

# The Status of Women in Islam: by Yusuf al-Qaradawi

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## **Translator's Note**

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We realise the importance of this book in dispelling some of the misconceptions of Islam, and in spreading a religion on Earth which can solve or allay the adversities which abound. With books such as The Status of Women in Islam, it is hoped the recognition of Islam as a mercy to mankind becomes apparent.

The Status of Women in Islam is hoped to be one of many to be put forth on this subject of the continual discovery of women, their abilities, and the solace they provide. The case of woman and their special place in the order of Allah has been undermined throughout the world and I might add, history. The plight of the fairer sex in the West, where widespread exploitation exists, in the East, where their value is distortedly depreciated and sadly, I must admit in the Arab world where people do not follow their religion, is indeed tragic. Women are the underpinnings of future generations and must be treated as such.

Islam, the mercy of Allah, is for all of mankind and makes no preference to sex. Men and women have a calling and a place in nature. Neither has a greater value, nor is one of greater importance. Both are subject to Divine Retribution which is equal for the capacity of each. The Quran expounds upon this in multiple verses and exists as an illuminating miracle for those who reflect.

I hope there is no confusion with my use the terms of God, Who is Allah, The One, The Almighty, The Everlasting, The Provider and the other ninety-nine names of Allah which should be ceaselessly reflected upon for inspiration and guidance.

I especially wish to thank Dr. Mohammed Tolba, Dr. Elham Fathy, Alicia Daniel, and Afiwine Mischler for their invaluable assistance in the preparation of this book.

Sheikh Mohammed Gemeaah

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## **Introduction**

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In the name of Allah, Most Gracious, Most Merciful, praise be to Allah, blessings and greetings be on His Messenger and his family, his Companions and whoever flows his guidance. It is common talk that women constitute half the society and that the society should not neglect them, leave them idle, maltreat them nor dissolve their rights.

This is all true. It may as well be argued that although women constitute half of the population, their influence exceeds their number, since women, for good or ill, influence their husbands and children. The poet Hafiz Ibrahim struck this note when he described the woman as a whole school, the sound management of which leads to the production of a noble society.

For these reasons scientists, thinkers, leaders, reformers, preachers and educators have all shown interest in the case of the woman. They have called for doing her justice, treating her with respect and for the abolition of forms of unfairness and repression towards her so that she can have her rightful access to learning, work, responsibility and choice in marriage. Some did not find this enough; they wanted to give her the right of sexual permissiveness, homosexuality, unrestricted abortion, rebellion against the family, and disregard of values of religion and society.

These were some of the aims the International Conference on Women in Peking 1995 impelled. It has provoked a lot of controversy in the Islamic and even Christian worlds. We Muslims have a divine document that truly honours women and treats her with justice; it is a document that rescued her from the gloomy injustice of Pre-Islamic darkness. This document of The Noble Qur'an-honours the woman as a human being, as a feminine being, as a daughter, wife, mother and, no less, as a full member of her society. True, some Muslims have wronged women in different ages by depriving her of her right to solid religious knowledge and her right to work. They have even forbidden her from going to the mosque for worship or learning, compelled her to marry someone she did not like and confined her to her home. But this has happened in the absence of any sound religious awareness. Nor did it prevail everywhere; there have always been Muslims willing to reject this, something we have seen happening in rural areas.

Islam's true stance on the status of the woman is what this small treatise seeks to make clear. Although the issues relating to women and the family are dealt with in some of our previous books, particularly *The Lawful and the Prohibited in Islam (Al-Halal wal-Haram fil Islam)* and *Contemporary Legal Opinions (Fataawa Muserah)*, the reader may find in these pages a light that guides the way to knowledge of the correct opinions on this critical issue, between harsh austerity and excessive indulgence. "And my guidance cannot come except from Allah, and in Him I have put my trust and unto Him I repent." [Surah 11:88]

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## The Woman as Human Being

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Islam was revealed at a time when a lot of people denied the humanity of the woman; some were sceptical about it; and still others admitted it, yet considered the woman a thing created for the humble service of the man.

With the advent of Islam, circumstances improved for the woman. The woman's dignity and humanity were restored. Islam confirmed her capacity to carry out Allah's commands, her responsibilities and observation of the commands that lead to heaven. Islam considered the woman as a worthy human being, with a share in humanity equal to that of the man. Both are two branches of a single tree and two children from the same father, Adam, and mother, Eve. Their single origin, their general human traits, their responsibility for the observation of religious duties with the consequent reward or punishment, and the unity of their destiny all bear witness to their equality from the Islamic point of view.

Establishing this fact, the Noble Qur'an says: " O mankind! Be dutiful to your Lord, Who created you from a single person (Adam) and from him (Adam) He created his wife (Eve), and from them both He created many men and women and fear Allah through Whom you demand your mutual (rights), and (do not cut the relations of) the wombs (kinship). Surely, Allah is Ever an All-Watcher over you. " [ Surah 4:1] That people all people men and women, were created by their Lord from a single person or self, that this self is a nucleus from which Allah created an integral counterpart that completes this original self and is completed by it, is stated in another verse: " It is He Who has created you from a single person (Adam), and (then) He has created from him his wife (Eve), in order that he might enjoy the pleasure of living with her." [ Surah 7:189] Eventually Allah, out of this nuclear pair, scattered the multitudes of men and women, all worshippers of a single God and children of the same parents implying they are united in a fraternity,

embracing men and women alike. Because of this fact, the verse commands people to fear Allah as their Lord and be heedful of the duties that the wombs, as symbolic of this bond, impose.

The man on this account is a brother to the woman and the woman is the other half of the pair. The Messenger (blessings and peace be upon him) says, "Women are the sisters of men." [ Transmitted on the authority of Aisha by Ahmad (6/256); Abu Dawud (236); Al-Termithy (113); Al-Doram(1/195) and others.]The Qur'an, on its part, treats this issue of fraternal equality from more than one perspective. On the purely religious level for instance, the Qur'an says: "Verily, the Muslims (those who submit to Allah in Islam) men and women, the believers men and women (who believe in Islamic Monotheism), the men and the women who are obedient (to Allah), the men and women who are truthful (in their speech and deeds), the men and the women who are patient (in performing all the duties which Allah has ordered and in abstaining from all that Allah has forbidden), the men and the women who are humble (before their Lord - Allah), the men and the women who give Sadaqat, (i.e. Zakat, and alms, etc.), the men and the women who fast (the obligatory fasting during the month of Ramadan and the optional Nawafil fasting), the men and women who guard their chastity(from illegal sexual acts) and the men and women who remember Allah muchwith their hearts and tongues (while sitting, standing, lying, etc. for more than 300 times extra over the remembrance of Allak during the five compulsory congregational prayers or praying extra additional Nawafil prayers of night in the last part of night etc.) Allah has prepared for them forgiveness and a great reward (i.e. Paradise). [ Surah 33:35]

On the basic social and religious responsibilities, the Qur'an establishes equality by maintaining: "The believers, men and women, are "Awliy," (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) Al-Ma`ruf (i.e. Islamic Monotheism and all that Islam orders one to do);and forbid (people) from Al-Munkar (i.e. polytheism and disbelief of all kinds, and all that Islam has forbidden); they offer their prayers perfectly (Iqamat-as-Salat), and give the Zakat and obey Allah and His Messenger. Allah will have mercy on them. [ Surah 9:71]

In Adam's story, Divine Orders were made to him and his wife, both and equally: "O Adam! Dwell you and your wife in the Paradise and eat both of you freely with pleasure and delight of things therein as wherever you will, but come not near this tree or you both will be of the Zalim'n (wrongdoers). [ Surah 2:35] What is new, however, about this story as given by the Qur'an is that the temptation is blamed not on Eve but on Satan: "Then the Satan made them slip therefrom(the Paradise), and got them out from that in which they were. [ Surah 2:36] - the reverse of The Old Testament versions. Thus Eve was neither the sole eater from the tree, nor the one who initiated the act. Rather, the mistake was theirs both, and both of them repented and asked for forgiveness: "They said, "Our Lord! We have wronged ourselves. If You forgive us not, and bestow not upon us Your Mercy, we shall be losers". [ Surah 7:23]

Further still, some verses ascribe the trespass to Adam: "And indeed We made a covenant with Adam before, but he forgot, and We found on his part no firm will-power." [ Surah 20:115] And "Then Satan whispered to him saying, "O Adam! Shall I lead you to the Tree of Eternity and to a kingdom that will never waste away?" [ Surah 20:120] and till "Thus did Adam disobey his Lord, so he went astray." [ Surah 20:121]

This implies that Adam was the one who trespassed first and was followed by his woman. Whatever the case may be, even accepting that Eve did commit a trespass, she, alone, would be responsible without any transmission of accountability to her daughters.

On the question of equality of punishment and reward and eligibility for Paradise, The Almighty says: "That was a nation who has passed away. They shall receive the reward of what they earned and you of what you earn. And you will not be asked of what they used to do. [ Surah 2:134 and 2:141] Concerning the equality of men and women in receiving rewards and the entry of paradise, God says: " So their Lord accepted of them (their supplication and answered them), "Never will I allow to be lost the work of any of you, be he male or female." [ Surah 3:195] and Whoever works righteousness, whether male or female, while he (or she) is a true believer (of Islamic Monotheism) verily, to him We will give a good life (in this

world with respect, contentment and lawful provision), and We shall pay them certainly a reward in proportion to the best of what they used to do (i.e. Paradise in the Hereafter). [ Surah 16:97]

When it comes to financial matters, the rule of Islam abolished the conventions prevalent among many nations which deprived the woman of the right of ownership, inheritance, and those which created obstacles against her exercise of free and full control of her holdings. As a rule, Islam acknowledges the woman's rights to all kinds of ownership, spending and channelling of her money. It gives her the rights of inheritance, selling, buying, renting, donating, lending, allocating property for religious and charitable purposes, giving alms, legal transfer and mortgage, as well as many other forms of contracts and actions.

The woman's right to seek education or learning is basic and is also guaranteed by Islamic teachings. Islam actually makes it incumbent on the woman to seek knowledge; the Prophet (blessings and peace be upon him) says, `seeking knowledge is incumbent on every Muslim," where "every Muslim" obviously involves men and women on an equal footing as a rule formalised by all authorities of jurisprudence .

The woman is also required to perform religious ordinances and forms of worship the way the man is. Praying, fasting, Zakat (the alms sanctifying tax), pilgrimage and all the other fundamental practices in Islam are required of Muslims in their capacity, both men and women, as responsible humans. Again the woman's actions are recompensed by Allah the way the man's actions are.

The woman is not excluded from the area of social activity; Allah says: " The believers, men and women, are "Awliy," (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) Al-Ma`ruf (i.e. Islamic Monotheism and all that Islam orders one to do);and forbid (people) from Al-Munkar (i.e. polytheism and disbelief of all kinds, and all that Islam has forbidden). [ Surah 9:71] For instance, she can give refuge for those who seek it. If she hosts a refugee, her action is to be respected and observed. This rule relates back to Um Hanibint Abi Talib's giving relief to a father in-law on the day of the Conquest of Mecca by Muslims. When her brother wanted to kill him because he was an infidel, she complained to Allah's Messenger (blessings and peace be upon him) saying, "Allah's Messenger, my mother's son insists on killing my refugee, Ibn Hubayra."The Prophet (blessings and peace be upon him) replied, "We confer asylum on him that you give refuge to, Um Hani". [ Mutafaq aley (agreed upon) on the authority of Um Hani, The Pearl and the Coral (Al-Lu'lu' wal-Marjan) (193)]

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## **Refuted Misconceptions**

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### **Distinctions justified**

Some people harbour certain doubts and raise questions about Islam's stance on the woman's status as a human being. Here we tackle the more important points of uncertainty or even scepticism.

One of these questions is: why, if Islam really regards the woman's humanity on an equal basis with that of the man, does it give the man privilege over the female in some dealings such as legal testimony, inheritance, blood money, charge of the family, heading the state and other supporting ministrations?

The distinction (if it can ever be called one) between the man and the woman is not due to any preference by Allah, The Almighty, of the man or the woman on any account of being nobler or closer to the Lord. As a rule, it is piety and only piety that is the measure of ascendancy, nobility and closeness to Allah: " Verily, the most honour able of you in the Sight of Allah is that (believer) who has At-Taqwa [i.e. one of the Muttaq 'n: i.e. pious and righteous persons who fear Allah much](abstain from all kinds of sins and evil deeds which He has forbidden), and love Allah much (perform all kinds of good deeds which He has

ordained)". [Surah 49:13] The distinctions, however, are merely conditioned by the different tasks assigned to each of the two sexes by virtue of their natural disposition.

### Legal testimony

The Qur'anic verse known as "the indebtedness verse" in which Allah prescribes writing debt contracts as a precautionary measure is: "And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her. And the witnesses should not refuse when they are called on (for evidence). [ Surah 2:282] Thus, the Qur'an makes the testimony of a man equal to the testimony of two women. Moreover, the majority of jurists establish that a woman's testimony does not count in major crimes and in matters which do not relate to the rule of retaliation in kind.

Yet the distinction is far from being due to any belief in a deficiency of the woman's humanity and integrity. It is rather due to her natural disposition and her special inclinations which may exclude her involvement in such matters while being focused on motherhood or the household. Hence, there is very likely to be a kind of characteristic inattention on her part when it comes to handling these matters. For this reason, Allah commands creditors if they want to verify the value of debt to seek the testimony of two men or one man and two women. The Qur'an puts it unambiguously: " so that if one of them (two women) errs, the other can remind her. [ Surah 2:282]

The exclusion of woman's testimony, altogether, from cases of major crimes, and cases requiring retaliation in kind, is meant to protect women and distance them from sites of crime and aggressions against souls, honour and property. It is not infrequent, for instance, to see a woman closing her eyes, or running away in panic from a scene of bloodshed; therefore , it becomes difficult for that woman to give a reliable account of the crime.

