that she was a virgin at the time] – and she loathed it. She went to God’s Messenger, and he revoked the marriage.”²⁹⁷

Perhaps the first and clearest example in history of what today is called

²⁹⁴ Ibn al-Qayyim: *Zād al-Ma‘ād*, vol. 4, p. 2.

²⁹⁵ Cited by Abū Dawūd .

²⁹⁶ Cited by Ibn ‘Abd al-Barr in *Al-Istrā‘āb*.

²⁹⁷ Cited by Mālik in *Al-Muwat‘a’*.

women empowerment is a story narrated by the Mother of the Believers ‘Ā’ishah that “A girl came to God’s Messenger ﷺ, and said, ‘God’s Messenger, my father made me marry his nephew to raise the nephew from his low social standing, and I was unwilling!’ The Prophet left the decision to her. She said, “Well, I have accepted my father’s action, but I just wanted women to know that fathers have no say in the matter.”²⁹⁸ In fact, a woman may conclude a marriage contract on her own. This is pointed out by the great Imām Shaykh Mahmūd Shaltūt رحمه الله . He said:

If we refer to the Qur’ān on this question, we find that this action is ascribed to the woman herself. Look at the statements of God, Almighty, in verse 50 of the *Sūrat al-Aḥzāb*: ﴿... and any woman believer who offers herself to the Prophet and the Prophet desires to propose marriage to her, this being a favor to you alone and not to other believers...﴾; in verse 230 of the *Sūrat al-Baqarah*: ﴿If he divorce her [i.e. for a third time], she shall not thereafter be lawful for him to remarry before she marries a husband other than him﴾; in verse 230 of the same *Sūrat*: ﴿When you have divorced women and they have reached the end of their waiting-term, do not prevent them from marrying their husbands﴾;

²⁹⁸ Cited by Imām Aḥmad and al-Nasā’ī on the authority of a good chain of attribution.

and in verse 234: ﴿When they have reached the end of their waiting-term, you shall incur no blame in whatever they may do with themselves in a lawful manner﴾.

These indicate quite unambiguously that a woman's marriage or return to her former husband is entirely her own choice, an action to be performed by her, not contingent upon her warden's action. **It makes no sense, nor is it practical in Islamic Law, to make someone's approval a condition for the validity of a certain action and then rule the action invalid when that person performs it himself!** Undoubtedly, the validity of actions requires of the actor only to be sane and of legal age. If a maiden be of legal age and sane, the same as a previously married woman, it is incomprehensible that a marriage could be invalid simply because she has taken the decision herself in concluding a marriage contract. The purposes of a marriage contract mainly concern the woman. It is one of the established principles that such a contract should be concluded by the parties concerned with its essential purposes.”²⁹⁹

Because of the importance of this social institution, Islam orders it to be

²⁹⁹ Shaykh Mahīd Shaltūt: *Al-Qur'ān wa al-Mar'ah*, pp. 12-13.

announced, celebrated, and made an occasion for rejoicing. The Prophet ﷺ, said, “Proclaim and announce a marriage.”³⁰⁰ He urges music and singing to be part of the celebration: “The distinction between licit and illicit [in regard to sexual relationships] is a tambourine and the sound [of song].”³⁰¹ He also said, “A wedding must include a banquet.”³⁰²

‘Ā’ishah, the Mother of the Believers, says that she once carried a bride to a man who was one of the *ansārah* (Supporters). God’s Messenger ﷺ, said to her, “‘Ā’ishah, did you have some entertainment? The *ansārah* like entertainment”³⁰³ A version cited by al-Tabarānī on the authority of Shurayk, said that God’s Messenger ﷺ, said, “Why do you not send with her a maiden to play the tambourine and sing?”³⁰⁴ Al-Hākim quotes ‘Ubaydullāh ibn ‘Umayrah as saying, “I was told this by [‘Abdullāh ibn ‘Umar,] the husband of Durrah bint abī Lahab: ‘God’s Messenger ﷺ, came to me at my and Durrah’s wedding and asked, ‘Is there any entertainment?’” Jābir ibn ‘Abdullāh was asked once about singing, and he said:

A man of the *ansārah* married a relative of ‘Ā’ishah, so ‘Ā’ishah accompanied the bride to Qubā’. The Prophet ﷺ, asked her, “Did

³⁰⁰ *Sahih al-Jāmi‘ al-Saghīr*, 1022.

³⁰¹ Cited by al-Tirmidhī on the authority of a verified chain of attribution.

³⁰² Cited by Ahmād, al-Tabarānī, and Ibn ‘Asākir, on the authority of trustworthy people.

³⁰³ Cited by al-Bukhārī.

³⁰⁴ Mentioned by al-Hāfiz Ibn Hajar in *Fat-h al-Bārī*, I: 133.

you carry the bride home?” She said, “Yes.” “Have you sent with her someone to sing? The *ansāʾ* like that.” She said, “No.” He said, “Then quickly send Arnab to her,” Arnab being a woman of Madīnah who used to sing.³⁰⁵ When ‘Ā’ishah returned from the wedding, the Prophet ﷺ, asked, “What did you say, ‘Ā’ishah?” She said, “We greeted people, prayed for blessings, and left.”³⁰⁶

Her conduct here follows the example of God’s Messenger ﷺ, who set the tradition of praying for the bride and bridegroom to be blessed. Anas states that “the Prophet ﷺ, once detected on ‘Abd al-Rahmān ibn ‘Awf the trace of something yellow [the color of a scent made from saffron and used at weddings]. He asked, “What is that?” ‘Abd al-Rahmān replied, “I have married a woman for a dowry of gold.” The Prophet said, “May God give you His blessing.”³⁰⁷ Abū Hurayrah said that whenever the Prophet congratulated someone who had recently married, he would say, “May God’s blessing be on you and with you, and may He unite the two of you in good deeds.”³⁰⁸

This refined *Sunnah* of the Prophet might also cause some Muslims today to wonder, having heard people who give *fatwas* (legal opinions) and religious talks in the media declaring that music and singing are absolutely

³⁰⁵ Al- Hāfiz Ibn Hajar in *Al-Isābah*, vol. II: *hādīth* no. 10,786.

³⁰⁶ *Fat-h al-Bārī*, *op. cit.*, XI: 133.

³⁰⁷ Cited by al-Bukhārī and Muslim.

³⁰⁸ Cited by al-Tirmidhī.

forbidden. These *hāḍiths*, and many other similar, belie that claim. More explicit is the statement of the Prophet ﷺ: “God listens more attentively to a man with a good voice reciting the Qur’ān loudly than the owner of a songstress listens to her.”³⁰⁹ The Prophet ﷺ, would not use something forbidden for an analogy and, therefore, were singing forbidden he would not have compared the way God, Almighty, listens to a person with a nice voice to the way the owner of a songstress listens to her. The Mother of the Believers ‘Ā’ishah is reported as saying that God’s Messenger ﷺ, left on a journey, and a maiden of Quraysh vowed to play the tambourine in ‘Ā’ishah’s house, if God kept him safe until he returned. When the Prophet returned, the maiden came, and ‘Ā’ishah told him, “This is so - and - so, and she vowed to God that if He kept you safe until you returned, she would play the tambourine in my house.” He said, “Let her play.”³¹⁰ It is common knowledge that “No vow to commit an act of God’s disobedience can be made.”³¹¹ Were playing the tambourine an act of God’s disobedience, the Prophet would have ordered the girl to do penance.

In explaining the reason for the revelation of *Sūrat al-Jumu‘ah* (LXII):

﴿If they see some trade or merriment going on, they will disperse and head

³⁰⁹ Cited by Ibn Mājah and described by al- Hākim as meeting the criteria of al-Bukhārī and Muslim for a verified *hāḍith*.

³¹⁰ Cited by Imām Ahmād and al-Tirmidhī, who said it is verified.

³¹¹ Cited by Muslim and Ibn Mājah.

there, leaving you standing), Imām Muslim said, “God’s Messenger ﷺ, used to deliver the sermon (*khutbah*) standing, sit down, and then rise and deliver the second part of the sermon standing. Girls who were getting married used to pass by, playing a tambourine and reedpipes, and people would sneak away and leave God’s Messenger ﷺ, standing there. God here admonishes them. It is obvious that, in the verse, God connects merriment and commerce in a parallel structure, and when two items are connected together, they are subject to the same ruling. Now, the ruling on commerce, explicitly expressed, is that it is permissible.³¹²

Al-Rubayyi‘ bint Mu‘awwītah said:

God’s Messenger ﷺ, came to visit me the morning after my bridal night. He sat on my bed the way you are sitting now. Maidens started to play on tambourines [another version says, “... and I have two maidens singing and wailing for my ancestors, who were killed on the day of Badr”], until one of them said, “And we have a prophet who knows what will happen tomorrow.” He said, “Leave that and go back to what you were saying before.”³¹³

‘Urwah quotes ‘Ā’ishah (who was his aunt) as saying that Abū Bakr (her father) visited her, during the days of Minā (during pilgrimage), whilst she

³¹² ﴿Do not consume your property among yourselves in vanity, unless it is a trade﴾ (*Al-Nisā’* IV: 29).

³¹³ Cited by al-Bukhārī and al-Tirmidhī.

had two young women singing to the accompaniment of two tambourines. God's Messenger ﷺ, was covered by his gown. Abū Bakr rebuked the girls, but God's Messenger uncovered his face and said, "Let them be, Abū Bakr. These are feast days."³¹⁴

These incidents and others similar give absolute evidence that the Prophet ﷺ, heard singing, tambourines, and reedpipes; listened to them; approved them; rebuked any person who censured them, and even asked for them. Neither in the Qur'ān nor in the *Sunnah* is there a passage which explicitly forbids instrumental music. Al-Juwaynī, Imām of the Two Shrines (*Imām al-Hāramayn*), said: "What is not known to be forbidden with an explicit expression follows the ruling of permission. The reason for that is that no ruling applies to competent and responsible adults without some evidence supporting it. When prohibition has no evidence to support it, it is not possible to admit it.... As for clinging to probabilities when something has to be decided, it is not characteristic of people of highest integrity."³¹⁵

When Abū Usayd al-Sā'idī wed, he invited the Prophet ﷺ, together with a number of his Companions. It was the bride Umm Usayd, who prepared and served the food. She soaked some dates in water in a vessel of

³¹⁴ Cited by al-Bukhārī and Muslim.