Nevertheless, this has also meant for the jurists that a woman's testimony counts in cases of feminine affairs such as foster relationships, menstruation, delivery and such matters whose knowledge was confined to women in past ages and probably still is. Yet, Ata'a-tabiei (literally a follower a companion of one of the Prophet's Companions) establishes that a woman's testimony on such matters does count. In addition, other jurists accept a woman's testimony in crimes that take place in female gatherings that are not usually frequented by men, like women [ Surah 2:282] oriental pools, wedding parties attended solely by women. and other such gatherings. The question, however, is: if one woman kills, wounds or maims another and the only witness is a woman, should her testimony be ruled out because it is merely given by a woman or should men give testimony of something they did not witness? It is more in the nature of things to accept a woman's testimony in this case so long as she is reputed to be honest, accurate and mindful. Commenting on the verse: " And if there are not two men (available), then a man and two women" the former Sheikh of Al-Azhar Mahmud Shaltut says: The verse does not address the question of the status of the testimony. It rather addresses the methods of verification and establishment of confidence about the individual's rights at the moment of transaction. The verse actually begins: "O you who believe! When you contract a debt for a fixed period, write it down. Let a scribe write it down in justice between you. Let not the scribe refuse to write as Allah has taught him," until it reaches " And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, so that if one of them (two women) errs, the other can remind her. [ Surah 2:282] Therefore the situation is one of verification and documentation of rights and not one of judgement. Thus the verse points to the best ways of documentation and verification by which partners in a deal can have maximum security. This therefore does not mean that a single woman's, or a group of woman's testimony without a man's does not count in establishing rights nor is to be taken by a judge since the maximum required in jurisdiction is "evidence".

Along this line of thinking, jurist Ibn Al-Qayyim establishes that "evidence" in Islamic Law is more comprehensive than testimony; confirming "evidence" is the factor in establishing rights, what makes it "evident" and consequently what is to be considered by the judge.

The judge pronounces his verdict on the basis of decisive evidence, even if it were a non-Muslim's testimony as long as he feels it worthy of his trust.

This leads Sheikh Shaltut to the conclusion that when two woman's testimonies are counted as one man's testimony, it is not because of some weakness or flaw in her mentality which would involve, in turn, a defect in woman's humanity.

The verse, however, was so worded as to address the norms of that time, which are still very much the same for the majority of women. They do not attend debt registration sessions or transactions. The fact that some women take part in such activities does not alter the basic facts of life that the woman's natural disposition in life such as procreation. Yet again, the verse serves as guidance on maximum verification. In some places, the tendency is for a woman to make transactions and witness the writing of debts; it is the people's right to accept a woman's testimony as they accept that of a man as long as they do this with equal confidence in both sexes' memories.

Still, Sheikh Shaltut does not stop here; he goes on to consider a case in which the word of men and women weigh equally: There is a stronger proof for equality in the Qur'an's statement that the woman is just like the man in the type of testimony known as the oath of condemnation [ An oath in which either the husband or the wife accuses his or her partner of adultery and the only witness is one of them. (Translator's note.)] "And as for those who accuse their wives but have no witnesses except themselves, let the testimony of one of them be four testimonies (i.e. testifies four times) by Allah that he be one of those who speak the truth. And the fifth (testimony) (should be) invoking the Curse of Allah on him if he be one of those who tell a lie (against her). But it shall avert the punishment (of stoning to death) from her, if she bears witness four times by Allah, that he (her husband) is telling a lie. And the fifth (testimony) should be that the Wrath of Allah be upon her if (her husband) speaks the truth". [ Surah 24:6- 9] That is, four repetitions of the oath or testimony by the man concluded by an invocation of his damnation by Allah if he is lying, countered by and invalidated by four repetitions of the woman's counter statement, also followed by an invocation of Allah's wrath upon her if she is lying. [ Islamic Beliefs and Code of Laws, Sheikh Shalt, p.111 - 112]

## **Inheritance**

The difference between the man and the woman in their respective shares in inheritance established by Allah's statement: " Allah commands you as regards your children's (inheritance); to the male, a portion equal to that of two females. [ Surah 4:11], is clearly due to the difference in the duties and costs that each has to cope with by virtue of the Islamic teachings (shar'a)".

For example, if a man dies leaving a son and a daughter, the son gets married and pays the obligatory bridal money (dower) to the bride and as soon as they live together, he has to provide and pay for their living expenses. On the other hand, when his sister gets married, she receives the bridal money from her bridegroom and when they live together, the husband provides for her without her paying a single penny, even if she is among the richest of people. Poor or rich, her living costs are estimated in proportion to her husband's financial ability. The Qur'an puts it thus:" Let the rich man spend according to his means". [ Surah 65:7] To simplify matters, if the father leaves a wealth of about 150,000 dollars, the son would get 100,000 and the daughter would get 50,000 dollars. Then the son pays the bridal money (dower) gives presents and furnishes a flat which may cost at least 25,000 dollars. If the daughter gets married and has the bridal money and the presents, she would get another 25,000. This makes them about even.

But this is not all; the man's duties and spending increase as he provides for his children, in some cases his ageing parents, his brothers and sisters who have no income of their own and no one else to provide for them, and further still his relatives who are in similar circumstances-all by virtue of the Islamic

Teachings (shar'a) and under certain conditions. For her part, though, the woman is not commanded by the shar'a to furnish aid unless she chooses to do so out of good manners and morals.

Nor is the distinction in any sense absolute. Sometimes the woman's share in the inheritance is equal to that of the man's. For instance, when the two parents inherit from their children; the Qur'an rules that: For parents, a sixth share of inheritance to each if the deceased left children. [ Surah 4:11] The reason in this case is that the parent's needs are often similar. If siblings inherit from a brother who has neither parents nor children, the Qur'an establishes that: " If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of them gets a sixth; but if more than two, they share in a third". [ Surah 4:12] Thereby, the sister by the mother gets a sixth, which is the same as the brother by the same mother. If there are more than two siblings, they inherit a third to be distributed equally among them. All this is to say that equality of inheritance exists in many cases, and they are well-known to jurists and experts in these matters.

More conclusively, there are cases in which the woman gets a bigger share than the man. For instance, if a woman dies leaving a husband, mother and two brothers and one sister by her mother, the sister alone gets a sixth; whereas only one sixth is given to the two brothers. Also if a woman dies leaving a husband, a full sister and a brother by her father, the husband gets half the inheritance and the sister the other half, whereas the half-brother gets nothing being merely an agnate. But if the half sibling is a sister and not a brother, she gets a sixth, as sustenance.

One more case where the woman gets more than the man follows Ibn 'Abbas's interpretation of the verse: " If no children, and the parents are the (only) heirs, the mother has a third". [ Surah 4:11]

This means for Ibn Abbas that if a woman dies leaving a husband and her two parents, the husband receives a half, the mother a third and the father a sixth. Ibn Hazm relates this statement to Ibn 'Abbas via Abdul-Raziq, and to Ali ibn Abi Talib via of Abi 'Uwana and to Mu'adh ibn Jabal who were Companions of the Prophet (blessings and peace be upon him), known also as experts on such matters. Ibn Hazim relates it also to Shuraih and to Dawud Al-Zahiry, among the jurists, and he quotes the companion Ibn Mas'ud's axiom on the matter: "Allah would not like to see me prefer a father to a mother." Other authorities who concurred are Companions such as `Umar, `Uthman, and Zaid ibn Thabit. From their followers, there are Al-Hasan, Ibn Sirin and Al-Nakh'i. Among the jurists, there are Abu Hanifa, Malik and Al-Shafi, may Allah be pleased with them all.

## **Blood money**

There is not a single well-authenticated statement by the Prophet (blessings and peace be upon him), nor any consensus of religious authorities (Ijm,') to establish that the blood money paid for the killing of a woman is half the sum paid for the killing of a man. There are two Hadiths (prophetic traditions), neither perfectly authenticated, that address the question. The best one on terms of authentication is that narrated Al-Nisa'i and Al-Daraqatny, which still suffers a time gap in the chain of transmitters up to the Prophet (blessings and peace be upon him). Statements related to the Companions suffer in the same manner. What remains then is the only well-authenticated tradition on the subject "for a soul, a hundred camels."

The general agreement of authorities that make the value of the blood money paid for the killing of a woman half that for the killing of a man falls short of a consensus. Ibn `Ulayya and Al-Asam, two scholars from the high order of jurists (fuqh, " as-salaf) make the value of the blood money the same for both men and women. This opinion is in agreement with the generality of reference to "believer" and `soul" in the Qur'an and the Hadith. If we opt for this opinion today, we are not to blame since, in addition to the previous reason, the legal opinion (fatwa) could change with the age and environment but the new



legal opinion is not in conflict with the relevant textual statements nor with the general objectives of Islamic Teachings. Under the subtitle of "Blood Money, the Same for Men and Women," Sheikh Shaltut writes:

Woman's humanity stemming from the same origin as that of the man, her blood is the same as his, he being from her and she from him and equal retaliation in kind being the rule common to both cases of homicide and hell and damnation being the other worldly punishment for the killing of either man or woman, so the rule of the verse applies to the accidental homicide of either a man or a woman.

Given that our primary frame of reference is the Qur'an, we find that its statement is general and does not privilege the man with any special status: "and whosoever kills a believer by mistake (it is ordained that) he must set free a believing slave and a compensation (blood-money i.e. Diya) be given to the deceased's family". [Surah 4:92]

It is true that the scholars have differed over the amount of blood money, whether it is the same or double in the man's case. Al-Razi tells us in his At-Tafsir Al-Kabr that the majority of jurists double the sum in cases of male homicide. He adds that Al-Asam and Ibn `Ulayya make the sum paid the same. The majority cite the ruling of the Companions `Ali, `Umar and Ibn Mas'ud ruling on this matter, as well as the rules of inheritance and legal testimony in which the woman's inheritance and testimony equals only half those of the man. Al-Asam, however, cites the verse: and whosoever kills a believer by mistake [Surah 4:92] All agree this verse addresses both men and women, therefore the ruling on the sum paid is the same.

## **Guardianship**

Allah assigns guardianship to the man by virtue of the Qur'anic verse: " Men are the protectors and maintainers of women, because Allah has made the one of them to excel the other and because they spend (to support them) from their means". [ Surah 4:34]

There are two reasons for this, one has to do with a natural quality and the other relates to something acquired. First, Allah has provided the man with a quality of greater strength whereas he has equipped the woman with a lighter and usually more delicate physique. Secondly, Allah has delegated the man to be the family provider. If the family collapses, he must bear the brunt of the collapse. This responsibility naturally entails deference and support.

## **Judiciary and political corps**

Abu Hanfa establishes that women are not forbidden from occupying positions in the judiciary system in matters that are of their sphere of testimony, that is in non-criminal affairs. At-Tabari and Ibn Hazim, on the other hand, establish the authority of their judgement of criminal cases, as well as financial and other cases. Yet, that this is not prohibited does not give it the status of incumbency or necessity. It is a possibility that can be adjusted according to different circumstances and interests: the interest of the family, the interest of the community and, above all, the interest of Islam. Thus, the possibility may lead to a situation where some distinguished women at a certain point of their age are chosen for judgeship in certain matters and under certain circumstances.

On the other hand, her ineligibility under the Islamic teaching (shar'a) to hold the caliphate or head the state is owing to the great burdens of such a huge responsibility which in most cases outweigh the capacity of the woman (and the man) and conflicts with the natural disposition of the woman as mother.

This does not exhaust all possibilities since we are aware that some women could be even more capable than some men. One such example is the Queen of Sheba whose story is told by Allah in the Qur'an. She led her nation to happiness and well-being in this and the other life and submitted herself with Prophet Solomon to Allah, Controller of the Worlds. Nevertheless, rules are not formed on the basis of rare occurrence but on the frequency of it. Thus the scholars establish that generally "the rare does not constitute a rule." But for the woman to be a manager, dean, director, member of parliament, minister, etc., is all very well so long as it weighs the interests. All these questions are dealt with in detail in my book Contemporary Legal Opinions (Fatawa Mu'aserah).

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## **The Woman as Feminine Being**

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Islam has always appreciated the femininity of the woman and regarded her as playing a role integral to that of the man, and similarly regarded the man as playing a role integral to that of the woman. Neither is a foe, adversary or a competitor to the other. Rather, each is a help to the other in attaining the relative perfection of his or her person and each's whole sex.

Allah's ordering of the universe makes binary existence one of its characteristics. This principle is manifested in the presence of male and female in the animate world of man, beast and plant, and the presence of negative and positive in the inanimate world with its phenomena of magnetism, electricity and others. Even in the atom, there are positive and negative charges, that is, the proton and the electron. The Qur'an, revealed fourteen hundred years ago, makes an explicit reference to the fact: "And of everything We have created pairs, that you may remember". [Surah 51:49]

Men and women are, so to speak, like a can and its lid, a unity that comprises the thing and its counterpart; one does not exist without the other. When Allah created the first human soul, Adam, He also created from it its counterpart, Eve, so that he would settle and find peace with her. The Almighty did not leave Adam alone, not even (self sufficient enough) in Heaven. Allah's discourse, whether in the form of prohibition or command, was addressed to both of them: "Dwell you and your wife in the Paradise and both of you freely with pleasure and delight of things therein as wherever you will, but come not near this tree or you both will be of the Zalimun (wrongdoers)". [Surah 2:35]

What all this comes to is that the woman is different from the man, for she complements him and he her. A thing does not complement itself. The Qur'an emphasises that difference: " And the male is not like the female". [Surah 3:36] They are as unlike as positive and negative. Yet the difference does not mean that they are adversaries in any sense. They arise from each other and are for each other: "you are from one another" [Surah 4:25] , and "And Allah has given you wives of your own kind". [Surah 4:25]

Allah's wisdom has also ordained that the physical and psychological construction of the woman should carry elements that enable her to attract and be attracted by the man. Fundamental to this purpose was Allah's equipment of the female with an instinctive desire and a strong natural passion that leads to their mutual attraction and communion so that life would continue and generations would spring forth.

Therefore, Islam disapproves of systems that clash with this instinctive nature or render it ineffective, such as the system of monasticism. By no means, however, does this reflect acceptance of the channelling of this energy in the wrong direction, that is, outside divinely-sanctioned marriage which forms the basis of the family. Thus Islam, as do all other revealed religions, prohibits adultery as well as all forms of licentiousness whether they be visible or invisible. Islam has filled in all the gaps that could lead to these acts, thus providing protection for men and women from all factors of seduction and lust.

On the basis of the instinctive nature of the woman and the need for a healthy and proper atmosphere for her relationship with the man, Islam has set its codes for the woman as well as all the other relevant codes, instructions and rules. To guard her femininity and acknowledge its needs so as not to repress it, is what Islam is after. It tries to create a barrier between the woman and degradation, to protect her from the human wolves and predators who chase her into their lairs, devour her and discard the despoiled remains.

We can give a rough summation of Islam's attitude to femininity as follows:

1- Islam protects femininity to keep the stream of tenderness and beauty running. For this reason some of the things that men are forbidden to do are permissible for women. So the woman can wear gold and pure silk; hence the Hadith, "These two (substances) are prohibited for the men of my nation and allowed for its women". [Transmitted by Ibn Majah on the authority of Ali (3595), Hadith Sahih.] The permission to use things that suit women is supported by forbidding them from handling things that go against their femininity, such as men's wear, movement and behaviour in general. A woman is not to wear a man's garment; a man is not to wear a woman's garment. The Prophet (blessings and peace be upon him) says: "Allah condemns the man who dresses like a woman and the woman who dresses like a man". [ Transmitted by Abu Huraira, Abu Dawud (4098); and Ahmad 2/325; and Ibn Hibban (1904); and others.] For men to behave like women and women to behave like men is equally condemned by Alkib. Again the Prophet (blessings and peace be upon him) says, "Three (kinds of people) do not enter Paradise and do not enjoy Allah's gaze upon them on Judgement Day: a son who is disobedient to his parents, a mannish woman and an adulterer. [ Transmitted by Ahmad Ibn Umar and approved by Sheikh Shaker as Sahih (1680); and Al-Nisa'i 5/80; and Al-Hakim 1/72 and others.]

2- Islam supports femininity in view of its relative weakness, placing it in the hands of a supporting man, securing the costs of living and the provision for her needs. Whether under the guardian care of her father, her husband, her son or her brother, she will be provided for by them as an obligation under the shar'a. No basic need should compel her then to wade in the unexplored stretches of life with its conflicts, within the hustle of competitive men to win her bread-something that has befallen the Western woman under severe necessity in which neither father, brother, son or uncle look after her. The result is that she has to accept any kind of work for whatever payment in order to survive.

3- Allah's Religion protects her morals and decency, guards her reputation and dignity, and defends her chastity against evil thoughts and tongues, and tries to foil tempting hands that seek to harm her. In order to achieve these noble objectives, Islam makes it incumbent on the woman to lower the eyes and preserve chastity and purity.

"And tell the believing women to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts etc)". [Surah 24:31]

Preserve a decent, unrevealing manner of dress and ornamentation, all without being oppressive towards her. "and not to show off their adornment except that which is apparent and to draw their veils all over Juyubihinna (we. their bodies, faces, necks, and bosoms, etc.)" [ Surah 24:31] The visible or apparent ornament that the verse refers to has been interpreted to be inclusive of kohl, the finger ring, the face, the two hands and, some exegetes and jurists establish, the two feet. [ At the time of the Prophet (blessings and peace be upon him). it was customary for some women to cover their face. The flexibility of Islam allows the woman the option of covering her face or not. (editor's note)]

Cover the other attractions that do not show, such as the hair, neck and throat, arms and legs, from all people except her husband, and her consanguineous, non-marriageable relations or mahrim [ Those persons whom the woman is forbidden to marry because of the proximity of the relation. (editor's note)] (brothers, uncles etc.) whom she finds it hard to hide these afrom. "and not to reveal heir adornment except to their husbands, fathers, their husband`s fathers, their sons, their husband's sons, their brothers or their brother's sons, or their sister's sons or their (Muslim) women (i.e. their sisters in Islam), or

the (female) slaves whom their right hands possess, or old male servants who lack vigour, or small children who have no sense of the shame of sex". [Surah 24:31]

- Maintain staidness in gait and speech. "And let them not stamp their feet so as to reveal what they hide of their adornment". [Surah 24:31] and "if you keep your duty (to Allah), then be not soft in speech, lest he in whose heart is a disease (of hypocrisy or evil desire for adultery, etc.) should be moved with desire, but speak in an honourable manner. [Surah 33:32]

Therefore she is not (as some wrongly understand) forbidden to speak; nor is her voice a shameful thing to show. On the contrary. She is commanded in the Quran to speak in good faith.

- Be above all acts meant to excite and tempt men in a way reminiscent of the showiness of Pre-Qur'anic ignorance or Jahiliyya. or in the manner of modern jahiliyya. This showiness contradicts the conduct of a decent woman.
- Avoid being in seclusion with a man who is neither a husband nor a non-marriageable relation, so as to keep a barrier between herself or the other man and all thoughts of sin, and between her good name and false rumours. The Prophet (blessings and peace be upon him) says, "No man should be in seclusion with a woman and no woman should travel except with a non-marriageable relation," or her husband of course.
- Avoid male gatherings except on the grounds of necessity or an appreciable interest and only to the necessity or limit. Attending the congregational prayers in the mosque, seeking learning, co-operation in charity and promotion of piety are fields in which a woman's presence with men is accepted so that she will not be deprived of her right to participate in serving her community, and only on condition that she observes the limits of the Islamic code on social life.

With these directions and regulations, Islam provides safety for the woman and her femininity from impious tongues; it preserves her decency and chastity by distancing her from all factors of deviation. Islam guards her honour against the slurs of slanderers and spreaders of calumny. Above all, it protects her soul and calms her nerves against the tension, instability and trepidation that spring from wild imaginations or obsessed hear torn between the factors of agitation and excitement. At the same time, islam protects the man from anxiety and aberration, the family from disintegration, and the society from collapse and decay.

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## Legitimate Mixing Between Men and Women

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Some words which have existed in the language for a long time have acquired new significance and even weight. Among these is the term "mixing (or mingling)", which refers to mixing of men and women in one place. During the Age of the Prophet (blessings and peace he upon him), the Age of the Companions which succeeded it, and the age of their followers, Muslim men and women met at different gatherings, religious or otherwise, and this was not forbidden at all. Under the right circumstances and for good reasons, it was legitimate and natural for them to meet. Nor was it called "mixing" then.

In our age, however, the word has become very common. Nor do I know when it came into use with the new connotations unsavoury for Muslim men and women, since mixing one thing with another suggests a dissolution, the way sugar or salt is dissolved in water, a metaphor that would have unpleasant suggestions if applied to male-female relations. Anyway, the purpose is to point out that not every kind of

socialisation is prohibited as some may imagine and as other hard-liners argue. On the other hand, not all forms of mixing are acceptable as propagators of Westernization claim.

In the second volume of my book *Contemporary Legal Opinions (Fataawa Mu'aserah)*, I answer questions on this and several other related matters such as greeting women, handshaking, treatment of women by male doctors and the reverse, in addition to other questions. A careful Muslim should refer to these legal opinions if he or she wants to learn about the rules of the Islamic teachings (shar'a). Here, nevertheless, I would like to make the point that it is our duty to adhere to the best guidance which is that of the Prophet Mohammed (blessings and peace be upon him), his righteous successors and enlightened Companions whose pious paths he recommends sticking to, avoiding the two extreme routes of Western permissiveness and severe Eastern asceticism.

By examining this guidance of the Prophet (blessings and peace be upon him), we find that the woman was not caged or isolated as happened later during the age of Muslim abatement. The women attended the major congregational prayers on Fridays at the Prophet's mosque, including the night (Al-Esha) and dawn (Al-Fajr) prayers. The Prophet (blessings and peace be upon him) would direct them to form rows behind the men rows, and the more to the back the better so that they would not see the sensitive parts of men's bodies that might have shown due to the fact that only a few were familiar with trousers and underwear, and there was no partition between the men and women.

Moreover, in the early stages of congregating for prayer, men and women would go through the same entrance where crowding would occur. The Prophet (blessings and peace be upon him) said, "If only we left this entrance to the women". [ Transmitted by Abu Dawud on the authority of Ibn Umar (462) (463).] So they allocated the entrance for them from that time on and it became known as the "woman's Entrance." As for the Friday congregation, women during the Prophet's Era attended the prayer and listened to the sermon to the extent that one of them could learn the Surah of because the Prophet (blessings and peace be upon him) recited it frequently from his position on the sermon pulpit. They also attended the two Bairam (a religious celebration) congregations and took part in these big Islamic celebrations that involved all people, old and young, male and female, in the open outskirts where they would chant the name of Allah. Um`Ateyya, a witness of the Prophet's Era, said, "We were frequently instructed to go out for the Bairams."

In another version she said, "The Messenger of Allah (blessings and peace be upon him) instructed us, the maids, and the ones in their menses to go out. The women menstruating would stay away from prayer and witness the good (of the day) and Muslim's prayer (to Allah). So I said, `O Messenger of Allah, there may be one of us who does not have a jilbab (dress)." He replied, `Let her sister (in Islam) give her one. [ Sahih Muslim "The Prayers of the Two Eids" (890).]

This is one of the aspects of Muslim life that are ignored by Muslims in most of their countries. Some, however, such as the devotional retreat in the last ten days of Ramadan and the attendance of the Bairam congregation by women, are in the process of coming back to life through the efforts of the youth of the modern Islamic awakening.

Women always attended the teaching sessions of the Prophet (blessings and peace be upon him). They would address aisha with the questions they found awkward or too bold to ask. The Prophet's wife, aisha (may Allah be pleased with her), praised the women of the Ansar whose shyness did not prevent them from seeking knowledge of the religion and asking questions about major issues such as impurity (full sex or ejaculation preventing one from performing some forms of worship), night ejaculation, washing from impurity, menstruation and other such matters.

This, however, was not enough for them compared to the men's completely enfolded the Prophet (blessings and peace be upon him); so they demanded a special day of teaching be allocated to them without vying with a crowd of men, and said openly, "Messenger of Allah, the men have taken complete possession of your company, so devote one of your days to us." The Prophet (blessings and peace be

upon him) promised to give them a day and he preached and gave them instruction. [ Transmitted by Bukhari in The World (Al-Alam) 1/34 on the authority of Abu Said.] This kind of female activism was also revealed during battles when women served in the army with the mujahedeen (warriors who struggle to keep Islam alive) in a way that suited them and brought out the best of their abilities, such as attending the wounded, giving medical aid, nursing the injured fighters, in addition to cooking, procuring water and the like. Um `Ateyya asserted, "I went on seven military expeditions with the Prophet (greetings and peace be upon him); I would guard the fighters, provisions, make their food, treat the injured and nurse the ill ones". [Transmitted by Muslim (1812).]

Anas, one of the Prophet's Companions, narrates, "On the Day of Uhud, `aisha and Um Salim, their sleeves rolled up, would carry water in skin bags on their backs and empty the contents into the soldiers open mouths". [Transmitted by Muslim (1811).] The fact that `aisha was still in her teens renders incorrect the claim that female participation in military expeditions and battles was confined to old women. Realistically speaking, this defies logic as such work would be unduly onerous for the aged when considering the physical and psychological exigencies of war.

In the same line, Imam Ahmad recalls, `six believing women were in the army that besieged Khaibar, their task being to hand arrows to the fighters, prepare food, procure water, treat the wounded, spin yarn and help in (the promotion of)the cause of Allah. Eventually, the Prophet (blessings and peace be upon him) allocated shares in the spoils to them. [Transmitted by Ahmad 51271,7/371; And Abu Dawud (2729).]

It is also established that some of the Companion's wives took up arms in some expeditions and battles. The deeds of Um `Imarah Nasba bint Ka'b on the Day of Uhud are well known and were of such effect as to make the Prophet say, "Her manner excelled that of such and such people." On the day of the Battle of Hunain, Um Salum, for her part, kept a dagger to stab any enemies who would come within her reach. This story is told again by her son Anas, "On the Day of Hunain, Um Salum had a dagger; when she was seen by her husband, Abu Talha, he told the Prophet, `Messenger of Allah, Um Salum is keeping a dagger with her." When the Prophet asked her about it she answered, `It is to stab the abdomen of any of the Pagans who might come near me," at which the Prophet laughed. [Transmitted by Muslim (1809).]

But the women of the Prophet's and Companion's Eras had ambitions that went beyond the participation in the expeditions into adjacent areas. They were also keen to take part in the Muslim conquests of distant lands to help disseminate the message of Islam. Anas narrated, "One day, the Prophet (blessings and peace be upon him) took his siesta in the house of Urn Hiram. When he woke up, he laughed. So she asked, `What makes you laugh, Prophet of Allah?" The Prophet said, `I have seen some people from my nation, who were out to fight for the sake of Allah, riding the sea. There were kings seated on their thrones." So she replied, `O Messenger of Allah, pray to Allah that I may be one of them." He did. [Sahih Muslim (1912)] During the reign of `Uthman (the third caliph), Um Hiram set sail with her husband, Ubada ibn As-Samit, to Cyprus, where she was killed while she was on horseback (in a battle) and was buried there, according to biographers and chroniclers. A whole section is devoted to highlighting woman's roles in the battles and military expeditions.

In the sphere of social life, the Muslim woman played her part, preaching of good deeds, enjoining what is right and forbidding evil, in conformity with Allah's statement: "The believers, men and women are "Auliy,"(helpers, supporters, friends, protectors) of one another, they enjoin (on the people) what is right Al-Ma`ruf (i.e. Islamic Monotheism and all that Islam orders one to do), and forbid (people) from Al-Munkar (i.e. polytheism and disbelief of all kinds, and all that Islam has forbidden). [Surah 9:71]

A well-known story depicts a woman reasoning with `Umar (may Allah be pleased with him) in the mosque over the issue of the amount of bridal money paid to the bride. It also illustrates how `Umar (the third caliph), being convinced of her argument, reversed his opinion to that of hers in public. His comment on this was "everybody's knowledge is better than mine". [Tafsir Ibn Kathir 1/468] The story is cited by no less an authoritative register than Ibn Kathir's Tafsir, where Ibn Kathir states its ascription to `Umar is

correct. In another version `Abdul-Raziq cites `Umar as saying about himself, "A woman debated with `Umar and outdid him in the debate. [ Tafsir Ibn Kathir 7/180] Also during his caliphate, `Umar appointed a woman, Al-Shifa bint Abdullah as the market-place superintendent.