³¹⁵ In his book *Al-Ghiyāth*, II: 39, 138.

stone, and when the Prophet had finished his food, she softened the dates and gave him the liquid to drink as a special treat. That is to say the bride herself served the wedding guests. Al-Bukhārī cites this *hādīth* in a chapter under the rubric “When a Woman Attends the Men at a Wedding and Serves Them Herself.”³¹⁶

This rubric that is used by al-Bukhārī might provoke some wonder amongst some Muslims of today, being under the spell of people who are used to giving *fatwas* (legal opinions) and religious talks in the media and proclaim that it is unlawful for men and women to mix together because such action smells of, and invites temptation. This *hādīth*, cited by Imām al-Bukhārī, refutes any such contention. Even more explicit is a statement cited by Imām Ahmād and others, on the authority of Asmā’ bint Yazīd رضي الله عنها. She said:

We were at the house of God’s Messenger ﷺ, and **men and women were seated**. He [the Prophet] said, “Perhaps a man tells others what he does with his wife, and perhaps a woman tells what she does with her husband.” The people there fell silent. Then, I [the narrator] said, “Oh yes, God’s Messenger, they, both men and women, do.” He said, “Do not! Such a thing is similar to a he-

³¹⁶ "The Chapter on Marriage", *Sahīh al-Bukhārī*. The *hādīth* is also cited by Muslim, Abū ‘Awānah, Ibn Mājah, and others.

devil meeting a she-devil on a road and having intercourse with her whilst people are watching!”³¹⁷

These were Companions of God’s Messenger, men and women, sitting together at his house, and this means in one of his rooms, which were small, as can be seen in the case of ‘Ā’ishah’s room, in which the Prophet and his two close Companions are buried. No one claims that it was forbidden for people of the two sexes to meet in his presence. Moreover, he raised at that meeting a very sensitive issue, without any embarrassment, although both men and women were present and was answered by a woman whilst the men kept silent, and he gave his instruction without any reproof or any embarrassment. According to the *h□adīth*, “The best guidance is that of Muh□ammad ﷺ.”³¹⁸ The Arabic *ikhtilāt*□ used to refer to mixing together is never used in this sense in the language of the Qur’ān; rather it signifies “confusion”, “partnership” “rabble,” or “a group of brutes.”

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One of the guarantees of successful marriage is allowing the man to see the woman to whom he proposes. Islam does not endorse the blind choice of a wife. The Prophet ﷺ, told al-Mughīrah ibn Shu‘bah, “Look at her, for that

³¹⁷ The *h□adīth* is supported by another version cited by Ibn abī Shaybah, Abū Dawūd , al-Baihaqi, and Ibn al-Sinnī, on the authority of Abū Hurayrah; a third version cited by al-Bazzār in *Kashf al-Astār*, on the authority of Abū Sa‘īd; and a fourth version in *Al-H□ilyah* (I, 86), on the authority of Salmān. With such attribution, it is a verified, or at least reasonably verified, *h□adīth*.

³¹⁸ Cited by Muslim, on the authority of Jābir.

makes it more likely for harmony to be established between you.”³¹⁹ The likelihood of harmony being established between the couple is sensibly diminished unless the woman also sees her potential life partner and feels reassured in her heart: ﴿They [i.e. women] have, reasonably, as many rights as they have obligations﴾³²⁰. Ishāq el-Shirāzī, author of *al-Muhatat*, articulated this when he said, “When a woman wants to marry a man, it is all right for her to look at him because a woman likes in a man what he likes in her.”³²¹ In fact, since reassurance about the appearance of the prospective partner is one of the factors that encourage a man or a woman to get married, getting to know the personality of that prospective partner closely is highly desirable. As Ibn al-Jawzi put it, “When one has the chance to converse with the woman, let him do so.”³²²

God’s Messenger ﷺ, did not specify when talking to al-Mughīrah ibn Shu‘bah the degree of examination of the woman to whom he proposes but rather left that to be determined by what is acceptable in a given environment. It is known that Islam allows a man to see of a woman only her face, hands, and feet, who is not a close member of his family. More than that is not allowed, for neither decency allows it, nor is it made

³¹⁹ Cited by the five major scholars, excepting Abū Dawūd, on the authority of Al-Mughīrah himself.

³²⁰ *Al-Baqarah* II: 228.

³²¹ *Al-Majmū‘; Sharh al-Muhatat*, vol. 15, p. 295.

³²² As quoted in Al-Safārīnī: *Ghitā’ al-Albāb*.

necessary by living conditions, not to mention the excitement and curiosity that might be aroused and the inappropriate behaviour that might ensue. Islam, however, makes an exception in the case of a marriage proposal. The Prophet ﷺ, said, “When one of you proposes marriage to a woman, should he have the opportunity to see of the woman that which may encourage him to marry her, let him do so.”³²³

Since this is a matter subject to local conditions and therefore, the man who is proposing in our time may see the girl dressed in the same way she does in the presence of her father, brother(s), and other close relatives, without experiencing any embarrassment. He may even take her out, with her father or another close relative, if dressed in accordance with Islamic Law, to any place she is accustomed to visit or any other permissible place, so that he may observe her way of thinking, her personal preference, and other features of her personality, and she may observe the same in him. Such is covered in the term “that which” in the words of the Prophet: “...if he has the opportunity to see of the woman that which may encourage him to marry her....” Since this permission allows the man to look at the woman’s arms and head, it makes more sense to allow him to observe her manners, virtuousness, and tactfulness under certain given conditions. Such

³²³ Cited by Abū Dawūd , on the authority of Jābir.

observation may help to establish harmony between them,” as the Prophet puts it. It should be pointed out, however, that a man proposing marriage is still outside the circle of close relatives, and therefore he should not be alone with the woman under the conditions laid down by Islamic Law for prohibited seclusion. Nor may he kiss or embrace her, whether in private or in front of a member (or members) of her family or anybody else.³²⁴

Islam also recommended the husband and the wife be compatible in age. “Both Abū Bakr and ‘Umar رضي الله عنهما, proposed to marry Fāṭimah, [the Prophet’s daughter]. He said, ‘She is too young’. When ‘Alī رضي الله عنه, proposed to marry her, the Prophet had married them.”³²⁵

Another guarantee seeks to safeguard the health of the couple’s offspring, and this is by asking each to choose his spouse carefully and thereby observe the command of the Prophet ﷺ, “Select for your gametes.”³²⁶ Obviously, addressed to both sexes.³²⁷ Of course, the criteria change according to the expansion of medical knowledge, and all new

³²⁴ Al-Bahiy al-Khūlī: *Islam and contemporary woman*, pp. 55,56.

³²⁵ Cited by al-Nasā’ī, on the authority of Buraydah. Therefore, the *hādīth* cited by al-Nasā’ī on the authority of ‘Ā’ishah that “She was nine years old when God’s Messenger ﷺ married her, and eighteen years old when he died” represents a peculiarity of the Prophet ﷺ that no one can follow his example in it, because he ﷺ refused to marry his daughter Fāṭimah off, due to her too young age.

³²⁶ Cited by Ibn Mājah, al-Daraqutnī, and al-Hākim, on the authority of ‘Ā’ishah.

³²⁷ The word used in Arabic by the Prophet is the plural of *nutḥah*, which is commonly used today to refer to a sperm, but apparently it is used by the Prophet to mean a gamete, as indicated by his answer to a Jewish man who asked, “What is a human being created from?” The Prophet replied, “He is created from both a man’s gamete and a woman’s gamete.” He used, however, the same Arabic word, *nutḥah*, to refer to both the sperm and the ovum. (The *hādīth* is cited by al-Bazzāz, on the authority of chains of attributions, one of which is of trustworthy people.)

methods that guarantee good selection, without any exception, should be employed, including medical tests.

Sexual intimacy of the married couple

Undoubtedly, survival of the human species is one of the main goals of Islamic Law, and this is achieved through reproduction within the framework of legal marriage. Reproduction, then, is an important purpose of marriage, as suggested by the saying of the Prophet ﷺ, “Marry the affectionate and fertile.”³²⁸ But there is another, not less significant if not perhaps even more important, purpose, and that is legitimate sexual gratification in itself.

Islam raises the sexual relationship of a married couple to the rank of an act of devotion (*‘ibādah*), for which the two are rewarded; the Prophet ﷺ, said, “. . . and in one’s sexual intimacy, is an act of civility (*Sādāqah*).” People asked, “God’s Messenger, does the one of us gratify his [sexual] desire and get rewarded for it?” He replied, “Do you not know that should he do it illicitly, he will be accountable for it? Likewise, should he do it legitimately, he will be rewarded.”³²⁹ He also said, “Doing lawful

³²⁸ Cited by al-Nasā’ī and Abū Dawūd, on the authority of Ma‘qil ibn Yasār.

³²⁹ Cited by Muslim, on the authority of Abū Tharr.

[intercourse] is one of the best things you can do.”³³⁰

It is worth remembering that when God, Almighty, ordered Muslims to fast in Ramadan He stipulated that people should refrain from intercourse at night when they go to bed, even for a short while, after they break their fast. Some Companions, however, were unhappy with this prohibition and they cheated, until God addressed Muslims with the verse that says, ﴿It is lawful for you, on the night after fasting, to have recourse to your women. They are as a garment for you, and you are as a garment for them. God knows that you have been deceiving yourselves [i.e. by disobeying God’s order to abstain from sex], and He has absolved and forgiven you. So now approach them and seek what God has ordained for you﴾³³¹. Quite obviously, the Companions did not cheat in order to have children, for that could wait for Ramadan to be over; they did so to gratify their sexual urges and enjoy the pleasure of sex, which is a very strong urge, as confirmed by God’s word: ﴿People fancy desires, including women. . . .﴾³³². Thus, God responded to their need and allowed them to have sexual intercourse on the nights of the fast.