By examining the Qur'an's discourse on woman's affairs and by looking onto the lives of the Prophets, we hardly find such an iron curtain, as is drawn by some people, between men and women. Thus in the prime of his youth, Prophet Moses (peace be upon him) is depicted talking to the two daughters of the old man of Madyan. He asks them questions and gets their answers without any particular feeling of guilt or embarrassment and magnanimously helps them. One of them returns soon after with an invitation from her father for Moses to come to their house. One of them even suggests her father hire Moses, as he is a strong and honest man. This is how the Qurtan puts it: "And when he arrived at the water of Midian (Madyan) he found there a group of men watering (their flocks), and beside them he found two women who were keeping back (their flocks). He said, "What is the matter with you?" They said, "We cannot water (our flocks) until the shepherds take (their flocks). And our father is a very old man." So he watered (their flocks) for them, then he returned back to shade, and said: "My Lord? Truly, I am in need of whatever good you bestow upon me!" Then there came to him one of the two women, walking shyly. She said: "Verily, my father calls you that he may reward you for having watered (our flocks) for us." So when he came to him and narrated the story, he said: "Fear you not. You have escaped from the people who are Zalimun (polytheists, disbelievers, and wrongdoers)." And said one of them (the two women): "O my father! Hire him! Verily, the best of men for you to hire is the strong, the trustworthy. [Surah 28:23- 26]

In the story of Mary, every time Zachariah comes to her chamber he finds much food, so he inquires about it:

" Every time he entered Al-Mihrab [A praying place or private room.] (to visit) her, he found her supplied with sustenance. He said: "O Mary! From where have you got this?" She said: "From Allah" Verily Allah provides sustenance to whom he wills, without limit. [Surah 3:37]

Another story is that of the Queen of Sheba, who is cited by the Qur'an as consulting her people about how they should respond to Solomon's message to her: " She said, "O chiefs! Advise me in (this) case of mine. I decide no case till you are present with me." They said: "We have great strength, and great ability for war, but it is for you to command; so think over what you we command." She said: "Verily! Kings, when they enter a town (country), they despoil it, and make the most honourable amongst its people low. And thus they do. [Surah 27:32- 34]

:Later then she arrives in Solomon's palace, she converses with Solomon as follows

" So when she came, it was said (to her): "Is your throne like this?" She said: "(It is) as though it were the very same." And (Solomon said): "Knowledge was bestowed on us before her, and we were submitted to Allah (in Islam as Muslims before her)." And that which she used to worship besides Allah has prevented here (from Islam), for she was of a disbelieving people. It was said to her: "Enter As-Sarh" (a glass surface with water underneath it), but when she saw it, she thought it was a pool, and she (tucked up her clothes) uncovering her legs, Solomon said: "Verily, it is Sarh paved smooth with slab of glass." She said: "My lord! Verily, I have wronged myself, and I submit (in Islam, together with Solomon), to Allah, the Lord of `Alamn (mankind, jinns, and all that exists). [ Surah 27:42 to 44]

Nor is it right to say that the revealed codes of preceding nations do not apply to us, since their stories were only cited in the Qur'an for reflection and guidance. Hence the correctness of the claim that the revealed code of preceding nations which is given in the Qur'an and the Sunna (traditions of the Prophet Mohammed) is also a code for us as long as no code of ours renders it null. Allah said to his Messenger: " They are those whom Allah had guided. So follow their guidance". [Surah 6:90]

Moreover, the fact that in the early stage of Islam the initially revealed punishment for a woman who committed adultery was to confine her to a house until she died or until Allah made a way out for her:

"And those of your woman who commit illegal sexual intercourse, take the evidence of four witnesses from amongst you against them; and if they testify, confine them (i.e. women) to houses until death comes to them or Allah ordains for them some (other) way. [Surah 4:15] meaning it is illogical from the point of view of the Qur'an, and Islam in general, to make house-confinement a characteristic of a decent and chaste Muslim woman, which would be to punish her without any perpetration. Later, of course, the punishment changed to flogging for the unmarried couple who commit adultery and stoning to death for the married ones

In summation, the encounter of men and women is not prohibited in itself. Quite the contrary, it is allowable or even required if done in pursuit of a noble cause like gaining knowledge or performing good acts in which the joint efforts of both men and women are necessary.

### **Pseudo-arguments for unrestricted mixing**

This is the position of Islam on man-woman relations, and their common involvement on charitable and righteous lines is what we call legitimate mixing; yet "intellectual imperialism" has managed to create in our countries people who turn a deaf ear to the ruling of Allah and His Messenger. These people call on us to give the woman free rein to assert herself, promote her personality, enjoy her life and her femininity. They want her to mix with men freely, experience them closely where they would be together and alone, travel with them, go to cinemas or dance till midnight together. She is supposed to find the "right man" from all those she has known. In this way, it is said, life is supposed to be more secure and have greater stability in the face adversity.

These people who may well be thinking of themselves as unblemished seraphs, tell us not to worry about the man or woman as a result of this "decent" communication, innocent friendship and upright contact. The frequency of their contact will pacify desire. The two sexes will supposedly find satisfaction in the mere look, conversation or, in the extreme, dancing together, which is only a form of elevating artistic impression. Sensual pleasure would have no place. It is a clean vent for energy, nothing more. This is said to be what the advanced West did after they rid themselves of complexes and privation.

### **Pseudo-arguments disproved**

In answer to this line of thinking, we must say that we are Muslims first and foremost. We do not sell our religion in imitation of the vagaries of Westerners or Easterners. Our religion forbids us from promiscuous mixing with its showiness and seductiveness: " Then we have put you (O Mohammed, blessings and peace be upon him) on a plain way of (Our) commandment like the one We commanded Our messengers before you (i.e. legal ways and laws of the Islamic Monotheism). So follow you that (Islamic Monotheism and its laws), and follow not the desires of those who know not. Verily, they can avail you nothing against Allah (if He wants to punish you). [Surah 45:18]

" Verily, the Zalimun (polytheists, wrongdoers, etc.) are "A why, (protectors, helpers, etc.) to one another, but Allah is the Wali (Helper, Protector, etc.) of the Muttaqun [i.e. pious and righteous persons who fear Allah much (abstain from all kinds of sin and evil deed which He has forbidden) and love Allah much (perform all kinds of good deeds which He has ordained.)]" [Surah 45:18-19]

In addition, the West itself, enamoured by these ideas, is suffering the consequences of dissipation and decaying morality that has corrupted its youth and doomed its civilisation to ruin and collapse. In the United States, in Sweden, and in other countries where sexual freedom is the norm, statistics show that feverish lust is not alleviated by freedom of talk and contact, nor by whatever may follow that. On the contrary, the more people taste, the thirstier they become.



It would be better if we studied the consequences of this freedom or what may as well be termed looseness and abandonment of virtues and traditions in modern civilised Western societies.

### **Effects of promiscuous mixing**

Numbers and events that fill statistics and reports provide a more convincing indictment of this point. Sexual freedom and the sexual revolution has borne its bitter fruit with the dissolution of the barriers separating men and women and the resultant effects are set forth as follows.

### **Moral decay**

The consequences of sexual promiscuity have been the disintegration of morality characterised by the tyranny of desire and the triumph of bestiality over humanity, the loss of sense of chastity and any sense of shyness and reserve by both men and women giving rise to an internally disturbed society. In a famous speech in 1962, President Kennedy said that American young people were loose, indulgent and decadent; six out of seven young men were not fit to join the army because they were up to their ears in lustfulness. He warned against the ills of such youth leading the country.

In a book by the Harvard Research Centre director, entitled *The Sexual Revolution*, the author firmly states the United States is heading towards a catastrophic situation of sexual anarchy, akin to that of the Romans and Greeks. He adds that Americans are beset by the dangers of sexual intemperance that would overwhelm their culture and all aspects of their life.

While the communists were more reticent on these matters, and general restrictions existed on media coverage, in 1962, Khrushchev declared that the Soviet youth had deviated and had been spoilt by luxury. He threatened to open concentration camps in Siberia to rid the society of the decadent youth that posed a threat to the future of the Soviet Union.

### **Illegitimate children**

The rapid increase in the numbers of illegitimate children is directly related to the unlimited rein given to desire and the removal of barriers between young men and women. Statistics on the ratio of pregnant school girls in the United States revealed a dreadful dimension. In a newspaper report, one third of the infants born in 1983 were illegitimate. Most of them were born to young women under nineteen. The total number of illegitimate children was 112,353 with a percentage of 37% of the births for that year.

### **Drops in Marriage Rates**

The availability of sex without any liability of marriage and family has led youth take the route of spending their youth between different partners, enjoying change without commitment to a "monotonous life" and without having to provide the costs of a responsible married life and the liabilities of fatherhood. Thus a huge number of young women are deprived of the opportunity to have a husband, and settle with a modicum of peace and security, because of the illicit yearnings of easy relationships. Similarly, there are a lot of young men who are also deprived of a peaceful life. Statistics published in the United States show, for the first time since the beginning of the century, the majority of the inhabitants of San Francisco

are celibate; fifty-three per cent are not married. For Bruce Chapman, who announced the findings, this was probably an indication of the obsolescence of the traditional family pattern. He added that these social changes were good for the welfare of the city which had witnessed a forty per cent increase in the number of youth between twenty-five and thirty-four during the previous ten years. This, however, did not include the homosexuals of the city who constitute fifteen per cent of the population.

In the face of the sexual degradation which is a predominant social phenomena on the Western world, it was natural for Swedish women to stage a 100,000-woman demonstration in protest against unlimited sexual freedom. It must have been woman's institutes and awareness of their future life and where their interests lie that motivated them to organise such a huge protest.

### **High Divorce Rates and Destruction of the Family**

Not only is marriage beset by many obstacles, it is also unsafe after its accomplishment. The family collapses and bonds break with occurrence of the slightest problem. In all Western countries, divorce rates are skyrocketing.

### **Spread of Lethal Diseases**

The outbreak of sexually transmitted diseases, as well as neurotic, mental and psychological diseases, the spread of complexes and disturbances that claim hundreds of thousands of patients are among the acknowledged effects of sexual promiscuity. One of the most dangerous, and in many cases lethal diseases is AIDS, which is caused by the HIV virus. This virus is responsible for the body's loss of immunity leaving it vulnerable to all factors of decay. Millions of people have succumbed to this menace, a fact that provides a modern piece of evidence for the words of the Prophet Mohammed (blessings and peace be upon him) that, "Lechery never appears in a community, but with its proclamation, plague and affliction appear throughout, which did not exist in bygone generations". [ Transmitted by Ibn Majah on the authority of Ibn Umar (4019) ; Al-Zawa'ed, Hadith Sahih; and Al-Hakim and Al Dhahaby 4/540, 541 and others.]

Notwithstanding the neurosis and psychological disturbances which have taken Western societies by storm and have filled hospitals and asylums without patients.

Freud and his followers in psychoanalysis argued that the lifting traditional restrictions on sexual instincts would relieve the nerves and consciousness, undo complexes and give souls a sense of comfort and ease. The restrictions have been lifted, the desires have been released and the complicated souls are only worse off; nerves are tenser and anxiety is the disease of the age. Not even the opening of a million clinics have helped.

It is hard to believe this is the picture the proponents of unrestricted mixing would like to see of us when Allah has protected us against its evils. Or is it only (that they do not know?)

### **The Woman as Mother**

The first contact with a woman is with one's mother, who suffers in the pregnancy, delivery, nursing and rearing of her child.

History does not recall a religion or a system which honours the woman as a mother and which raises her as Islam does. Islam repeatedly commends the woman, and this comes directly after the command to worship and believe in the Oneness of Allah. Allah has made honouring one's mother a virtue, and He puts forth the mother's right over that of the father for what she endures in pregnancy, delivery, nursing and raising her children. This is stated and restated in the Qur'an, in multiple chapters, to imprint this notion in the child's mind and heart as per the following verses: "And we have enjoined on man (to be dutiful and good) to his parents. His mother bore him in weakness and hardship upon weakness and hardship, and his weaning is in two years-give thanks to Me and your parents,-unto Me is the final destination. [Surah 31:14] and "And We have enjoined on man to be dutiful and kind to his parents. His mother bears him with hardship and she brings him forth with hardship, and the bearing of him, and the weaning of him is thirty (30) months. [Surah 46:15]

A man came to the Prophet (blessings and peace be upon him) asking, "Who is most deserving of my care?" He said, "Your mother." The man asked, "Then who?" He said, "Your mother." The man asked, "Then who?" He said, "Your mother." The man asked (the fourth time), "Then who?" He said, "Your father. [ Transmitted by Bukhari and Muslim on the authority of Abu Huraira The Pearl and the Coral (Al-Lu'lu' wal-Marjan) (1652)]

Al-Bazzar recounts that a man was circumambulating the Ka'bah carrying his mother. The Prophet (blessings and peace be upon him) asked him, "Have you repaid her?" The man said, "No, not even for one of her moans (i.e. one of the moans of labour, delivery and so on) [Transmitted by Al-Bazzar (1872)] As to be good to her, it means treating her well, respecting her, humbling oneself in front of her, obeying her without disobeying Allah, seeking her satisfaction and pleasure in all matters, even in a holy war. If it is optional, he must have her permission, for being good to her in a type of jihad. [ Jihad is the struggle (physical, mental, psychological, spiritual, etc.) to preserve the purity and practice of Islam. (editor's note)]

A man came to the Prophet (blessings and peace be upon him) and said, "O Messenger of Allah, I want to fight and I want your advice." He asked him, "Have you a mother?" The man said, "Yes." He said, "Do not leave her because Paradise is under her feet. [ Transmitted by Al-Nisaai, 6/11; Ibn Majah, 1/278 and Al-Hakim. It is amended and approved by Al-Dhahaby, 4/151, on the authority of Muaaweya Ibn Jammah.]

Some religious laws before Islam neglected the mother's relations, making them insignificant. With the advent of Islam, it recommended caring for uncles and aunts, both on the father's side and the mother's. A man approached the Prophet (blessings and peace be upon him) and said, "I committed an offence, could I atone for it?" He asked, "Have you got a mother?" The man said, "No." He asked, "Have you got a maternal aunt?" The man said, "Yes." The Prophet (blessings and peace be upon him) said, "Be good to her. [ Transmitted by Termithy in "Righteousness and Relations" (1905); Ibn Hibban Charity (EI-Ehsan) (435); and Al-Hakim who amended it on the terms of the two Sheikhs, agreed upon by Al-Dhahaby, 4/155, all on the authority of Umar.]

It is amazing that Islam commanded us to be good to a mother even though she is an unbeliever! Asma'a bint Abu Bakr asked the Prophet (blessings and peace be upon him) about her relationship to her unbelieving mother who had come to her. He said, "Yes, be on good terms with your mother". [Transmitted on the authority of Asmaa (agreed upon), The Pearl and the Coral (Al-Lu'lu' wal-Marjan) (587).]

An indication that Islam cares for motherhood, for the rights of mothers and their feelings is that a divorced mother has greater rights and is worthier of looking after her children than the father. `Abdallah ibn `Amr ibn Al-as transmitted that a woman asked, "O Messenger of Allah, this son of mine had my womb as a container, my breasts for drinking, my lap to contain him. His father has taken him from me." The Prophet (blessings and peace be upon him) said, "You have more right if you do not marry". [Transmitted by Ahmad in Al Musnad (6707). Sheikh Shaker said its authenticity is correct. Transmitted also by Abu Dawud.]

Imam Al-Khataby said in Landmarks of Traditions (Maalem As-Sunna): "Container" is the name of the place that contains a thing. This means that the mother is worthier as she and the father shared in the begetting of the child, then she was singled out for such things as nursing which the father had no share in. Therefore she deserves to be the first when it comes to disputes about the child.