Islam has provided all conditions to ensure the sexual relationship in marriage. Jābir ibn ‘Abdullāh is quoted as saying, “God’s Messenger ﷺ,

³³⁰ Cited by Imām Ahlīmad, on the authority of Abū Kabshah al-Anmārī.

³³¹ *Al-Baqarah* II: 187.

³³² *Āl ‘Imrān* III: 14.

asked me, ‘Have you married?’ I said I had. He said, ‘When you approach [your wife] be very tactful.’³³³ So the Great Educator taught this recently-married young man to be kind, gentle, and patient, and to use an acceptable approach, through foreplay and the like, and to refrain from surprises.³³⁴

Islam seeks to encourage kind treatment. According to a saying of the Prophet, “Every thing that you spend is an act of civility (*Sadaqah*), even a mouthful that you lift to [the mouth of] your wife.”³³⁵ Al-Hafiz Ibn Hajar said, “The Prophet’s practise indicate when something lawful is performed to please God, it counts as an act of devotion (*ibadah*). This is referred to by the Prophet through the most insignificant gesture such as lifting a mouthful to the mouth of one’s wife, for a thing like this occurs only when the couple are playful in mood and jesting with each other³³⁶. Still, if done with the right intention, the one who does it is rewarded. One can only imagine how it must be with actions of infinitely greater significance”

Islam endorses foreplay and arousal before intercourse. The Prophet ﷺ, told people, “None of you should fall upon her [*i.e.* one’s wife] as a camel does. Let there be a courier between you and her.” People asked, “God’s

³³³ Cited by al-Bukhārī and Muslim, on the authority of Jābir.

³³⁴ Abū Shuqqah, *op.cit.*, p. 169.

³³⁵ Cited by al-Bukhārī and Muslim, on the authority of Sa’d ibn abī Waqqās.

³³⁶ Ibn Hajar: *Fat-h al-Bārī*.

Messenger, what courier is that?” He said, “A kiss and some conversation.”³³⁷ The Prophet also ordered the husband and wife to wait each for the other to reach orgasm. He said, “When any of you has intercourse with his woman let him be fair to her. If he get his satisfaction before she does, let him wait for her to get hers.”³³⁸

Similarly, a woman should be given sufficient opportunity to make herself attractive before sexual intimacy, as indicated by a saying of the Prophet narrated by Jābir ibn ‘Abdullāh. He related, “We came back with the Prophet ﷺ, from a military campaign. When we disbanded to go home, he said, ‘Wait until night fall [*i.e.* after the ‘*Ishā*’ prayer] so unkempt women may comb their hair and women left alone by their husbands may depilate themselves.”³³⁹

Islam’s appreciation of the power of sexual desire is demonstrated by the Prophet ﷺ, where he said, “When a man invites his woman to bed, she should respond.”³⁴⁰ Clearly, the opposite also applies; a husband has to fulfill his wife’s desire if she express it, implicitly or explicitly, for God, Almighty, says, ﴿They [*i.e.* women] have as many rights as they have

³³⁷ Cited by Al-Daylamī in *Musnad al-Firdaws*.

³³⁸ Verified by Abū Ya‘lā and Cited by al-Sī‘an‘ānī in *Al-Musannaf*, on the authority of Anas.

³³⁹ Cited by al-Bukhārī and Muslim.

³⁴⁰ Cited by Al-Bazzār, on the authority of Zayd ibn Arqam.

obligations﴾³⁴¹. ‘Umar ibn al-Khatṭāb ؓ, is known to have instructed men to take into consideration their women’s satisfaction, explaining that, “They like for themselves the same that you like for yourselves.”³⁴²

Islam approves of lawful sexual gratification, even if only by preliminary actions, whenever a need arises, and even when one spouse is fasting, or both are, or they are preparing to pray, or the woman is menstruating. ‘Ā’ishah, the Mother of the Believers, said: “God’s Messenger ﷺ, used to kiss [his wives] and have physical contact [with them] whilst he was fasting.”³⁴³ She also related: “God’s Messenger ﷺ, leaned toward me to kiss me, and I said, ‘I am fasting.’ He said, ‘I am too’ and kissed me.”³⁴⁴ Also, “God’s Messenger ﷺ, used to refrain from nothing on my face while he was fasting.”³⁴⁵ Again, “The Prophet ﷺ, kissed one of his wives and then went out to pray without performing ablution.”³⁴⁶ Also, “He ﷺ, used to order the one of us, when she was menstruating, to wrap herself with something [i.e. cover her private parts] and then join him under his quilt.”³⁴⁷ “He ﷺ, also used to have physical contact with me during my

³⁴¹ *Al-Baqarah* II: 228 .

³⁴² Ibn al-Jawzī, *Sīrat ‘Umar*, p. 171.

³⁴³ Cited by Muslim and others.

³⁴⁴ Cited by Imām Ahṡmad with good attribution meeting the criteria of al-Bukhārī.

³⁴⁵ Cited by al-Bukhārī in *Al-Tarīkh al-Kabīr* and al-Nasā’ī in *Al-Sunan al-Kubrā*, with good attribution

³⁴⁶ Cited by Ibn abī Shaybah, Abū Dawūd , al-Tirmidhī, and Ibn Mājah with good attribution meeting the criteria of al-Bukhārī and Muslim.

³⁴⁷ Cited by al-Dārimī and al-Bayhaqī with good attribution meeting the criteria of al-Bukhārī and Muslim.

period.”³⁴⁸

Evidence of the insistence on the lawful gratification of desire is the utterance of God’s Messenger ﷺ: “When any of you sees a woman, let him approach his wife.” Another version of it, “When any of you is attracted by a woman and she finds her way to his heart, let him go to his wife and have intercourse with her.”³⁴⁹

By the way, this saying affords evidence that women during the lifetime of God’s Messenger ﷺ, **did not cover their faces**, otherwise, how could a woman manage to find her way to a man’s heart to that extent. This is further confirmed by the words God addresses to His Prophet when He says, ﴿It is no longer lawful for you to take wives or to replace yours with other women, though their beauty may please you﴾³⁵⁰. How can their beauty please him if he cannot see their faces?” Already quoted above is Qādī ‘Iyād’s statement: “Wives of the Prophet ﷺ, in particular are asked to cover their faces and hands.”³⁵¹ To wear a face cover and gloves that cover the hands is particular to the Mothers of the Believers, and a basic rule that no other women may share with them. They are also prohibited to remarry after the Prophet’s death. God, Almighty, addresses the Mothers of the

³⁴⁸ Cited by Imām Ahmād with good attribution meeting the criteria of al-Bukhārī and Muslim.

³⁴⁹ Cited by Muslim, on the authority of Jābir.

³⁵⁰ *Al-Aḥqāb* XXXIII: 52.

³⁵¹ Quoted by Ibn Hajar in *Fat-h al-Bārī*, vol. XIII, p. 260.

Believers, saying, ﴿Wives of the Prophet, you are unlike any other women﴾³⁵².

This does not imply that covering the face is forbidden, a Muslim woman may wear what she likes as long as it does not transgress the constraints of Islamic Law. She should, however, be aware that by covering her face she exchanges the weightier ruling for the less weighty, from the superior to the inferior, from the worthier to the less worthy. The best guidance is invariably that of Muḥammad ﷺ, and, as indicated by the above quoted verse and tradition, his admonition and his meeting with believing women in different places of assembly show that, other than his own wives, women did not cover their faces.

Verse 53 of the *Sūrat* of *al-Aḥqāb*, read sometimes as making the screen [*ḥijāb*] obligatory, refers exclusively of the household and wives of the Prophet ﷺ, not of the household and wives of Muslims in general. In his *Fatawa*, Ibn Taymiyah said, “The pronoun in the utterance of God, Almighty, ﴿If you ask **them** for anything﴾, refers to the Prophet’s wives.” The same exclusive reference reads in verse 55 of the same *Sūra*: ﴿They commit no offence when they are seen by their fathers, sons, brothers, nephews, women, or such slaves as they own﴾. This verse does not mention

³⁵² *Al-Aḥqāb* XXXIII: 32.

﴿their husbands﴾, as in the case with verse 31 of the *Sūrat* of *al-Nūr*, where women in general are addressed, each of whom has a husband, whilst the Mothers of the believers have but one husband, the Prophet, the reason he is not mentioned.

The developments that preceded making the screen obligatory for the wives of the Prophet ﷺ, lend support to this interpretation. Al-Bukhārī quotes ‘Umar رضي الله عنه, as saying to the Prophet, “How about ordering the Mothers of the Believers to screen.” Ibn Mardawaih quotes Ibn ‘Abbās as saying, “Then ‘Umar said, ‘God’s Messenger, how about using a screen? Your women are not like other women, and that is purer for their hearts.’ Therefore the verse of the screen was revealed.” Al-Bukhārī and Muslim quote Anas as saying, on the occasion of the Prophet’s marriage to the Mother of the Believers, Zaynab, “I wanted to get in, but a screen was drawn across my face. Then God revealed: ﴿Believers, do not enter the Prophet’s dwelling﴾” [unannounced]. In his version Muslim added, “...and the wives of the Prophet ﷺ, were screened.” Al-Bukhārī and Muslim cite ‘Ā’ishah, the Mother of the Believers, referring to the apocryphal (*ifk*) story, “... He used to see me unscreened. I woke up and covered my face with my gown...” Muslim also quotes her as saying, in the context of describing

how her milk uncle visited her, “That was after the screen was ordained for us.” Al-Bukhārī quotes Ibn Jurayj as saying, “‘At□ā’ told us about it when Ibn Hishām prohibited the circumambulation of women along with men, and he asked, ‘How does he prohibit them when the wives of the Prophet ﷺ, circumambulated with men?’ I asked, ‘Was that before or after the screen [was imposed] ?’ He said, ‘Oh, by my life, I only got to know that after [commanding] the screen ...’ Likewise, in *al-T□abaqāt* Ibn Sa’d related that “Abū Usayd al-Sā’idī said, “The wives of God’s Messenger are not seen by any man ... that is, since the screen injunction has been revealed.” Ibn ‘Abbās quotes Asmā’ bint al-Nu‘mān as saying to ‘Umar, “By God, neither has the screen been imposed on me, nor have I been called [a] Mother of the Believers.”

The reports that show how the screen [*h□ijāb*] or face cover [*niqāb*] is specifically required of the Mothers of the Believers are too numerous to be all cited. Had there been anything good about covering one’s face, certainly Fāt□imah, daughter of God’s Messenger and the Lady among the Women of Paradise, would have covered hers. Because she did not, the Prophet ﷺ, invited her to attend the joint supplication session with a delegation of Najrānī Christians, whilst he did not invite his wives, when the following verse was revealed: ﴿Say, ‘Come, let us invite our sons and yours, our

women and yours, and ourselves and yourselves, and supplicate and pray, invoking God's curse upon liars' ³⁵³. In his *Exegesis*, Ibn Kathīr said, "When morning came, God's Messenger ﷺ, came along, wrapping a velvet gown of his around al-Hāsan and al-Husayn, and Fātimah walking behind him, for the mutual cursing, while he had several wives at the time." Evidently, the only thing that kept the Prophet's wives from attending was that they alone were obliged to be clad in the screen. Abū Dawūd quotes God's Messenger as saying to his wives Umm Salamah and Maymūnah, when 'Abdullāh ibn Umm Maktūm entered, "Cover in his presence." Abū Dawūd comments on this, "And that is only for the wives of the Prophet ﷺ". The Prophet himself said to Fātimah bint Qays, "Spend your waiting period at 'Abdullāh ibn Umm Maktūm's; he is a blind man, and you can change your clothes there."

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Now probably it is of interest to mention that the Prophet ﷺ, used to wash himself in the same room together with his wife. The Mother of the Believers 'Ā'ishah said, "I used to take a bath together with God's Messenger ﷺ, from a washbasin between us. Our hands would reach out toward it, but he always got to it before me, and I would say, 'Leave some to

³⁵³ *Āl 'Imrān* III: 61.

me! Leave some to me!’” She adds that on the occasion they were in a state of *janāba*, i.e. major ritual impurity.³⁵⁴

Reinforcing this, the Prophet’s guidance affirms the devotional dimension of this affectionate intimacy of a married couple. An example is the *ḥāḍiṯh*, “When one wants to make love to his wife and he says, ‘In the Name of God. Our Lord, keep us away from the Devil, and keep the Devil away from what you have provided us with,’ and then a child is ordained to be born for them in consequence, the Devil will never harm that child.”³⁵⁵

Abū Wā’il states:

A man came from Bajīlah [tribe] to see ‘Abdullāh [ibn Mas‘ūd]. He said, “I married a virgin maiden, and I am afraid she might loathe me.” ‘Abdullāh said, “Affection is from God, and loathing is from the Devil. Therefore, when you go inside to her, ask her to pray two *rak‘ahs* with you”. “Then,” added ‘Abdullāh, “say: ‘O God, make my wife blessed for me, and make me blessed for her. O God, endow me through her, and her through me. O God, bring

³⁵⁴ Cited by al-Bukhārī and Muslim in their verified collections. Al- Ḥāfiz said in *Fat-h al-Bārī* (I: 290), “Al-Dawūdī took this as evidence on the question of whether it is permissible for a man to look at his wife’s private parts, and *vice versa*. This is supported by a report by Ibn Ḥabbān, on the authority of Sulaymān ibn Mūsā, to the effect that he was asked whether a man could look at his wife’s pudendum. He said, “I asked ‘Ā’ishah, and she mentioned, in her own words, this statement, and it is a reference on this question. As for the statement, attributed to the Mother of the Believers ‘Ā’ishah, who said, “I never saw the private parts of God’s Messenger ﷺ,” it is a false, fabricated statement. It has two other versions, extremely poor in verification. A similar statement says, “When one wants to make love to his wife, he should cover himself and not undress like two wild asses.” It is, as described by al-Nasā’ī and al-Bayhaqī, “an outrageous statement.”

³⁵⁵ Cited by al-Bukhārī and Muslim, on the authority of Ibn ‘Abbās.

us together when you do for a benefit, and keep us apart when you do for a benefit.”³⁵⁶

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Essential factors of a marital relationship include, among others, affection, peacefulness, and compassion: ﴿One of His signs is that He created for you, out of yourselves, mates to live in peace with and established affection and compassion between you﴾³⁵⁷. God says that He created a soul, and also ﴿He created from it its mate to dwell in peace with it﴾³⁵⁸. This relationship is based on the ethical dimension of religion. This dimension manifests itself, in the first place in love and affection; and love is of great importance in Islam. One wonders how God raises a servant of His in status as to allow for a loving relationship to develop between them. He says: ﴿He loves them, and they love Him﴾³⁵⁹. The Prophet ﷺ, said the first sign of a person’s faith is that “He should love God and His Messenger more than anybody else.”³⁶⁰ He also says, ﴿‘If you love God, follow me, and God will love you’﴾³⁶¹. This mutual love, and intimate relationship, which many overlook, is the normal condition of the relationship between a creature and

³⁵⁶ Cited by al-Tābarānī.

³⁵⁷ *Al-Rūm* XXX: 35.

³⁵⁸ *Al-A‘rāf* VII: 189.

³⁵⁹ *Al-Mā‘idah* V: 54.

³⁶⁰ Cited by al-Bukhārī and Muslim, on the authority of Anas.

³⁶¹ *Āl ‘Imrān* IV: 31.

his Creator. For true believers it infiltrates everything; it even sets the norms that distinguish good manners from bad, and high moral standards from lower, which God detests. As a special favour to His servants, particularly those who love Him and follow the light He has revealed, God creates a network of love and affection that embraces them all: ﴿If you were to spend all that is on earth, you could not have so united their hearts, but God has united them﴾³⁶².

“For those who believe and do advantageous deeds, the Lord of Mercy will bestow amicability upon them;”³⁶³ “A similitude of the believers in their mutual affection, sympathy, and compassion is a single body.”³⁶⁴ The mutual love of the married couple is something whose significance many seem unaware.

It is taken for granted for a lover to desire good fortune for his beloved and assist him/her to find it. The best of all fortunes is that of the Hereafter. This is what we are taught by God’s Messenger ﷺ. Thawbān quotes God’s Messenger as saying, “Let each of you have a thankful heart, a tongue always invoking God, and a believing wife who assists him in matters of the

³⁶² *Al-Anfāl* VIII: 63.

³⁶³ *Maryam* XIX: 96.

³⁶⁴ Cited by al-Bukhārī and Muslim, on the authority of al-Nu‘mān ibn Bashīr.

Hereafter.”³⁶⁵

Abū Hurayrah quotes God’s Messenger ﷺ, as saying, “God bestows His mercy upon a man who wakes up at night and prays, he awakens his wife and she prays, and, if she be reluctant, he sprinkles some water on her face. God also bestows His mercy upon a woman who wakes up at night and prays, she awakens her husband and he prays, and, if he be reluctant, she sprinkles some water on his face.”³⁶⁶ This combination of playfulness and worship furnishes a model for the ideal happy life of a married couple, sharing mutual love.

Abū Sa‘īd quotes God’s Messenger ﷺ, as saying, “If a man wake up at night, awakens his wife, and they pray two *rak‘ahs*, they are listed with the men and women who are ever mindful of God.”³⁶⁷

If love and affection is what prevails in the beginning, as the couple mature, the more important bond between them is that of compassion: “... and [God] established affection and compassion between you.”³⁶⁸ It is this compassion that enables each to tolerate the problems and peculiarities of the other, and the trouble of taking care of him or her, when they are at the feeble age.

³⁶⁵ Cited by Imām Ahīmad, al-Tirmidhī, and Ibn Mājah, with verified attribution.

³⁶⁶ Cited by Imām Ahīmad and Abū Dawūd, with verified attribution.

³⁶⁷ Cited by Abū Dawūd, Al-Nasā’ī, and Ibn Mājah, with verified attribution.

³⁶⁸ *Al-Rūm* XXX: 35.

All these concepts are deeply embedded in the bond that unites husband and wife, and the family is itself the basic unit of society. Therefore, when one is unfaithful to his or her spouse, it is no less serious a crime than high treason, the betrayal of one's country, which is why marital infidelity was punishable by the Prophet with capital penalty.

Stability Assurance in the family

To ensure stability in the critical institution of the family God, Almighty, equips us with three guarantors. The first is the recommendation to men to be good in treating women. God, Almighty, says, ﴿Consort with them in a goodly manner﴾³⁶⁹. The Prophet enjoins such treatment in numerous sayings:

- “You are urged to be good to women.”³⁷⁰
- “Fear God in regard to women.”³⁷¹
- “I vehemently warn you against violating the rights of the two vulnerable ones: an orphan and a woman.”³⁷²
- “The best believers are the best mannered, and the best amongst them

³⁶⁹ *Al-Nisā* ' IV: 19.

³⁷⁰ Cited by al-Bukhārī and Muslim, on the authority of Abū Hurayrah.

³⁷¹ Cited by Muslim, on the authority of Jābir.

³⁷² Cited by al- Hākim, on the authority of Abū Hurayrah.

are those who treat their women best.”³⁷³

- “The best of you are those who best treat their women.”³⁷⁴
- “The best of you are those who are best to their wives.”³⁷⁵
- “No one honours women but an honourable man, and no one is mean to them but a mean one.”³⁷⁶
- ‘Umar ibn al-Khat^{tab}āb رضي الله عنه, said, “We, the tribe of Quraysh, used to dominate women, but when we joined the Supporters (*ans^{ār}*), we found people whose women dominated them. Once I shouted at my woman, and she shouted back. I did not like it that she retorted. She said, ‘Why do you dislike me to answer back. Whilst the wives of the Prophet ﷺ, answer him back.’”³⁷⁷

Al-H^{afiz} Ibn H^{ajar} said, “According to the Prophet’s *h^{ad}īths*, being too strict with women is a mode of blameworthy behaviour, as the Prophet ﷺ, copied the style followed by the Supporters (*ans^{ār}*) in dealing with their women and abandoned the style of his own people.”³⁷⁸

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The second guarantor is “the limits laid down by God,” for God has

³⁷³ Cited by Imām Ah^{mad} and al-Tirmith^īhī, who said it has good attribution.