On the authenticity of Ibn `Abbas who said, "Umar ibn Al-Khattab divorced his wife from Al-Ansar, the mother of `Asim. He met her carrying the child in Mahser (a market- place between Quba and Medina). The child was weaned and could walk. `Umar held out his hand to take the child from her and disputed about it till the boy cried out in pain. `Umar said, "I am worthier of my son than you "They complained to Abu Bakr, whose verdict was that the mother should keep the child. He said, "Her scent, her bed, and her lap are better for him than yours until he grows up and chooses for himself ". [ Landmarks of Traditions (Maalem as-Sunna) (2181).]

The mother who is cherished that much by Islam and given all these rights has a task to perform. She has to take care of her children, raise them well, implant virtues, and make them loathe evil. She has to teach them to obey Allah, encourage them to defend what is truthful, not dissuade them from fighting for the sake of Allah (one form of jihad) because of the motherly sentiments in her heart but to favour the correct way over sentiment.

We saw a believing mother, Al-Khansaa, in the Battle of Qadesseyah eloquently urging her four sons to be brave and steadfast. Then as soon as the battle was over and the news of their four deaths came to her, she did not wail and carry on but said with certainty and contentment, "Praise be to Allah who honoured me with their martyrdom for His faith."

### **Immortal mothers**

Out of Qur'anic guidance, we have been supplied with superb examples of good mothers who had influence and position in the history of the faith in Allah. Moses' mother, for example, responded to Allah's inspiration and calling when she cast the apple of her eye into the river, assured of Allah's promise: "And We inspired the mother of Moses, (saying): `suckle him (Moses), but when you fear for him, then cast him into the river and fear not, nor grieve. Verily! We shall bring him back for you, and shall make him one of (Our) Messengers." [Surah 28:7]

There is also Mary's mother, who promised what she had in her womb to be devoted to Allah, to be pure of any polytheism or worship of anything other than Allah. She prayed to Allah to accept her vow: "so accept (this), from me. Verily, You are the All-Hearer, the All-Knowing". [ Surah 3:35] When the child turned out to be a female, which she had not expected, it did not prevent her from fulfilling her vow, asking Allah to protect her from all evil: "and I seek refuge with You (Allah) for her and for her offspring from Satan, the outcast" [ Surah 3:36]

Moreover, the Qur'an has made Mary (may Allah be pleased with her), daughter of `Imran and mother of the Prophet Jesus (peace be upon him), an example of purity, humility to Allah and of faith in His word. "And Mary, the daughter of `Imran who guarded her chastity; and We breathed into (the sleeve of her shirt or her garment) through Our "Ruh" (i.e. Gabriel), and she testified to the truth of the Words of her Lord (believed in the Words of Allah "Be! and he was; that is Jesus-son of Mary;-as a Messenger of Allah), and (also believed in) His Scriptures, and she was of the Qanitun (i.e. obedient to Allah). [ Surah 66:12]

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## The Woman as Daughter

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In pre-Islamic times, the Arabs used to be disheartened and annoyed with the birth of girls, so that a father, when informed his wife had given birth to a girl, said, "By Allah she is not as blissful as a son; her defence is crying and her care is but stealing!" He meant she could not defend her father and her family except by screaming and crying, not by fighting and carrying arms. She also cannot be good to them and care for them except by taking from her husband's money to give to her family. Their traditions allowed the father to bury his daughter alive for actual poverty, or for expected poverty, or out of fear of a disgrace she might bring upon them when she grew up. In that context, the Qur'an says, denouncing and derogating them: "And when the female (infant) buried alive (as the pagan Arabs used to do) shall be questioned. For what sin was she killed? [Surah 81:8-9]"

The Qur'an also describes the condition of fathers when daughters are born: "And when the news of (the birth of) a female (child) is brought to any of them, his face becomes dark, and he is filled with inward grief! He hides himself from the people because of the evil of that whereof he has been informed. Shall he keep her with dishonour or bury her in the earth? Certainly, evil is their decision". [ Surah 16:58-59]"

Some ancient laws gave the father the right to sell his daughter if he wished, while others allowed him to hand her to another man who would either kill her or own her if the father killed the other man's daughter.

When Islam was revealed, it decreed a daughter-like a son-was a gift from Allah, to be granted to whomever Allah wishes of His worshippers:

"He bestows female (offspring) upon whom He will, and bestows male (offspring) upon whom He will Or He bestows both male and females, and He renders barren whom He wills. Verily, He is the All-Knower and is Able to do all things. [ Surah 42 : 49 - 50]"

The Qur'an has illustrated in its parables how some of the daughters could be more remarkable in their influence and more immortal in memories than many male offspring. We have a good example in the story of Mary, daughter of `Imran, who was chosen by Allah from all other women and purified. Her mother who bore her had wished the child to be a male to serve Allah and to be of the righteous: "(Remember) when the wife of `Imran said: "O My Lord! I have vowed to You what (the child that) is in my womb to be dedicated for Your services (from all worldly work; to serve Your Place of worship), so accept this, from me. Verily, You are the All-Hearer, the All-Knowing." Then when she delivered her (child Mary), she said: "O My Lord! I have delivered a female child, "-And Allah knew better what she delivered,- "And the male is not like the female, and I have named her Mary, and I seek refuge with You (Allah) for her and for her offspring from Satan, the outcast." So her Lord (Allah) accepted her with a goodly acceptance. He made her grow in a good manner. [ Surah 3:35 - 37]"

The Qur'an led an uncompromising campaign against those cruel people who kill children-whether male or female. Allah says in the Qur'an: " Indeed lost are those who have killed their children from folly, without knowledge". [Surah 6:140] And He says: " And kill not your children from fear of poverty. We provide for them and for you. Surely, the killing of them is a great sin. [Surah 17:31]"

The Prophet (blessings and peace be upon him) of Islam made Paradise the recompense of every father who conducts himself well with his daughters, has patience in raising them, provides their moral education, and observes Allah's commands concerning them until they come of age or until his . The Prophet (blessings and peace be upon him) made the place of the father in Paradise next to him. Muslim has transmitted on the authority of Anas: "the Prophet (blessings and peace be upon him) said, 'Whoever sustained and protected two slave-girls until they came of age, on the Day of Judgement, he and I will be and then he put his two fingers together.'" It was phrased by Al-Termithy in the following manner: "Whoever sustained and protected two slave-girls, he and I will enter Paradise like these and lie joined his forefinger to the next finger."

Ibn `Abbas transmitted that the Prophet (blessings and peace be upon him) said, "A Muslim who has two daughters whom he treats well when they accompany him or when he accompanies them is admitted to Paradise". [ Transmitted by Bukhari in Al Adab Al Mufrad (77); Ibn Abu Sheiba, 8/551; Ahmad which is corrected by Sheikh Shaker (2104); Ibn Majah (3670); and others.]

Some prophetic traditions stated that such a recompense-i.e. admittance to Paradise-is also granted to the brother who sustains and protects his sisters (two or more). Other traditions stated that these heavenly rewards are granted to anyone who treats the female sex well, even if she is one. On the authority of Abu Huraira: "The Prophet (blessings and peace be upon him) said, `Whoever had three daughters and showed patience in their keeping, their pleasure and displeasure, Allah admits him to Paradise for his mercy over them. A man asked, `And what about two daughters, O Messenger of Allah? He said, `And two daughters as well." Another asked, `O Messenger of Allah, what about one daughter? He said, `And one daughter as well". [ Transmitted and its authority amended by Al-Hakim, agreed upon by Al-Zahaby, 4/176] Ibn `Abbas recounted, "Whoever had a female who was not buried nor insulted by him, and had not preferred his male children to her, Allah admits him to Paradise. [ Transmitted by Abu Dawud, 5/5146; and Al-Hakim who corrected it 4/177, approved by Al-Dhahaby.]

In `isha's narration which is transmitted by the two sheikhs, the Prophet (greetings and peace be upon him) said, "Whoever suffers any mishap due to keeping his girls, but still treats them well, they will be protection for him from the Fire of Hell. [ The Pearl and the Coral (Al-Lu'lu' wal-Marjan), as approved by the two Sheikhs (1688)]

With these open and authentic texts, with the enhanced and repeated good news, the birth of girls is no longer a fearful burden nor is it a bad omen. On the contrary, it is a blessing to be thanked for and a mercy to be desired and requested because it is a blessing of the Almighty and a reward to be gained.

In that way Islam nullified forever the custom of burying girls who now have a great place in the heart of the father. This is shown in what the Prophet (greetings and peace be upon him) says about his daughter Fatima, "Fatima is part of me; what makes her angry, makes me angry". [ Transmitted by Al-Bukhari on the authority of Al-Masur ibn Makrama, The Concise Comprehensive Book of Sound Hadith (Sahih al-Jame' as-Sagheer) and its supplement (4188).] And, "Fatima is part of me, what makes me sad, makes her sad, and what pleases me, pleases her". [ Transmitted by Ahmad, Al-Tabrani and Al-Hakim on the authority of Al-Masur as well. Ibid. (4189). See Ahmad 4/323,332; Al Tabrani 20/25; Al-Hakim 3/158 who amended its authority which was approved by Al-Zahaby.] And "'surely my daughter is part of me; I fear what frightens her, and I am harmed by what harms her". [ Transmitted by all the six. See The Concise Book of Traditions (Mukhtassar As-Sunna)by Al-Munzery, Hadith (1987).]

We feel the effect of this in Islamic literature, as a poet says in the following lines:

But for the soft girls in cats" downy fur,  
Who have taken their smoothness,  
I would have been in great, great trouble  
On this vast earth and wide.  
Surely when our children are among us,  
They are the apples of our eyes surveying the earth;  
If the wind blows on any of them,  
My eyes will never close.

As to the father's control over his daughter, it does not exceed the limits of moral education, exactly as her brothers. He asks her to pray when she is seven, but raps her if she does not pray when she reaches ten. He has to separate her and her brothers at that age [ They should not sleep together in the same bed or bathe together as little children do.] and obliges her to follow the Islamic code of conduct in dressing, adornment, going out and talking. Her upkeep is obligatory on him according to his religion and law until she marries. He does not have the power to sell her or make her the property of another man by any

means. Islam has annulled the selling of free persons, whether male or female, in any form. If a freeman bought or owned a daughter who had been a slave for another, she should be freed as soon as he owned her, whether he likes it or not, according to Islamic Law.

If the daughter has her own money, the father should keep it for her. A father is forbidden to marry his daughter to another man in exchange for being allowed to marry that man's daughter, which is called in jurisprudence as a "vacant marriage" due to its lack of dower, which is the right of the daughter, not the father.

In addition, the father has not got the right to marry his daughter to a man she hates and does not approve of. He must have her opinion of the man she is going to marry, whether she agrees or disagrees. If she has been married before, she has to utter her consent clearly. If she is a virgin and overcome by shyness, it is enough to listen to her silence, which is a sign of consent. If she says, "No," then he has no power to force her to marry someone she does not want.

The two sheikhs have transmitted on the authority of Abu Huraira, "A widow cannot marry unless she gives her consent, nor the virgin until she is asked permission. They asked, O Messenger of Allah, how can she give her permission? He said, By her silence". [Agreed upon The Pearl and the Coral (Al-Lu'lu' wal-Marjan) (895)] They also transmitted on the authority of `isha who said, "I asked the Messenger of Allah, `Are women asked their affairs?" He said, `Yes." I said, `The virgin when she is asked feels shy and remains silent!" He said, `Her silence is her permission". [Agreed upon The Pearl and the Coral (Al-Lu'lu' wal-Marjan) (895)] For that reason the learned say that the virgin should know that her silence is permission. On the authority of Khansaa" bint Khaddam Al-Ansari said: "her father got her married though she was not a virgin, and she hated her marriage. When she went to the Prophet (greetings and peace be upon him), he annulled the marriage. [Transmitted by all except Muslim.] On the authority of Ibn `Abbas, a virgin girl came to the Messenger of Allah and mentioned her father got her married while she was unwilling. The Prophet (greetings and peace be upon him) gave her the choice. [ Transmitted by Ahmad (2469), amended by Sheikh Shakker; Abu Dawud (2069); Ibn Majah (1875) and Ad-Daraqatny vol.3, (56)] From these Traditions (Hadith), we have an indication that the father is not distinguished from another as he is obliged to ask his daughter and it is a necessity to have her approval. According to Sahih Muslim and others, "A virgin is asked," which means she must give her permission and approval. On the authority of `Aisha, a girl came to her saying, " My father married me to his nephew to raise himself (in status) through his mean act, and I am unwilling." isha said, `sit until the Prophet comes." She told him and he sent for her father who gave her the choice. She said, "O Messenger of Allah, I approved of what my father did but I wanted to know if woman had any word in the affair:". [ Transmitted by Al-Nisaa'i in the Book of Marriage, chapter `The Virgin is Married Unwillingly by her Father; 6186-7.]

Obviously, the Prophetic Traditions illustrate permission for both the virgin and the woman who was married before as a condition of the marriage contract. If the father or the person in charge marries the widow or divorcee without her permission, the contract is invalid and revocable, as in the story of Al-Khansaa bint Khaddam. As to the virgin, she has the right to choose; if she wishes, she gives her permission; if not she refuses, which annuls the contract, as in one of the previous Stories. [See Nail Al-Awtar, 6/254-256] What is of great interest is that Islamic Law commands the consultation of the mother in the marriage of her daughter so the marriage can be completed to the satisfaction of all concerned parties. On the authority of Ibn `Umar, the Prophet (greetings and peace be upon him) said, "Take woman's permission about their daughters". [ Transmitted by Ahmad and ascribed to Ibn Umar (4905); researched by Ahmad Shaker, Abu Dawud (2095); and others.] In this context, Iman Abu Sulaiman Al-Kattaby has some valuable remarks to add, as comment on this Hadith, in his book Landmark of Traditions (Maalem as-Sunna), which should be conveyed for their moral sense and integrity. He writes: The counsel of mothers in the affairs of their daughters is not because they have a say in the marriage contract, but it is also that the daughters feel secure and have intimate relationships with their mothers, which is longer lasting for companionship and more effective in bringing their daughters and their husbands together, if the principle of the contract is based on the mutual satisfaction and desire of mothers and daughters. But if it is other than that, one would not get away safely from their harming effect ( i.e. rousing daughters against their husbands), and the potential cause of adversity to fall upon them.

Moreover, mothers are closer to their daughters; they listen more to what they say. For these reasons, their consultation concerning the marriage of their daughters is appreciated and Allah is more knowledgeable.

He adds: It could be for another reason in addition to what is mentioned. A woman might come to know through her special relation with her daughter and through her private conversation with her a matter which could invalidate the marriage contract. It could be due to an illness which makes her unable to perform her duties as a wife. For this reason, the Prophet's words, "The virgin should not be married except through her permission which is silence", as she might be shy to disclose her agreement and to show her desire in the marriage. Therefore her silence indicates her being free from a deficiency that prevents intercourse, or a reason which is only known to her and which does not permit marriage. And Allah Almighty is more knowing. [ See The Concise Book of Traditions (Mokhtasser As-Sunna) by Al-Munzery; The Landmarks of Traditions (Maalem As-Sunna) by Al-Khattab; Edification by Ibn Al-Qayyim 3/39, researched by Ahmad Shaker and Mohammed Hamid Al-Fiqy.]

We add here that the mother may know from her daughter's secrets that her heart is tied to someone else. If that person proposes and is suitable, then he should have the priority, as in the Hadith, "Nothing is better for those in love than marriage". [ Transmitted on the authority of Ibn Abbas, Ibn Majah (1847); Al-Hakim and corrected on Muslim's term 2/160, agreed upon by Al-Dhahaby and Al-Baihaqi 7/78; Al-Tabrani, Tammam and others. It is mentioned by Al-Albani in the "authentic ones" (624).]

If the father has no right to marry his daughter to one she does not like, he has the right that his daughter should not get married without his permission, according to the Hadith by Abu Musa, "No marriage without the guardian," and for the Hadith [ Transmitted by Abu Dawud (2085); Al-Termithy (1101); Ibn Majah (1881); Ahmad 4/394,413, 418. Other words mentioned in the Hadith are transmitted by Al-Munzery in The Concise Book of Traditions (Mokhtasser As-Sunna), and by Ibn Al-Qayyim, see Hadith (2000).] on the authority of `Aisha, "Any woman who marries without the permission of her guardian, and her marriage is void." This was said three times. [ Transmitted by Abu Dawud (2083) and (2084); Al-Termithy (1102) who improved it; and Ibn Majah (1879).]

Abu Hanifa and his companions believe that a girl has the right to marry herself, even without her father's permission or that of the guardian, on the condition that the husband is suitable for her. The above Hadith is not mentioned in their writing, but they illustrate it in their views by what is found in the Qur'an referring to marriage: "do not prevent them from marrying their former husbands until she has married another husband" there is no sin for you if they (the wives) dispose of themselves in a just and honourable manner (i.e. they can marry)." In these verses and in others, marriage is attributed to women. Allah forbids preventing a woman from seeking marriage as it is a right which she is capable of managing, and so it should be accepted of her. Abu Hanifa put as a condition that her marriage has to be to a suitable husband, otherwise the responsible persons have the right to object. In the case of a woman marrying with the permission of the guardian but without his attendance, it is permitted by some jurists though the general consensus puts the presence of the guardian as a condition, otherwise her marriage is void.

## **The knowledgeable**

Ibn Qud, ma said:

If the contract is validated by a ruler, it is not allowed to be annulled. The judge here has a special point: the contract is annulled when it is against a text. The ruler has the priority because it is a negotiable matter, and so his verdict is not annulled, exactly as giving the right of pre-emption for the neighbour. The text (i.e. "No marriage without the guardian") has been interpreted variously and is approved by some and objected to by some.



This is according to Ibn Qud,ma's deep knowledge and fairness, may Allah be pleased with him. However, to be tactful and discrete, the marriage should be accomplished with the agreement of all parties concerned, the father, mother and daughter, so as not to leave the opportunity for gossip, enmity, and quarrelling, whereas Allah has legislated marriage to promote love and mercy.

It is required of the father to choose for his daughter a good man who makes her happy and who finds happiness in her company. The father should concentrate on the man's morals and faith, not on materialistic and earthly matters. He should not put obstacles in the way of the marriage if a suitable man proposes. The Hadith says, "If the person who satisfies you in morals and faith comes to you, let him marry (your daughter). If you do not, you will create sedition on the earth and widespread corruption". [ Transmitted by Al-Termithy (1084); Ibn Majah (1967); Al-Hakim whose amendment was accepted by Al-Dhahaby 2/165 on the authority of Abu Huraira; Al Baihaqi 7/82 on the authority of Abu Hatim Al-Mazay; Ibn Adeyy on the authority of Ibn Umar improved in The Concise Comprehensive Book of Sound Hadith (Sahih al -Jame' as-Sagheer) and its supplement (270).] Thus, Islam has taught the father that his daughter is a " human being" before anything else. She is not a "commodity" to be offered and given to the one who pays more, as in the case of many ignorant and greedy fathers continue this practice until today. The Hadith says, "It is the good fortune of a woman to facilitate her engagement, to facilitate her dower, and to ease her womb-i.e. her delivery". [ Transmitted by Ahmad 6/77; Ibn Hayyan (4095); -Hakim 2/181 who amended it on Muslim's terms and approved by Al-Dhahaby, on the authority of isha and improved in The Concise Comprehensive Book of Sound Hadith (Sahih al -Jame' as-Sagheer) and its supplement (2235).]

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## The Woman as Wife

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According to some ancient beliefs, a woman was consigned impure being created by Satan. One should, therefore, escape from her and turn to a monastic life of self-denial. Others considered the wife to be an instrument of pleasure for man, a cook for his food or a servant to his house.

Islam came to abolish the monastic state of life and retirement from the world. It urges marriage and considers the state of marriage as one of the signs and proofs of Allah in the universe: "And among His signs is this, that He created for you wives from among yourselves, that you may find repose in them, and He has put between you affection and mercy. Verily, in that are indeed signs for a people who reflect". [Surah 30:21]

When a group of companions wanted to retire from worldly life and devote themselves to the worship of Allah, fasting the whole day, spending the whole night in worship and deserting women, the Prophet (greetings and peace be upon him) denounced their life saying, "Are you the people who said such a thing? By Allah I am the most fearing of God among you, the most pious, but I fast and then break my fast, I wake up at night to worship Allah and I sleep, and I marry. Whoever does not follow my way (Sunna), he is not one of us". [ Transmitted by Al-Bukhari and Muslim on the authority of Anas The Pearl and the Coral (Al-Lu'lu' wal-Marjan) 2/885]

Islam has made a good wife the best treasure a man can have in his life, after belief in Allah and following His commands. She is considered the key to happiness. According to the Hadith, "the Prophet (greetings and peace be upon him) told `Umar, shall I tell you the best a man can treasure? It is a good wife. If he looks at her, she gives him pleasure; if he orders her, she obeys; and if he is away from her, she remains faithful to him". [ Transmitted by Abu Dawud in the authority of Ibn Abbas in "Zakat 2/1664; Al-Hakim who amended it 2/333, approved by Al-Dhahaby.] The Prophet (greetings and peace be upon him) said, "The world is delightful and its greatest treasure is a good woman". [Transmitted by Muslim on the authority of Abdullah Ibn Amr (1467).] He also said, "Whoever is granted a good wife, he is helped to follow half his religion, let him obey God in the second half". [ Transmitted by Hakim who amended it on the authority of

Anas 2/161, approved by Al-Dhahaby and reiterated by Al-Munzery in *Inducing and Intimidating* (Al-Targheeb wal-Tarheeb). See *The Selected* (Al-Muntaqa) 111101. It is also related to Al-Tabrany in *Al-Awsat* as well as Al-Hathamy in *Al-Majmu'* 41272. Abd Ar-Rahman did not know the transmitter on the authority of Anas, Al-Hakim knew it was Al-Oqba Al-Azraqi, reiterated by Al-Dhahaby and mentioned by Al-Albany in *The Authentic Traditions* (625).] He also said, "There are three things that cause happiness and three things that create misery for the human being. A good wife, a good house, and good transport cause happiness. A bad woman, a bad house and bad transport cause his misery". [ Transmitted by Ahmad, Al-Bazzar and Al-Tabrany in *Al-Kabr wal-Awsat* on the authority of Saad Ibn Abi Waqqas, as Al-Hathamy said in *Al-Majma'* 41272. It is mentioned by Al-Munzery in *Inducing and Intimidating* (Al-Targheeb wal-Tarheeb), who said it was transmitted by Ahmad through authentic support and by Al-Tabrany, Al-Bazzar and Al-Hakim who amended it.] The Prophet (greetings and peace be upon him) also said, "Four things if granted to any person, he is granted the best of the world and the afterlife: a thankful heart, a tongue that mentions Allah, a body that patiently endures misfortune, and a wife that does not seek his betrayal or his money. [Al-Haythamy said 4/273 it was transmitted by Al-Tabrany, Vo.11(11275) in *Al-Kabr wal-Awsat* on the authority of Ibn Abbas.] In another version, "does not seek sinning against him " Islam raised the importance of the woman as a wife and considers her fulfilment of matrimonial duties as jihad (struggle for the sake of Allah). Al-Tabrany transmitted on the authority of Ibn `Abbas, may Allah be pleased with them, the following Hadith: "A woman came to the Prophet (greetings and peace be upon him) and said, `O Messenger of Allah, I am the woman's messenger to you. There is no woman among them-who knows it-but none of them wishes my coming to you." She then presented her case and said, `Allah is the Lord of men and women, and is their God, and you are Allah's messenger unto men and women. Fighting for Allah (Jihad) is meant for men; if they succeed, they take their due and if they die martyrs, they are alive (in the afterlife)and are provided for by Allah. So, what equals their deeds in our obedience to Allah?" He said, "Obey your husbands and perform your duties. A few of you do that. [Al-Haythamy in *Majma' Al-Zawaaed* 4/305, 306; it is transmitted by Al-Tabrany; and Al-Bazzar transmitted a similar Hadith.]

Islam has declared rights of the wife on the husband, and has not made her a mere puppet. On the contrary, it establishes for her more than a protector and observer: firstly, by giving her the Muslim's faith and piety; secondly, the conscience of the society and of its wakefulness; thirdly, a Law and commitment to it.

The first of her rights is a dower, which Islam obliges the man to give to the woman as a symbol of his desire, in marrying her and of wanting her. Allah says: "And give to the women (whom you marry) their Mahr (obligatory bridal money given by the husband to his wife at the time of marriage) with a good heart, but if they, of their own good pleasure remit a part of it to you, take it, and enjoy it without fear of any harm (as Allah has made it lawful)". [Surah 4:4] The expression "with a good heart" signifies the dower as a gift and is not a price or in return for the pleasure he gets from her, as some people have insisted.

So, where can we find this in other civilisations, where a woman pays a sum of her own money though, by nature, the man requests her more than she requests him?

The second of her rights is maintenance. The husband is required to provide his wife with food, clothes, a place to live and medical treatment according to his environment, conditions and income. The wealthy have their own measure, whereas the poor have theirs. The Prophet (greetings and peace be upon him) said stating the rights of women, "You are obliged to provide them with food and clothes honourably". [ Transmitted by Abu Dawud (1905); Ibn Majah (3074); Al-Doramy in *Kittab Al-Mannish* p.440 on the authority of Jabber; Ahmad 5/73 on the authority of Abu Gara Al-Raqashi's uncle.] Honourably here means what is conventional according to people of faith and honour, without extravagance or meanness. The Almighty said:

"Let the rich man spend according to his means, and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what He has given him". [Surah 65:7]

The third right is living with them honourably. The Almighty said: "And live with them honourably". [Surah 4:19] It is a collective right which is comprised of all around good treatment in all aspects of the husband/wife relationship such as good manners, a flexible attitude, sweet words, a smiling face, a pleasing playfulness and an amusing mien, etc. The Prophet (greetings and peace be upon him) said, "The most faithful believers are the best in manners and the most gentle of their own people". [Transmitted by Al-Termithy on the authority of Abu Huraira (1162).]

Ibn Hibban transmitted on the authority of `isha that the Prophet said, "The best of you is he who is the best to his family, and I am the best to my family". [Transmitted by Ibn Hibban Charity (El-Ehsan) Vol. 9 (4177).]

The actual biography of the Prophet (greetings and peace be upon him) has proved his gentleness towards his people, his excellent conduct with his wives, to the extent that he used to help them with their housekeeping. The extent of his playfulness is shown when he raced `isha twice; she won the race once and he won the second time. He then said, "Tit for tat". [Transmitted by Ibn Majah (1976) on the authority of `isha.]

In return for these rights, a wife is obliged to obey her husband in everything except disobeying Allah. She is obliged to take care of his money, not to spend it except with his permission; and of his house, not to allow anyone in, even though they be a relative, except after asking him. Such duties are not too burdensome, nor unfair, in return for her rights. Therefore, every right has a duty in return. It is fair of Islam that it did not make all the duties a woman's concern nor a man's concern. God Almighty says: "And they (women) have rights (over their husbands as regards living expenses, etc.) similar (to those of their husbands) over them (as regards obedience and respect, etc.) to what is reasonable". [Surah 2:228]

Therefore, women have as many rights as they have duties to perform. Of the laudable words transmitted are those telling of Ibn `Abbas standing in front of a looking glass to straighten his appearance and arrange his ornamentation. When he was asked about it, he said, "I adorn myself for my wife as she does for me." Then he recited the noble verse: "And they have rights (over them) similar to what is reasonable. [Surah 2:228. This is a wonderful example illustrating the deep Qur'anic knowledge of the Companions, may Allah be pleased with them all.

### **Independence of the wife**

Islam does not ignore the personality of any woman because of her marriage, as in some cultures which attach the woman to her husband in addition to giving her his name. Islam has kept the distinct, independent personality of the woman as it is, and that is the reason we know the Messenger's wives by their own names.

In addition, her civil personality is not diminished by marriage, nor does it lose its eligibility for making contracts, etc. She can sell and buy, rent her properties, buy properties, donate some of her money, give charity, deputise and dispute. These are matters attained only recently by the western woman, though she is still restricted in some countries by the husband's will.

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### **Divorce**

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The missionary and orientalist invasion of the previous age focused its attack on two issues meant to decry the Islamic attitude concerning women. These are divorce and polygamy, though in fact they are two of the good things Islam is proud of.

It is unfortunate, indeed, that when these two issues are discussed among some Muslims, they refer to them as two problems of the family and society. They speak of them in a way that disparages our great Islam and its outstanding Law.

The fact is, Islam did not make laws regarding these two issues except to cure many problems in the life of men and women as well as in the life of the family and society. The genuine problem is in misunderstanding what Allah has decreed, or in misapplying it. If anything is misused, it leads to pernicious disservice.