³⁷⁴ Cited by Ibn Mājah, on the authority of ‘Abdullāh ibn ‘Amr ibn al-‘Ās.

³⁷⁵ Cited by al-T^{ah}āwī in *Al-Mushkil*, on the authority of Ibn ‘Abbās; by al-H^{ākim}, who said it is verified, and uses a statement on the authority of ‘Ā’ishah as evidence; by Abū Nu‘aym in *Al-H^{ilyah}*; and by al-Dārimī, with good attribution that meets al-Bukhārī’s criteria.

³⁷⁶ Cited by Ibn ‘Asākir.

³⁷⁷ Cited by al-Bukhārī and Muslim.

³⁷⁸ Imām Ibn H^{ajar} al-‘Asqalānī, *Fat-h^{ah} al-Bārī*, vol. 11, p. 193.

ordained limits that should not be modified or crossed and to which no one should get too close. Verses in the Qur'ān to that effect by God, Almighty, that may be quoted are:

- ﴿Do not lie with them [your wives] while you are intent on your worship in mosques. These are the limits of God, so keep away from them﴾³⁷⁹;
- ﴿That is so in order that you believe in God and his Messenger, and these are the limits set by God﴾³⁸⁰;
- ﴿Those are the limits set by God; do not transgress them﴾³⁸¹;
- And ﴿Those are the limits set by God, and any person who transgresses God's limits wrongs himself﴾³⁸².

So God has set for us the basic lines of demarcation and given us freedom to decide over the details.

The third guarantor that maintains the family is immediate intervention prompted by the fear of something happening to upset the family entity. The Lord of Worlds says, ﴿But if you fear that you will not be able to maintain

³⁷⁹ *Al-Baqarah* II: 187.

³⁸⁰ *Al-Mujādilah* LVIII: 4.

³⁸¹ *Al-Baqarah* II: 229.

³⁸² *Al-Tāalāq* LXV: 1.

fairness between them, then [marry] one only ﴿﴾³⁸³. A mere fear or suspicion, even if only to a small degree, is sufficient, because this is a matter that can not wait until things become certain. God also says, ﴿...unless they both fear not to observe the limits set by God. If you fear they may not observe the limits set by God, they bear no blame for what she redeems herself with﴾³⁸⁴; and ﴿If a woman fear ill-conduct or abandonment from her husband, she will bear no blame if she seeks [mediated] conciliation; conciliation is good﴾³⁸⁵. Likewise He says, ﴿If you fear a discord may take place between them, send an arbiter from his family and another from hers﴾³⁸⁶ ... and many similar verses.

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³⁸³ *Al-Nisā'* IV: 3.

³⁸⁴ *Al-Baqarah* II: 229.

³⁸⁵ *Al-Nisā'* IV: 128.

³⁸⁶ *Ibid.*: 35.

Exceptional situations

All that has been said so far deals with the normal situation of a Muslim family which observes the rules set by God, Almighty, and realises His purpose of establishing, small upright social institutions, to serve as the foundation of a righteous, strong and stable society. However, two exceptional situations call for discussion, for some families may feel the need to resort to one or both of them. Naturally, Islam takes them into account. God knows that human society, regardless of how good it is, is not a society of angels, and that certain circumstances may develop to make that society opt for a stand that falls short of the ideal situation in however a degree. These exceptional situations are (a) polygamy and (b) divorce.

a. Polygamy

It is common knowledge that the normal situation is for one husband to have one wife. This is something that is propounded by the Qur'ān in contexts dealing with God's prophets and other people, as in the following

verses:

- ﴿Adam, dwell, you and your wife, in Paradise﴾;³⁸⁷
- ﴿God gave as an example of the disbelievers the wife of Noah and the wife of Lūt﴾;³⁸⁸
- ﴿God gave as an example of believers the wife of Pharaoh﴾;³⁸⁹
- ﴿‘I want to give you in marriage either of these two daughters of mine’﴾;³⁹⁰
- ﴿‘Imrān’s wife said...﴾;³⁹¹
- ﴿[Zachariah] said: ‘Lord, how can I have a son when old age has already overtaken me and my wife is barren?’﴾;³⁹²
- And ﴿His [Abraham’s] wife, standing nearby, laughed﴾.³⁹³
- Further examples are: ﴿The Governor’s wife said, ‘Now the Truth must appear’﴾;³⁹⁴
- And the reference to Abū Lahab in: ﴿...and his wife, the carrier of

³⁸⁷ *Al-A‘rāf* VII: 19.

³⁸⁸ *Al-Tahīm* LXVI: 10.

³⁸⁹ *Ibid.*: 11.

³⁹⁰ *Al-Qasās* XXVIII: 27.

³⁹¹ *Āl ‘Imrān* III: 35.

³⁹² *Ibid.*: 40.

³⁹³ *Hūd* XI: 71.

³⁹⁴ *Yusuf* XII: 51.

firewood....﴾³⁹⁵

The passage in the Qur'ān understood to allow men to marry more than one wife figures amongst the first verses of the *Sūra* of *al-Nisā'*, where God, Almighty, says, ﴿If you fear not to deal fairly with [female] orphans, you may marry whichever [other] women seem good to you, two, three or four. But if you fear that you will not be able to behave equitably, then [marry] only one ...﴾.³⁹⁶ The granted permission would seem to apply only in a situation where orphans are involved, rather than generally, particularly since the concluding verses of the same *Sūra* lend support to this view: ﴿What has been recited to you earlier in the Book concerns female orphans to whom you fail to give what is ordained for them, though you desire to marry them; and [concerns] the weak amongst children; and that you deal justly with orphans﴾.³⁹⁷

Al-Tabarī³⁹⁸ wrote: "People were afraid of being unfair to orphans, whilst they did not fear being unfair to women. So they are told: 'As you fear not to be fair to orphans, you should fear, in regards to women, not to be fair and marry only one to four wives, no more. If you still fear not to be fair, when you marry more than one, marry only what you are not afraid to

³⁹⁵ *Al-Masad* CXI: 1-3.

³⁹⁶ *Al-Nisā'* IV: 3.

³⁹⁷ *Ibid.*: 127.

³⁹⁸ on the authority of Ibn 'Abbās, Sa'īd ibn Jubayr, Qatadah, al-Suddī, and others.

be fair to: either one or what you own”’. Al-Tābarī opts for this interpretation of the verse, estimating it the most likely.

Amongst the situations in which one should be apprehensive about, is being unfair regarding emotional considerations, such as love, affection, *etc.*, which cannot be subject to any control. Thus one is obliged to avoid marrying a number of wives that may lead to being unjust, or by dealing unfairly between them. This obligation is expressed as quoted by al-Qurtūbī, say in interpreting God’s words: ﴿But if you fear that you will not be able to behave equitably between them, then [marry] only one ...﴾. This interpretation says that the fear is, of being unable to maintain fairness in affection, love, sexual intercourse, intimacy, and giving each wife her share. Therefore, excess in the number of wives that prevents the maintenance of fairness in sharing and in genuine companionship is forbidden, and this is evidence that fairness is an obligation.” What these scholars mean by “affection and love” is the kindness and behaviour which brings pleasure to the heart and which result from these emotions.

The imperative mood used in the Qur’ānic text ﴿marry whichever women seem good to you﴾ expresses guidance rather than injunction such as Imām al-Tābarī wrote, “God’s saying, ﴿But if you fear that you will not be able to behave equitably toward them, then [marry] only one﴾ makes it

clear that, although He says, ﴿marry whichever women seem good to you﴾, in the imperative mood, it is meant to indicate forbidding marriage to a number of women that makes the husband **afraid of** being unfair, rather than indicating an order to marry. For the meaning is that “If you fear not to deal fairly by orphans and feel apprehensive about that, you should feel equally apprehensive about women, and only marry the number that makes you feel reassured of your fairness”.

Several scholars coincide in finding the verse “forbids any excess that leads to departure from fairness”. Al-Tābarī said that it is “meant to indicate prohibition of marrying a number that makes the husband **afraid of** being unfair”.

The passages that deal with polygamy include reference to an economic factor that should be considered in evaluating the circumstances of a man who wants to marry more than one wife. God, Almighty, says, ﴿But if you fear that you will not be able to behave equitably toward them, then [marry] one only, or those whom your right hands possess. That makes it more likely that you will not be impoverished﴾. Al-Fakhr al-Rāzī and others interpret “That makes it more likely that you will not be impoverished” to mean “not to become poor,” for the Arabic word (*ta‘ūlū*) comes from a root that signifies poverty, and another derivative from the same root is used in God’s

words, ﴿And He found you poor (‘ā’ilan) and enriched you﴾.³⁹⁹ For the fewer children a man has the lower his cost of living and the less likely he is to experience poverty. According to this interpretation, when one marries only one wife, he avoids becoming poor as well as being unfair to his wives. Imām al-Shāfi‘ī ؒ, takes it as, “That makes it more likely that you will not be impoverished” to mean “less likely to have too many dependants.”

Al-Kisā’ī abū al-Hāsan ‘Alī ibn Hāzām explains that the Arabic verb used in the verse signifies having many dependants. Abū Hātim states, “Al-Shāfi‘ī was better versed in the language of Arabs than us.”

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Now, if the meaning of the verse, “But if you fear that you will be unjust then [marry] one only...” and as Muslims unanimously agree that injustice is unlawful; God has Himself refrained from it and made it unlawful for His servants, as in the *ḥādīth qudsī*, “My servants I have forbidden injustice on My part and made it forbidden among you, so do not be unjust to each other”⁴⁰⁰, and as the meaning of “fear” in this verse is “suspect”, therefore the meaning of the verse is: if you suspect that you will be unfair. Al-Qurtūbī said, “if you fear” means “if you suspect,” and Ibn ‘Atīyyah says, “That is the meaning accepted by experts, that it is in the

³⁹⁹ *Al-Dūhā* XCIII: 8.