### **Why did Islam legislate divorce?**

Not every divorce is commendable in Islam. Some cases of divorce are disliked or even forbidden because they entail destruction of the family, which Islam takes care to build and form. That is why it is recounted in the tradition which was transmitted through Abu Dawud, "The most hateful halal (permissible thing) to Allah is divorce". [Surah 2:102] No wonder the glorious Qur'an likens the separation between man and his wife to the work of heretic sorcerers, as the Almighty says: "And from these people learn that by which they cause separation between man and his wife". [Surah 4:130] Divorce according to Islamic Law is similar to a painful surgery; the sane human being endures the pains of his wound, even an amputation, in order to protect the remaining parts of the body to keep away greater injury. If the aversion between husband and wife is undiminished, and the means of reconciliation and attempts by reconciling parties fail to bring them together, divorce then is the bitter medicine which has no alternative. This is the reason why if there can be no reconciliation, there is divorce. The Glorious Qur'an says, "But if they separate (by divorce), Allah will provide abundance for everyone of the them from His Bounty". [Surah 4:130]

What Islam decrees here is what is dictated by reason, wisdom, and Muslims' interests. It is totally illogical and unnatural to force, by the power of law, a life partnership on partners who do not feel comfortable with each other and do not trust each other. On the contrary, they undergo feelings of repugnance; they hate each other and cannot tolerate living with each other. To force such a life by the power of law is a severe punishment, undeserved by man except for committing a major crime. It is worse than life imprisonment and is certainly like the unendurable hell. In olden times a wise man said, "One of the great calamities is to live with someone who does not agree with you, but does not leave you." Abu Al-Tayyeb Al-Mutanaby said:

Of the distressing matters in the world for the freeman, is to perceive the inevitability of befriending a foe. If that is said about a companion one meets one or more times a week, for perhaps an hour or several hours a day, what about a wife who stays at his home, who is very close to him and is the partner of his life?

### **Limiting the circle of divorce**

However, Islam has established a number of principles, teachings, and rules which, if followed and used with discretion, would lessen the need for divorce and limit its scope to a great extent. Some of these are considered:

1- To make a good choice of a wife, paying more attention to her religion and morals than her money, wealth and beauty. The Prophet (blessings and peace be upon him) said, "A woman is married for four attributes, for her money, her family name, her beauty and her religion. Get the religious one and you will be comfortable". [Mutafaq aley (agreed upon) on the authority of Abu Huraira The Pearl and the Coral (Al-Lu'lu' wal-Marjan) (928).] To behold the intended fiancée before the marriage contract to be reassured of the extent of her beauty in his own eyes and of her place in his heart, as this early view is the messenger of warmth and affection. For that reason, the Messenger (blessings and peace be upon him) said to a man who intended to marry a certain woman, "Go and behold her, for it is more likely it will lead to harmony between you". [See The Concise Comprehensive Book of Sound Hadith (Sahih Al-Jame' As-Sagheer) and its supplement (859).] i.e., it will bring about warmth and harmony. This prophetic command, "Behold her," if it does not indicate obligation, it certainly indicates preference. The Hadiths (prophetic traditions) referring to the same meaning are numerous. Jabber said about the woman he married, "I used to hide underneath a tree till I saw of her what led me to marry her".

Unfortunately, there are some Muslims, especially in the Gulf region, who perceive the man's beholding his intended fiancée as an unprincipled act. Therefore, he does not see her except on the wedding day, though she may be a school or university student who goes to the market and is seen by all the people except her fiancé.

In contrast, there are those who allow the man to sit alone with his intended fiancée and allow them to go out together and frequent cinemas, etc. Thus, what is correct is lost between two extremes of exaggeration and licentious behaviour.

3- For the interested woman and her guardians to choose a husband of noble character and to prefer the one whose faith and morals are satisfactory. We have already mentioned the following Hadith, "If the man who satisfies you in faith and morals comes to you, let him marry (your daughter)." The predecessors said, "When you get your daughter married, let her marry a man of faith; if he loves her, he will treat her nobly, and if he hates her, he will not be unfair".

4- A woman's approval of the one who proposes is a condition of marriage. It is never allowed to force a woman to marry a person she does not want. The Prophet (blessings and peace be upon him) dissolved the marriage of a woman who was married by force.

5- To consider the satisfaction and approval of the woman's guardian as obligatory or preferable, so that a woman does not marry while her people disapprove of the marriage or are dissatisfied with her, which would lead to estrangement between her and her family. Such estrangement might also be reflected on her married life and have a great effect on it.

6- To consult mothers about the marriage of their daughters in order that the marriage may be based on stable ground to the satisfaction of all parties. It is transmitted that the Prophet (blessings and peace be upon him) said, "Ask women about their daughters," as has already been mentioned in the Hadith and in the speech of Imam Al-Khattab in his report.

7- It is necessary to live together in marriage through mutual understanding, pointing out the details of rights and duties exchanged between the married couple, awakening the faithful consciences to adhere to Allah's Laws and to fear and obey Allah by following His Laws. The husband and wife each have duties in return for his or her rights. A Muslim is supposed to perform his or her duties before asking for his or her rights. The Almighty says: "And they (women) have rights (over their husbands as regards living expenses, etc.) similar (to those of their husbands) over them as regards obedience and respect, etc., to what is reasonable. [Surah 2:228]

8- To persuade the husband to be realistic so as not to seek perfection in his wife, but to consider her merits as well as her weak points. If he dislikes one trait, he will find another to satisfy him. In the Hadith,

"No believer should loathe a woman who believes in Allah; if he hates one of her manners, he is satisfied with another". [ Transmitted by Ahmad and Muslim on the authenticity of Abu Huraira, Op. cit. (7741)]

9- To ask the husband to use his reason and consider the general welfare of all involved if he feels a fomenting hatred towards his wife. He should not hasten to yield to his emotion and should hope Allah changes his urge to something good. The Almighty says: "And live with them honourably. If you dislike them, it may be that you dislike a thing and Allah brings through it a great deal of good". [Surah 4:19]

10- To command the husband to treat his disobedient, unruly wife with wisdom, progressing bit by bit from leniency, without weakness, to firmness, without violence. The Almighty says: "As to those women on whose part you see ill-conduct, admonish them (first), (next), refuse them to share beds, (and last) beat them (lightly, if it is useful), but if they return to obedience, seek not against them means (of annoyance). Surely Allah is Ever Most High, Most Great". [Surah 4:34]

11 - To command the society to intercede when there is a breach between the husband and wife with a family council of the trustworthy persons of his relatives and hers, in an attempt to mend, reconcile and resolve the existing crisis through peaceful means. The Almighty has said: "If you fear a breach between them twain, appoint (two) arbitrators one from his family and the other from hers; if they both wish for peace, Allah will cause their reconciliation. Indeed Allah is Ever All-Knower, Well-Aquainted with all things". [Surah 4:35]

These are the teachings of Islam. If Muslims follow them and keep them, divorce will be greatly limited.

### **When and how does divorce take place?**

Islam, however, does not decree divorce at all times nor in all cases. Divorce is permissible, according to the Qur'an and the Sunna (prophetic traditions) when the man is not hasty and chooses a suitable time. For instance, he should not divorce his wife when she has her menstrual period, nor when she is purified of her menses if he has had intercourse with her. [ That is, if she is purified of her menses (i.e. between her periods) and he had had intercourse with her, he should not divorce her until she has completed her next menstrual period. This will ensure she is not pregnant. (editor's note)] If he did, his divorce would not be according to the teaching (Sunna) of the Prophet and would be forbidden. Some jurisprudents have gone so far as to say the divorce is not valid then because it does not follow what the Prophet (blessings and peace be upon him) has commanded us to do. In the authentic Hadith, "Whoever did what we did not command, his deed is invalid". [Transmitted by Muslim (1718) on the authority of isha.] The man should be sober, in a well-balanced and judicious state. If he is not fully conscious, or forced, or in a state of wrath which causes him to go beyond his intention and imagination and utter what he does not want to say, it is not considered valid. [ Transmitted by Abu Dawud (2193) and Ibn Majah (2046) on the authority of isha.]

The noble Hadith says, "No divorce in blind rage." Abu Dawud interpreted it to mean "anger," while another interpreted it to mean "by force." Both are correct.

He should have the intention to divorce his wife and to be actually separated from her. But if he makes of the divorce an oath to swear with, blackmail or threaten, it will be invalid, as some ancient scholars have said. This is reiterated by the well-versed jurists Ibn Al-Qayyim and his Sheikh Ibn Taymeya.

If such types of divorce are not valid, what remains is the intended, premeditated divorce which is reflected upon and studied by the husband before approaching it, and which he sees as the sole cure for an unbearable life. This divorce is described by Ibn `Abbas as "the divorce which is only according to an aim (an intention). [ Mentioned by Al-Bukhari in Section 11, "Book of Divorce" (6/168) on the authority of Ibn Abbas.]

## After divorce

However, when divorce takes place, it does not utterly cut off the marriage tie and make it irremediable. On the contrary, as mentioned in the Qur'an, divorce gives every divorced man two chances to go back and redeem the situation. If the divorces occur one after another, and if the two times do not succeed in changing their minds, the third divorce is the final and decisive one, after which the divorce cannot return to him unless she has first been married to another man (and widowed or divorced from him).

Therefore, putting the three chances given by Allah in one utterance is against the decree of the Qur'an. That is what is indicated and illustrated by the Sheikh of Islam Ibn Taymeya and his disciple Al-Qayyim, and what the Islamic Law courts accept in several Arab countries.

However, divorce does not deprive the divorced woman from taking maintenance during the legislated period that she stays without marriage (*'iddah*). [*Iddah* is a waiting period. Its duration is usually (a) until she gives birth if she is pregnant, or (b) three menstrual cycles if she has regular periods, or three calendar months if she no menses. For details and exceptions, consult a book of Islamic jurisprudence (*Fiqh*). During the *iddah* the woman is not free to marry anyone else. If it is a reversible divorce, her husband may choose to take her back at any time during the *iddah*. If he does not take her back after the waiting period, the divorce is final and the woman is free to marry someone else, or she may go back to her husband with a new marriage contract, and he must Pay her a new dower. (editor's note)] Divorce does not allow the husband to dismiss her from her home, but forces the husband to let her stay in her house with him (in the same house); perhaps sentiments would return, hearts be purified and urges renewed: "it may be that Allah will afterward bring some new thing to pass (i.e. to return her back to you if that was the first or second divorce)". [Surah 65:1]

Moreover, it does not allow the man to consume the woman's dower or take back what was given before: "And it is not lawful for you (men) to take back any of your Mahr (bridal money given by the husband to his wife at the time of marriage) (from your wives) which you have given them". [Surah 2:229]

She also has the right of *mut'a*, the amount of which can be decided the social conventions. " And for divorced women, maintenance (should be provided) on reasonable (scale). This is a duty on Al-Mutaqeen (the pious)". [Surah 2:241] That is something general for every divorced woman to appease and compensate her. [*Muta* is compensation or gift made in a lump sum rather than on-going maintenance. (editor's note)]

It is also forbidden for the divorced man to spread rumours about his ex-wife or to scandalise her or offend her or her family after divorce: "either you retain her on reasonable terms or release her with kindness" [Surah 2:229] "And do not forget liberality between yourselves". [Surah 2:237]

That is divorce as decreed by Islam. It is a cure as it should be, at the right time, in the right measure, in the right style and with the right aim.

On the other hand, Christianity has totally forbidden divorce for Catholics; except in the case of adultery, it is also forbidden by the Orthodox Church. Their reason is that what is united by Allah (whom they call God) cannot be separated (divorced) by man. As for Muslims, they believe that Allah unites and He is the One Who separates (divorces) through His decreed Laws. Allah makes Laws for His worshippers according to what is in their interest, and He is the One Who knows them better. The result is that many Christians have abandoned what is forbidden, which have obliged most Christian countries to set local laws allowing divorce without the restrictions, ties and morals of Islam. It is no wonder that many now get divorced for the most trivial reasons, and their married lives have been subjected to degeneration and collapse.

## Why is divorce initiated by the man?

They ask, "Why is divorce initiated by the man alone?" The reply is that the man is the one in charge of the family and is its backbone. He is the one who pays the dower and what follows until the establishment of the family is built on his own shoulders. Therefore, it is very hard for him to destroy that establishment except for powerful reasons and inevitable necessities which would make him sacrifice all these expenses and absorb these losses. A man may be less hasty as he is less affected by emotions. As for the woman, she can be very affected by emotions, especially during the menses. What is more, it may not be in the parties' interests to leave the divorce to a court because not all the reasons for divorce are meant to be public, to be transmitted by lawyers and writers to become the subject of gossip on everyone's tongue. Yet, in the West divorce is achieved through court. This does not lessen divorce, nor does the court stand in the way of the man and woman who seek divorce.

## How can an averse wife divorce her husband

This is an important question for a great number of people: "If divorce is initiated by the man-and we already know the reasons and justifications for this-what, then, is decreed concerning a woman's initiating a divorce? What is her way to get rid of the injustice of the husband if she loathes life with him for his harsh temper, his ill conduct, or for not performing his duties in an obvious way? Or there could also be physical or financial impotence which prevents him from fulfilling these duties, or other reasons.

The answer is that the Judicious Law-Maker (i.e. Allah) has made several outlets for the woman through which she can overcome her dilemma:

1 - Her condition in the marriage contract to have divorce in her hands, which is eligible according to Abu Hanifa and Ahmad. In the authentic Hadith, "The truest condition is that which you made lawful, to have physical intercourse". [Mutafaq aley (agreed upon) according Uqba Ibn Amer, The Pearl and the Coral (Al-Lu'lu' wal-Marjan) (2/894).]

2- By paying a ransom (Khul'). A woman who dislikes her husband can ransom herself by repaying what she took as a dower and things like that. It is not fair of her to be the one who wishes for the divorce and the destruction of the marriage bond; and then the husband becomes the only loser. Almighty Allah says: "Then if you fear that they would not be able to keep the limits ordained by Allah, then there is no sin for either of them if she gives back (the mahr or part of it) for her al-khul' (divorce)". [Surah 2:229]

According to the prophetic traditions, Thabet Ibn Qais's wife complained to the Prophet (blessings and peace be upon him) of her strong loathing of her husband. The Prophet (blessings and peace be upon him) asked her, "Would you give back his orchard?"<sup>1</sup>-which was her dower.- She answered, "Yes." The Prophet (blessings and peace be upon him) ordered Thabet to take back his orchard and nothing more. He asked the husband to utter one irreversible repudiation". [ Transmitted by Al-Bukhari (6/170). "Book of Divorce" division 112, on the authority of Ibn Abbas.]

3- Divorce through two arbitrators when there is a breach between husband and wife. Allah has said: "If you fear a breach between them twain (the man and his wife) appoint (two) arbitrators, one from his family and the other from hers; if they both wish for peace, Allah will cause their reconciliation". [Surah 4:35]



The Qur'an's calling that family council the "arbitrators" indicates that the two selected persons have the right to judge and decide. Some of the Prophet's Companions said to the arbitrators, "If you wish to unite them, then do so; and if you wish to divorce them, then do so."