⁴⁰⁰ Cited by Muslim, al-Tirmidhī, and Ibn Mājah.

way of suspecting.” The Qur’ānic verse seeks to forestall the action of someone planning to marry more than one wife, since unfairness – the injustice forbidden by God – is probable. The verse **does not** signify that he should first get married and then see how he feels, so if he suspects he may be unfair, he should change his mind and resort to divorce in order to keep only one wife. Thus, **marriage to more than one wife is banned by this verse if one understands, or suspects, that his inclinations to be unfair will have the better of him.**

As for the other verse – which says, ﴿You will not be able to behave equitably toward women, even if you desire to do but do not turn away [from one] leaving her as in suspense...﴾.⁴⁰¹ – it is clear from the wording that God allows a person who wishes to marry more than one *some*, but not *full*, inclination, or, in other words, allows him *some*, but not *full*, unfairness. God’s actions are based in wisdom and His Law is all good. What, then, is the rationale or the interest that calls for such an amendment? What interest is served when God, Almighty, allows some injustice? Is it to give a wider margin to connoisseurs to gratify their desires? or is it to cater for individuals and nations whose situation is exceptional?

The first is ruled out by Islamic Law; “God does not approve of male or

⁴⁰¹ *Al-Nisā’* IV: 129.

female pleasure seekers” as the Prophet ﷺ, says.⁴⁰² Therefore, the permission must have been made to serve the other purpose.

It is not difficult for a researcher to come up with some special situations that call for permitting a man to marry more than one woman:

- (a) A man who has lived with his wife for a long time waiting in vain for children. It may be even established, that she is sterile. Such a man undoubtedly has a special case, and he is not to be blamed if he seeks what children he is destined to have through another wife. Seeking offspring is legitimate, and having children is desirable and encouraged by Islamic Law.
- (b) A wife might suffer from an incurable disease, and it is not chivalrous of a man to divorce his wife when she urgently needs attention from the family.
- (c) A wife might have a negative disposition which makes her averse to men in general and without any urge to gratify her husband’s desires. Since she has no desire for her husband, it is not unfair to allow him to marry another wife.
- (d) A special situation for nations at large is the number of male casualties at times of war in comparison with women and the need to make up for

⁴⁰² Cited by al-Daylamī and al-Daraqutnī, and quoted by al-Jasās in *Ahkām al-Qur’ān*, vol. 2, p. 132.

the loss in the fields of economy and defense. It is well known that polygamy was the means by which Muslims, in the early days of Islam, made up for the casualties entailed by both internal and external strife. Otherwise, they would might have faced extinction. Moreover, when the number of men is smaller than that of women, unmarried women confront a problem, and if a man be restricted to only one wife, this must result in a surplus of spinsters. The spinsters may work if society cannot support them, but the question is not a question of sustenance alone; there is also involved a natural hunger that cannot be overlooked or long tolerated.

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The first wife, or her warden, may object to the husband's marriage to another woman. God's Messenger ﷺ, is, in this, an example to follow. Al-Bukhārī and Muslim quote al-Miswar ibn Makhramah as saying that

‘Alī proposed marriage to Abū Jahl's daughter at a time when he was already married to Fāṭimah, daughter of God's Messenger ﷺ. Fāṭimah heard of this and went to God's Messenger ﷺ. She said, “People claim that you do not get angry on behalf of your daughters, and here is ‘Alī getting married to Abū Jahl's daughter. God's Messenger rose up, and

she heard him as he testified [that there is no deity other than God, etc.] and said, “Now, I have given [my daughter i.e. Zaynab] to Abū al-‘Ās ibn al-Rabī‘ in marriage, and he spoke to me with sincerity. Fātimah is a part of me, and I hate for her to grieve.”

In another version cited by al-Bukhārī and Muslim he says, “I do not, and I do not, and I do not give my permission, unless [‘Alī] Ibn abī Tālib want to divorce my daughter and marry theirs.” In a third version, also cited by al-Bukhārī and Muslim, he says, “What displeases her displeases me, and what hurts her hurts me.” Consequently, ‘Alī عليه السلام renounced his intention.

Al-Bukhārī cites the second version in the “*Chapter on a Father Standing up for His Daughter in Matters of Jealousy and Fairness*”. Al-Hāfiz Ibn Hajar said, “It can be concluded from al-Bukhārī’s *fiqh*, in his exegesis of this chapter, that the right of a Muslim woman and her family to object to polygamy is established, together with her right to ask for divorce if she be exceedingly jealous and will greatly suffer, and that this is not something peculiar to God’s Messenger ﷺ.”

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b. Divorce

The second exceptional situation is divorce. It is based on the notion that the married couple have made a contract to live together and be intimate in a benevolent manner. If they do, the basic purpose of marriage is realised and they lead a pleasurable life. If, on the other hand, they be averse to each other, have a discordant relationship, feel afraid that they might transgress the limits set by God, and wish to separate, they, like all other parties of a contract, have that option and may decide to break the bond that have brought them together according to the norm prescribed by God.

When a person departs from the norms set by God, he dissociates himself from what proper behaviour requires and the system that provides him with harmony and tranquility. Unless a married couple have a serious reason for separation, to opt to break the bond that have united them is a senseless and frivolous action, not compatible with the wisdom and insight that characterize the norms set by God. Of people who are frivolous and irrational in that manner, God's Messenger ﷺ, said: "What is it with some of you being flippant with God's limits, 'saying I have divorced,' 'I have taken back' "403; and "Is God's Book to be taken in vain whilst I am still in your

⁴⁰³ Cited by Ibn Mājah and Ibn Habbān.

midst?”⁴⁰⁴

Divorce is not as easy and free of consequences as some laymen take it to be. It is a serious matter, and Islam allows it reluctantly, so that no one may resort to it unless there be some pressing need. On this point God’s Messenger ﷺ, said, “The most distasteful to God, Almighty, of all lawful things is divorce,”⁴⁰⁵ and “God has created nothing more distasteful to Him than divorce.”⁴⁰⁶ Let one remember here that God, Almighty, considers separating a married couple an action by the Devil, for He says, ﴿But the devils disbelieved.... so [people] learn from them what they could use to separate a person from his spouse﴾⁴⁰⁷.

Some people are unaware of how serious life is and only experience its superficial aspects and banal exterior. They understand marriage simply as a means to gratify desires and a bond that merely unites two bodies in the same bed. When such a person does not receive what he desires through marriage, he turns away from it, seeking through another marriage to attain his desire. When the novelty of this new marriage diminishes and something new emerges on his horizon, he turns to it, with paying no heed to the bonds he is severing. A man like this thus moves from one marriage to another

⁴⁰⁴ Cited by al-Nasā’ī.

⁴⁰⁵ Cited by Abū Dawūd , Ibn Mājah, and al-Hākim, who said it is verified.

⁴⁰⁶ Cited by al-Daraqutnī.

⁴⁰⁷ *Al-Baqarah* II: 102.

without dignity and for no genuine motive other than physical desire and mere animal pleasure. On this issue, God's Messenger ﷺ, said, "Marry and do not divorce, for God does not like men and women committed to the pursuit of pleasure."⁴⁰⁸

The character of a wife might have some traits which do not appeal to her husband, or her conduct might be faulty in some respects, but, out of esteem for marital life, Islam encourages the husband to tolerate the things he dislikes in his wife. She is, after all, a human being and has elements of good and bad. That is indicated by the instruction of the Prophet ﷺ: "No male believer ought to loathe a female believer. If he dislikes one aspect of her behaviour, he is likely to be satisfied with another."⁴⁰⁹ Thus Islam obstructs the course of a man who is seeking divorce, even when his justification is something that he does not like in his wife's manners or morals. Islam even goes as far as encouraging a husband to keep his wife as to promise him supranatural recompense for his forbearance. God, Almighty, says, ﴿Even if you be averse to them, it may well be that you are averse to something in which God has placed much good﴾⁴¹⁰. Al-Jasāsās said in *Ah-kām al-Qur'ān*, "This shows that it is recommended

⁴⁰⁸ Cited by al-Daylamī and al-Daraqutnī, and on the authority of al-Jasāsās in *Ah-kām al-Qur'ān*, vol. 2, p. 133.

⁴⁰⁹ Cited by Ahmad and Muslim.

⁴¹⁰ *Al-Nisā'* IV: 388.

for the husband to keep his wife, although he is averse to her, because of what God tells us of the great good in keeping her.”

Should marital life become intolerable, the norm set by God is to remedy that through separation. The Prophet ﷺ, said, “Divorce women only for bad temper [*rībah*], for God does not approve of men and women committed to the pursuit of pleasure.”⁴¹¹ Here the word “*rībah*” signifying bad temper is used in the sense of something that causes concern and anxiety,⁴¹² and **not in the sense of suspicion of her behaviour and chastity**. Islam does not permit people to resort to divorce on the grounds of mere suspicion.

In the light of these quotations and the instruction derived from them, many scholars have arrived at the following rulings:

1. When a man declares divorce in anger, this divorce is invalid. By anger, it is meant a momentary rage that weakens a person’s will and power to control himself, leading him to say what he does not mean and decides to do what he does not really intend. Scholars base this on the evidence of a an utterance of the Prophet ﷺ: “No divorce and no

⁴¹¹ Cited by al-Tābarānī and on the authority of al-Qurtūbī in his *Exegesis*, vol. 18, p. 14.

⁴¹² This definition of the Arabic word is given in the *Lisān al-‘Arab* dictionary. The same word, however, is also defined as suspicion; hence the distinction. A word from the same root is used to mean “displease” in the *ḥādīth*, quoted above, that concerns Fātīmah, in which the Prophet says, “What displeases her displeases me.”

emancipation [is valid] in a rage of bad temper.”⁴¹³

In *A‘lām al-Muwaqqi‘īn*, Ibn al-Qayyim said that the Arabic word *ighlāq*, translated here as “a rage of bad temper” [which literally means “closure”] means anger, as Abū Dawūd interprets it in his *Sunan* collection. The word refers to anyone whose ‘road is closed,’ obstructing his purpose and his comprehension, such as someone intricate, insane, in a rage, or angry person. All these operate in a state of closure. Divorce must ensue from a wish to be divorced so it has to be intended by the divorcing person and his purpose should be clear to him. If intention and clarity of purpose be lacking, the divorce declaration is invalid.

2. Divorce is also invalid in the case of a man who says, “I shall divorce (or I commit myself to divorce my wife), if I do, or fail to do, such and such.”

Ibn al-Qayyim⁴¹⁴ said in that “Such is the view of the school of Abū H□anīfah, and a group of scholars of that school advocate it. Al-Qaffāl also adopts it in the case of a person saying, ‘I am committed to divorce my wife.’” The explanation of that ruling is that the statement is made by a person undertaking to divorce his wife in the future if he does, or

⁴¹³ cited by Abū Dawūd and Ibn Mājah, on the authority of ‘Ā’ishah, with good attribution.

⁴¹⁴ Ibn al-Qayyim: *A‘lām al-Muwaqqi‘īn*.

fails to do, such and such a thing. The ruling on divorce, however, is that it takes place when a man declares it, but not if he declares it in advance. Ibn al-Qayyim added, “It is as if he said, ‘I will have to divorce you.’ But even should he put it so explicitly, the divorce is not unanimously ruled as valid.”

3. If a man says to his wife, “You are divorced if you speak to so – and - so,” or “if you go out of the house,” and then the wife does speak to the person specified or does go out of the house without his permission, the divorce does not take place. Ibn al-Qayyim quotes some Shafi‘ī scholars to this effect and said, “This is exactly the right ruling, particularly according to the standards of Mālik and Ahl al-Ḥanbalī.”
4. A divorce oath (swearing to divorce one’s wife) is void and the divorce is invalid. Moreover, no atonement (*kaffarah*) is required for breaking such an oath. Again, Ibn al-Qayyim said⁴¹⁵, “This is the view of a multitude of early and later scholars. It is verified as the view of Prince of Believers ‘Alī ibn abī Tālib عليه السلام. Some *fiqh* scholars of the Mālikī school and the Zāhirī school say, ‘No Companion of the Prophet is known to differ from ‘Alī on this’ This is the wording of Abū al-Qāsim

⁴¹⁵ *Ibid.*

al-Yamanī⁴¹⁶. It was earlier stated by Abū Muḥammad Ibn Hāzīm, and it is verified to be held by Thāwūs, the most venerated and learned companion of Ibn ‘Abbās رضي الله عنه.

In *Al-Musannaf*, ‘Abd al-Razzāq quotes Ibn Jurayj, who in turn quoted Thāwūs’s son as saying that his father used to declare that “a divorce oath is nothing.” ‘Abd al-Razzāq commented, “This is a report of the opinion of one of the most venerated and learned second-generation scholars. He is supported by more than 400 scholars who have based their ruling on the texts of the Book and *Sunnah*, without resorting to *qiyās* (analogical inference). Amongst the most recent of these is Abū Muḥammad Ibn Hāzīm.”

Some scholars, however, are of the opinion that a divorce oath is not void, but rather a legitimate oath, but nevertheless divorce cannot be effected this way. If the person making the oath breaks it, he has only to atone for it, and the atonement (*kaffarah*) is “...the feeding of ten needy persons with what you, on the average, give to your own families; clothing them; or the emancipation of a slave. He who cannot afford any of these should fast three days instead.”⁴¹⁷ The atonement has nothing to do with divorce, for whether the person in question atones or not for his oath, no divorce takes

⁴¹⁶ *Sharḥ Ahkām ‘Abd al-Hāqq*

⁴¹⁷ *Al-Mā'idah* V: 89.

place.

Islam makes marital life too firmly rooted to be influenced by insignificant, temporary occurrences and too important to collapse in consequence of an oath rashly uttered, in the street, in his shop, or at any other location, causing the wife – whilst she is at home with her children – to be divorced from him, as if she were a thing of no account to be discarded for the most trivial reason or even for no justification at all.

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When, then, does divorce take place, but regarded as void?

Islam lays down very clear rules:

1. A woman may not be divorced whilst in a state of menstruation, and
2. she may not be divorced in a state of ritual purity, that is the phase between two menstruations if she and her husband have had sexual intercourse during that period. The basis of this is the utterance of God, Almighty: ﴿O Prophet [and you believers], if you divorce women, divorce them at the end of their prescribed periods﴾⁴¹⁸. An interpretation of this is given by God's Messenger ﷺ, in an incident that involved 'Abdullāh ibn 'Umar رضي الله عنهما. 'Abdullāh divorced his wife whilst in her menstruation period, and 'Umar told the Messenger

⁴¹⁸ *Al-Talāq* LXV: 1.

about it. The Prophet was annoyed and said, “Command him to take her back until she ends her period, go into another period, and end the second period. If he decides to divorce her whilst she is in a state of purity and before he touches her, that is the period prescribed by God for divorcing women [when He says, ﴿Divorce them at the end of their prescribed periods﴾], and it counts as one only.”⁴¹⁹ By saying “it counts as one only,” the Prophet means the divorce that is taking place at the period after the end of the second menstruation is one incidence of divorce.

Al-Sān‘ānī⁴²⁰ said, “The words of the Prophet ﷺ, ‘until she end her period, go into another period, and end the second period,’ are evidence that one does not divorce his wife until she be free from her second, not her first, menstruation period.”

By *prescribed period*, then, is meant *the period of ritual purity during which she has had no sexual intercourse*. Thus, the meaning of “divorce them at the end of their prescribed periods” is that divorce should take place in that period as defined here.

This prescription has a multi-sided rationale. What concerns us here, is that, it postpones divorce for a period of time, allowing for the occurrence of

⁴¹⁹ Cited by all scholars, other than al-Tirmidhī.

⁴²⁰ In *Subul al-Salām*.

elements of conciliation not anticipated by those who thought no conciliation was possible. In most cases, a woman alternates between two conditions, menstruation and purity. If the husband divorces his wife whilst she is menstruating, it is unlawful, and if he divorces her in a phase of ritual purity during which he has had sexual intercourse with her, this likewise is unlawful. Before he divorces, he has to wait a full cycle and then a full menstruation period, the total of which is usually not less, if not more, than a month. During this period, events, considerations, and/or emotions might cause the husband to change his mind and forego his intention. It is for a certain purpose that God concludes the verse in question by saying, ﴿You do not know, God may bring about something after that﴾.

One thing that God is likely to bring about is, that when a man desires to divorce his wife, but has to refrain from doing so until she be in a state of purity, in which divorce is lawful, he may have to wait much longer, because his wife might turn out to be pregnant. Once he discovers she bears his child, he might be obliged to change his mind about divorce. If he does divorce her whilst he is aware that she is pregnant, he must have amassed enough considerations to make him prefer that alternative, in spite of the religious and social objections involved.

Now, if divorcing one's wife whilst she is in menses or in a state of

ritual purity during which the husband has had intercourse with her, ignorant of whether she have conceived or not, is unlawful, is such divorce valid or not?

The right answer is that it is invalid and does not go into effect on the basis of a *hādīth* cited by Imām Ah̄mad, Abū Dawūd, and al-Nasā'ī: “‘Abdullāh ibn ‘Umar divorced his wife whilst in her menstruation period. He said, ‘God’s Messenger ﷺ, made me take her back, and did not see anything in it, [that is, *he regarded the divorce as if it did not occur at all*] ”.

Moreover, since God forbids divorce during menstruation or a period of purity in which sexual intercourse has taken place, such a divorce then is neither commanded nor allowed by God, and such a thing is null and void. The Prophet ﷺ, said, “When a person performs an action contrary to our norms, it is null and void.”⁴²¹

When a husband persists in his wish to divorce his wife, after all the considerations cited above, how does he go about it? God, Almighty, says, ﴿Divorce may be [enacted] twice, whereupon a wife may either be retained in fairness or released with kindness﴾⁴²².

The meaning is that in Islamic Law divorce is allowed only two times,

⁴²¹ Cited by Muslim, on the authority of ‘Ā’ishah.

⁴²² *Al-Baqarah* II: 229.

done separately, because the Qur’ān means once at a time, rather than together at one and the same time. Thus the divorce after which a man can take his wife back can be affected on two distinct occasions. Scholars assert that this is the interpretation of ten of the Companions of the Prophet⁴²³. Consequently, a **“triple divorce” counts as only one divorce**. Ibn ‘Abbās is quoted as having said,

Rukānah ibn ‘Abd Yazīd ... divorced his wife three times in one session. Then, he felt very sad about her. [When told about it] God’s Messenger ﷺ, asked him, “How did you divorce her?” He said, “I divorced her three times.” The Prophet asked, “In the same sitting?” He said, “Yes.” The Prophet said, “That is then a simple divorce. Take her back if you wish.” So he took her back.⁴²⁴

On the point of forbidding a triple-divorce at once, Al-Nasā’ī quoted Mahīmūd ibn Labīd رضي الله عنه, as saying, “The Prophet ﷺ, was told that a man divorced his wife three times at once, so the Prophet stood up in anger and said, ‘Is God’s Book to be taken frivolously whilst I am still in your midst?’”

If a husband divorce his wife once in accordance with God’s instruction, God, Almighty, prescribes a waiting period for the woman called

⁴²³ Those are: ‘Umar, ‘Uthmān, ‘Alī, ‘Abdullāh ibn Mas‘ūd, ‘Abdullāh ibn al-‘Abbās, ‘Abdullāh ibn ‘Umar, ‘Umrān ibn al-Hāṣṣ, Abū Mūsa al-Ash‘arī, Abū al-Dardā’, Hutḥayfah.

⁴²⁴ Cited by Imām Ahmad ibn Hanbal in his *Musnad*, no. 2387, vol. 1, p. 365, with good attribution.

‘iddah in Islamic jurisprudence (*fiqh*). It is a “period of transition” for the wife to move from the marital life she has been living to a new life.

A divorced woman could fall within one of the following four categories:

1. A woman divorced before the marriage consummated. For such a divorcee, no waiting period is required. God, Almighty, says, ﴿Male believers, if you marry women believers and then divorce them before you touch them, you have no right to expect them to keep a waiting period that you calculate﴾⁴²⁵.
2. A woman who, either because of advanced age or some other reason, has not had a monthly period for so long that she no longer expects it, or a woman who, being too young or for some other reason, has had no period. The waiting period for such a woman is three months. God, Almighty, says, ﴿Those of your women who have ceased to menstruate, if you have any doubts, their waiting period is three months, and also those who have not yet menstruated.﴾⁴²⁶
3. A woman who does menstruate. The waiting period for such a woman is three menstruation periods or three periods of ritual purity, for there are different interpretations of God’s stipulation: ﴿Divorced women

⁴²⁵ *Al-Ahḥāz* XXXIII: 49.

⁴²⁶ *Al-Talāq* LXV: 4.

shall wait, by themselves, for three monthly courses﴾⁴²⁷. The phrase “monthly courses” has been taken to mean menstruation periods but also to mean purity periods.

4. A woman who is pregnant. The waiting period in this case lasts until delivery. God says, ﴿As for pregnant women, it is until they deliver their children.﴾⁴²⁸

These rules illustrate that the period of waiting is not short; rather it is sufficiently long to allocate for a change of heart, that call for taking back the divorced wife. This is one of the reasons for prescribing a waiting period. In her waiting period a woman is no longer a wife; but, at the same time, she is not irrevocably foreigner to her former husband, she is in an intermediate state. She continues to live in the marital home, and the husband who is divorcing her cannot make her leave so long as the waiting period lasts. God, Almighty, says, ﴿O Prophet [and you believers], if you divorce women, divorce them at the end of their prescribed periods. Compute the waiting period, and fear God. Do not drive them out of **their houses**﴾⁴²⁹. Undoubtedly, her staying on in the marital home in proximity to the husband may be a factor in restoring former conditions.

⁴²⁷ *Al-Baqarah* II: 228.

⁴²⁸ *Al-Talāq* LXV: 4.

⁴²⁹ *Ibid.*: 1.

A woman in this condition may wear adornment before her “former” husband and use whatever clothes, jewellery, and perfume she likes. This might help in restoring the lost intimacy. The husband may regain his common sense and hold to the marriage contract he has begun to tear. Thus, he takes his wife back in accordance with the divine utterance, ﴿Their husbands are entitled to take them back if they wish to put things right﴾⁴³⁰. Such resumption of marriage has to be witnessed by two upright witnesses, for God, Almighty, says, ﴿Call two just witnesses from among you﴾⁴³¹.

Once the waiting period comes to an end without the marriage being restored, these rules no longer apply, and the former wife becomes foreigner to her husband, like any other woman, and he foreigner to her, like any other man. He is permitted to remarry her, but only after a new proposal followed by a new contract. She is entitled to accept or reject, as she pleases.

If a husband takes back his wife during her waiting period and marital life is restored, and elements of anxiety recur in their life, all the preliminaries and rules of divorce already mentioned apply again. If the husband divorces his wife again and she goes into a waiting period for the second time, he has the right to take her back once more in the prescribed

⁴³⁰ *Al-Baqarah* II: 228.

⁴³¹ *Al-Talāq* LXV: 2.

manner.

When a husband takes back his wife during her waiting period, he should be aware that he has used up the two times prescribed in God's words, "Divorce may be [enacted] twice, whereupon a wife may either be retained with righteousness or released with gracefulness." He should also be aware that a major separation between him and his wife takes place should he divorce her for a third time. Therefore he either has to maintain a good relationship with her if he desire to keep their marital intimacy or to release her with gracefulness.

In interpreting God's words, ﴿A wife may either be retained with righteousness or released with gracefulness﴾, Imām Ibn Kathīr quotes Ibn 'Abbās رضي الله عنه, as saying, "If a husband divorce his wife twice, he should be more fearful of God the third time, so he either retains her with righteousness, being a good companion to her, or otherwise he should release her with gracefulness and not deny her any of her rights."

What is remarkable about the verses on divorce, is the emphasis on the aesthetic dimension, allowing beauty, grace or gracefulness, and righteousness (which, as the Arabic root indicates, means what is agreed upon by sound instincts to be righteous):

- ﴿Provide well for them, and release them in a pleasant manner﴾⁴³²;
- ﴿Either retain them with righteousness or let them go with righteousness﴾⁴³³;
- ﴿A wife may either be retained in righteousness or released with gracefulness﴾⁴³⁴.

It is significant that the Qur'ān mentions “retaining” before “separation,” implying that it is the choice most pleasing God, Almighty. The Arabic word for “retaining” does not merely mean “keeping”, but rather “strongly clinging to”, That it is to stay, ﴿Cling to your wife﴾⁴³⁵. The Arabic implies monopolisation and reluctance to forfeit. To “retain with righteousness” means with the intention to start a new life with one’s wife and overlook the past, and to refrain from using the past to reproach one’s wife. Righteousness in such situations is not sufficient, one should aspire to the superior plane of gracefulness, that is to disdain and rise above anything that is not grace (*i.e* beautiful) in conversation and dealing.⁴³⁶

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⁴³² *Al-Ahḥāzib* XXXIII: 49.

⁴³³ *Al-Baqarah* II: 231; *Al-Talāq* LXV: 2.

⁴³⁴ *Al-Baqarah* II: 229.

⁴³⁵ *Al-Ahḥāzib* XXXIII: 37.

⁴³⁶ Dr. Mustafa Binḥamzah, *Al-Mahajjah Weekly*, vol. 261 (2006).

c. Discarding (*khul'*)

If a husband in the case of discord, and the inability to maintain intimacy, chooses to exercise his “right to divorce,” his wife has a parallel right, which jurists call the “right to discard.” It derives from the Divine Book: “If you fear they may not observe the limits set by God, they bear no blame for what she ransoms herself with,”⁴³⁷ as also from the Prophet’s *Sunnah*, for he said to Thābit ibn Qays’s wife, “Would you give him back his orchard.” She said, “Yes!” He, addressing her husband, said, “Take the orchard, and divorce her once.”⁴³⁸

As previously observed, (pp. 82-83) a man, at the conclusion of the marriage contract, offers the woman, as a symbolic gesture, the *mahr* (dowry), symbolising his undertaking the responsibility of charge-taking (*qiwāmah*). As also previously observed, this gesture can be nullified by another symbolic gesture on the part of the wife, if later she dislikes her life with her husband; she returns to him what he has given as a gesture of his commitment, and her action is known as *al-khul'* (discarding, or divorce by the wife), which signifies that she is relieving him of the commitment of taking charge and rejecting his care and responsibility for her.

⁴³⁷ *Al-Baqarah* II: 229. In both cases the pronoun "they" in the verse refers to the married couple.

⁴³⁸ Cited by Al-Bukhārī, on the authority of Ibn ‘Abbās.

It should be noted that the idioms used to signify separation are all related to the “solemn covenant” that ties the couple when they consent to get married. The covenant itself is that secure tie, and the word is a derivation from another that means the shackles that are used to restrain a prisoner, as in the word of God, Almighty: ﴿Then secure their shackles (*fa-shuddū al-wathāq*)﴾⁴³⁹, and, ﴿.... he has grasped the most secure bond handhold (*istamsaka bil-‘urwati al-wuthqa*)﴾⁴⁴⁰. An old Arab proverb says, “A person who marries is a free person accepting imprisonment.” Marriage, then, is that secure bond that ties the couple to each other, as prisoners are tied. It is, however, a lovely kind of imprisonment, because it is normally a bond that does not break, and also because the relationship that binds a spouse to another is like that of clothes on the body, with all the closeness, intimacy, and warmth involved.

The expression that refers to an abnormal breaking of the bond uses the same wording as releasing a prisoner or taking off one’s clothes. That is why divorce in Arabic is called *tā‘alāq*, a word derived from the same as means “to free,” since both spouses become “free,” after they have voluntarily accepted imprisonment.⁴⁴¹ The separation is also called *khul‘*

⁴³⁹ *Muhāmmad* XLVII: 4.

⁴⁴⁰ *Al-Baqarah* II: 256; *Luqmān* XXXI: 22.

⁴⁴¹ The Arabic word for “family” (*usrah*) come from the same root as that for imprisonment, probably the same that is intended in referring to the bond of marriage, which binds family members to each other

(discarding), because the Qur’ān uses the word for garments when God says, ﴿They [your wives] are as garments to you, as you are to them﴾⁴⁴². When a wife “ransoms” herself,⁴⁴³ *i.e.* seeks release of what she has voluntarily tied herself to earlier, before the onset of discord that makes communication impossible, it is as if each spouse were discarding the other. In a statement of ‘Umar, a woman is said to have conducted herself with her husband in an unacceptable manner, and ‘Umar told him, “Discard her”, that is to say, “Divorce her”.

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⁴⁴² *Al-Baqarah* II: 187.

⁴⁴³ As in the words of God, the Most Sublime, ﴿And we ransomed him with a great sacrifice animal﴾ (*al-Sāfāt*, XXXVII: 107). The Arabic word for “ransom” is defined as what a person offers to save himself from something terrible or to avoid something unacceptable.

Postlogue

This relationship and bond between husband and wife – bearing in mind that the discourse in the Qur’ān and Prophetical *ḥadīth*, unless there be evidence to the contrary, addresses both sexes equally – should be our guide in our endeavour to determine the status of women in Islam, their rôle in the family and in society, in their capacity to enjoin the righteous and embargo the reprehensible: ﴿Male and female believers are charge-takers of each other; they enjoin the righteous and embargo the reprehensible﴾⁴⁴⁴. How can the political rôle of women best be realised? How does Islam provide women with economic independence from men, allow a woman independent finances, and make what she earns hers alone? The Qur’ān says: ﴿Men are entitled to a share of what they earn, and women are similarly entitled﴾⁴⁴⁵, and ﴿Men are entitled to a share of what parents and close family members leave, and women are similarly entitled, be it little or much; it is an obligatory share﴾⁴⁴⁶. This permanent equality, which we realise in general principles, and which may differ sometimes in details for the purpose of achieving equitable equality, is something that allows us to consider carefully and at leisure. Through it, we should identify these wonderful and

⁴⁴⁴ *Al-Tawbah* IX: 71.

⁴⁴⁵ *Al-Nisā’* IV: 32.

⁴⁴⁶ *Al-Nisā’* IV: 7.

profound meanings which bring good to humanity, in its better and worse conditions, and in its sweet and bitter hours.

It is God alone Who guides people to the right course, and peace and God's mercy and blessings be upon you all.

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