4- Divorce for physical impotence. If the husband has a weakness which deprives him of having sexual intercourse, the wife can raise the matter to court for a divorce in order to prevent any harm touching her. In Islam, there should not be harm or any harming effect on others.

5- Divorce for injury falling on the wife. If the husband harmed his wife and hurt her, restricted her unfairly, such as by refusing to sustain her, for example, she can ask the judge to divorce her. In such a case, the judge will force a divorce to put an end to harm and injustice on her. The Almighty says: " But do not take them back to hurt them". [Surah 2:231]

The Almighty also says: "either you retain her on reasonable terms or release her with kindness". [Surah 2:229]

One of the injuries befalling a wife is to be struck without provocation. And some scholars of Islam have gone so far as to divorce a wife from her poor husband if he failed to sustain her and she asked for divorce. Islamic Law does not commit her to be patient when it comes to hunger with a poor husband if she does not accept it out of loyalty and nobility.

With these outlets, Islam has opened many doors for a woman to be liberated from the cruelty of some husbands and their being domineering without having the right to be. [ See "The Right of the Averse Wife in my book Contemporary Legal Opinions (Fataawa Mu'aserah), 2/361-366]

The laws laid down by men may be against the rights of women, but the Law decreed by Allah, the Creator of men and women, is a Law void of injustice or prejudice. It is perfect justice: "And who is better in judgement than Allah for a people who have firm Faith". [Surah 4:129]

### **The abuse of using divorce**

It remains to say that a great number of Muslims have abused divorce and have set it in the wrong place, making of it a sword pointed at a wife's neck. They have used it as an oath to swear with about everything great or small. Moreover, many jurists have widened the scope of divorce, even to include the divorce of the drunkard and the one in wrath, and also the forced one, though the Hadith says, "No divorce in blind rage". [ Transmitted by Abu Dawud - his own wording - (3133), Al-Termithy (1141), Al-Nisa'i, 7/63, Ibn Majah (1969), Al-Doramy p.539, and Ahmad, 2/347,471. All on the authority of Abu Huraira.]

Ibn `Abbas says, "Divorce is only according to an aim (an intention)." But they take seriously the three times a man mentions divorce in one utterance in a state of anger, meant to be a threat in a fight outside the house, though he is totally happy and satisfied with his wife. However, what is indicated in the texts and the intentions of the forgiving nature of the Islamic Law, in order to establish a family and protect it, is to narrow the scope of divorce. It is not valid except by a certain utterance, at a certain time, with a certain intention. We owe this to Allah; that is what Imam Al-Bukhari and other predecessors perceived, and which has been confirmed by Ibn Taymeya and Al-Qayyim and others. This expresses the spirit of Islam. As to miscomprehension or misapplication of the rules of Islam, it is the responsibility of Muslims not of Islam.

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## Polygamy

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Missionaries and orientalists treat the subject of polygamy as if it were one of the rites of Islam, or one of its duties, or at least a desirable practice in Islam. This is an inaccuracy or a misconception. The overwhelming norm of marriage, for a Muslim, is to marry one woman to be his solace, the joy of his heart, the keeper of his house, and the one to trust with his secrets. Thus, quietude, love, and mercy, the foundation of married life according to the Qur'an, would support them. Therefore, the learned say, "It is disliked for a man who has a wife who is chaste and modest and who is enough for him to marry another. This will subject him to what is forbidden." The Almighty says: "You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married)". [Surah 4:129]

The Prophet (blessings and peace be upon him) said, "The man who had two wives and was inclined towards one of them will come on the Day of Judgement bent to one side". [ Transmitted by Abu Dawud - his own wording - (3133), Al Termithy (1141), A-Nisa'i, 7/63, Ibn Majah (1969), Al-Doramy p.539, and Ahmad, 2/347, 471. All on the authority of Abu Huraira.] As for the man who is unable to sustain a second wife, or who is afraid of not being fair [ The obligatory fairness is to treat them equally in maintenance, clothing and housing. He is forbidden to go to the one on the night devoted to the other except out of expedience such as a crisis or grave illness. He is also forbidden to go there in the day time except for necessity such as a visit for a harmless illness, or to inquire about a certain matter he needs. If he does not stay long, there is no expiation because it is a slight matter. If he stays or has his lust consumed, he should expiate by going to the one he treated unfairly and staying at her place the same time he stayed with the first woman. That is what is decided as an elucidation of the obligatory justice.] to both of them, it is forbidden for him to marry another. The Almighty says:" but if you fear that you shall not be able to deal justly (with them), then only one". [Surah 4:3]

Though it preferable for a man to have only one wife to avoid slips and out of fear of troubles in this world as well as punishment on the Day of Judgement, there are other humane considerations for the individual and society-which we will mention-that made Islam allow the Muslim to marry more than one wife. This is because Islam is the religion which conforms to sound naturalness and treats reality with out escape, exaggeration or fantasy.

### **Polygamy in olden times and in Islam**

Some people talk about polygamy as if Islam was the first to permit it. This is incorrect and a dismissal of history.

Many nations and religions before Islam had allowed marrying a great number of women, tens of them, even a hundred, without any conditions or limitations. The Old Testament mentioned that David had three hundred women and that Solomon had seven hundred, some of whom were wives, while others were concubines.

With the advent of Islam, a condition and a limitation were laid on polygamy. The limitation made the maximum number of wives four. Ghilan Ibn Salma became a Muslim while he had ten women, so the Prophet (blessings and peace be upon him) said to him, "Choose four of them and leave (divorce) the

others". [ Transmitted by Al-Termithy (1128) and Ibn Majah (1953) On the authority of Ibn 'Umar] The same thing happened to those who embraced Islam while having eight or five wives; they were ordered by the Prophet (blessings and peace be upon him) not to keep more than four.

As for the marriage of the Prophet (blessings and peace be upon him) to nine women, it was something restricted and specified by Allah for him for the Islamic call and for the nation's need of them after his passing away. He lived most of his life with one wife, Khadijah, may Allah be pleased with her. That was a glorification by Allah of the Prophet's wives, who chose the way of Allah, His Prophet (blessings and peace be upon him) and the afterlife. Therefore, Allah forbade him to marry any others nor to choose another instead of one of his wives. The Almighty says: "It is not lawful for you (to marry other) women after this, nor to change them for other wives even though their beauty attracts you". [Surah 33:52]

### **Fairness is a condition of polygamy**

As for the condition set forth by Islam for polygamy, it is the self-confidence of the Muslim to be fair in his treatment to his two wives in food, drink, clothing, housing and sustenance. If one is not sure of his ability to fulfil such duties equitably and fairly, he is forbidden to marry more than one wife. Allah says: " But if you fear that you shall not be able to deal justly (with them), then only one". [Surah 4:3] The Prophet (blessings and peace be upon him) said, "Whoever has two wives and is more inclined towards one of them, he will come on the Day of Judgement dragging one of his sides while it is drooping". [ Transmitted by Abu Dawud - his own wording (3133), Al-Termithy (1141), Al-Nisa'i, 7/63, Ibn Majah (1969), Al-Doramy p.539, and Ahmad, 2/347, 471. All on the authority of Abu Huraira.] The inclination which the Hadith warns us of takes place when he overlooks her rights and not when he merely inclines in feelings toward her, which is part of the equity that is not possible and which is forgiven by Allah. The Almighty says: " You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision)". [Surah 4:129] For this reason, the Prophet (blessings and peace be upon him) used to divide equitably between his wives and say, "Allah, that is my division as it is in my power to do so. Do not blame me for what You have and I have not. [ Transmitted by Abu Dawud (2134), Al-Termithy (1140), Ibn Majah (1971), Al-Doramy Book of Marriage p.540, and Ahmad 6/144 on the authority of isha.] By what he had not got , he meant feelings and inclination towards one of them in particular. Whenever he used to travel, he turned to drawing lots; the one whose arrow appeared would accompany him. He resorted to that in order to avoid jealousy and to satisfy them all.

Islam is the last word of Allah by which all His messages are concluded (sealed). Therefore, it came with a general and eternal Law to embrace all nations, all ages and all people. Islam has not made laws for the urban while overlooking the rural, nor for the cold regions and not the hot ones, or vice versa; nor for a certain age while ignoring the rest of the ages and the other generations. Islam appreciates the importance of individuals as well as communities.

A man could have a strong desire to have children but find him self married to a wife who is childless because of infertility or illness, or any other reason. Would it not be more respectable and better for her if he married another to realise his wish while at the same time keeping the first and ensuring her rights?

Some men are more sexual and lusty, but one could be married to a wife who has little desire for men, or who is ill or has a long period of menstruation or whatever. She does not satisfy the desire of his instinct nor fill his lustful eyes that seek other women. Would he not be allowed to marry another in a lawful manner instead of seeking another as a mistress, or instead of divorcing the first one?

In addition, the number of eligible women for marriage might be more than the men able to marry, especially after wars that deplete the best of men and youth. It might be in the interest of the society and the women themselves who would prefer being second wives than living as spinsters all their lives,

deprived of married life and what it has of quietude, love and protection, deprived of the bliss of the motherhood their instincts call for. There are only three ways for these surplus women:

1 - to spend their whole life feeling the bitterness of deprivation of married life and of motherhood, which is a severe punishment for them as they did not commit any crime.

2- or give them some freedom to follow their instincts and accept the means of pleasure with corrupt men who, after satisfying their desires, cast them away when their bloom and youth are gone. This is in addition to what might happen afterwards of begetting illegitimate children, increasing the number of fatherless children deprived of physical and psychological rights who become unproductive citizens and tools of destruction and corruption.

3- or to allow them each to marry a married man who is able to sustain and protect her, confident of his fairness as Allah Almighty has commanded.

Doubtless, this last alternative is the ideal, fair solution and a curing balm. That is what Islam has decreed: "And who is better in judgement than Allah for a people who have firm Faith". [Surah 5:50]

### **Polygamy as a moral, human system**

The system of polygamy according to Islamic Law is a moral, human system. It is moral because it does not allow man to have intercourse with any woman he wishes, at any time he likes. He is not allowed to have intercourse with more than three women in addition to his (first) wife, and he cannot do that secretly, but must proceed with a contract and announce it, even among a limited audience. The people in charge of the woman should know about this lawful intercourse and agree to it or at least should not object to it. It should be registered-according to the modern system-in a specialised court for marriage contracts. It is desirable to have a special dinner for the occasion in which the man invites his friends. Dufoof (hand drums) may be played to express utmost joy and hospitality.

It is human because through it a man lessens the burdens of the community by sheltering a woman who has no husband and transforms her to a chosen, protected wife. It is also human because he justifies his sexual intercourse based on a legal marriage for which the bridegroom provides a dower, furniture and expenses. Also of social benefit is the establishment of a social unit (family) capable of producing working progeny. It is also human because he is not only responsible for the woman with whom he has intercourse, but he is responsible when she suffers from the troubles of pregnancy. He does not leave her to bear it alone, but he bears a part of it by paying for her sustenance and expenses during her pregnancy and for her delivery. It is also that he recognizes the children begotten through sexual intercourse and presents them to the society as the fruits of a noble and honourable love, which are cherished by him and will be by the society in the future.

Dr Mustafa El-Siba'i, may Allah have mercy on him, said of the system of polygamy, "Man distributes and lessens his lust to a certain extent, but he multiplies his burdens, troubles and responsibilities to an unlimited extent." Certainty, it is a moral system protecting morals, and it is a human system honouring mankind.

### **The Western system of promiscuity is immoral and inhuman**

How different the Islamic system is from the actual promiscuity in the life of the Western society! One Western writer insisted that no one on his death-bed could confess to the priest that he had not had

intercourse with a woman (other than his wife) at least once in his life-time. This promiscuity of the West is without a law; moreover, it occurs while the law stands by. It does not happen in the name of wives, but in the name of friendships and mistresses. It is not limited to only four, but is unlimited. It is not announced in order to be celebrated by the family, but happens secretly without anyone knowing about it. In addition, it does not commit the doer to any financial responsibility towards the women he has intercourse with. Suffice it for him to tarnish their honour and then leave them to scandal and poverty and to endure the troubles of pregnancy and delivery. Besides, he is not committed to recognise the children begotten as the outcome of the intercourse. They are considered illegitimate, bearing the stigma of being bastard children as long as they live.

It is a legal promiscuity, but it is not called "polygamy". It is void of any moral behaviour, awakening of sensibility or human feeling. It is a promiscuity directed by lust and selfishness which flees from any responsibility.

Which of the two systems then is closer to morality, more allaying to lust, more honourable to women, more denotative of progress and more righteous to humanity? [ See Women Between Jurisprudence and Law (Al-Mara'ah baina al-Fiqh wal-Qann) by Dr Mustafa El-Sibai. See also The Liberation of Woman in the Period of the Messenger (Tahrir al-Mara'ah fe Asr Al-Resalah) by Abd Al-Haleem Abu Shaqqah, fifth part.]

### **The abuse of the license of polygamy**

We do not deny that many Muslims have abused the license of polygamy as decreed by Allah in the same way they have abused the license of divorce, as explained earlier. The failure is not in the Law itself but in the application due to misunderstanding, ill manners, or lack of the teachings of the religion.

We have seen some men marry more than one when the man is not certain of his fairness, which is a condition set by Allah for marrying another. Some of them marry more than one when they are unable to sustain both nor, in addition, what follows the marriage, i.e. children and responsibilities. Some men are able to sustain more but are unable to protect them.

Frequently, the abuse of this right leads to harmful consequences for the family as a result of pampering the new wife and treating the old one unfairly. He could totally end his inclination towards her until she is left hanging in the air, so to speak, neither married nor divorced. This frequently leads to envy among children who belong to one father because he is not fair to them in their rights, nor does he treat them equally in moral and financial dealings.

Whatever the transgression of some people in that realm, it will never reach the evil to which the Westerners have lowered themselves by considering the moral polygamy a crime while allowing the immoral promiscuity. (However, polygamy is longer a problem in most Muslim societies, as marriage to one woman has now become a great problem.)

### **The call of westernized people to forbid polygamy**

Unfortunately, some people calling for Westernisation in our Arab and Islamic countries have made use of what has happened because of the Muslims who transgress; they raise their voices asking for polygamy to be abolished completely. Day and night the disadvantages of polygamy are reiterated while silence is kept about the disadvantages of adultery and fornication, which is, unfortunately, allowed by local laws which rule over Muslim states nowadays. The mass media, especially films and serials, have played a

serious role in spreading repulsive feelings toward polygamy, among women in particular, so that some of them would tolerate the husband when he commits adultery but not when he marries another.

### **The basis on which those who call for rejection of polygamy rely**

Such advocates have succeeded in some Arab and Islamic countries, and laws have been issued forbidding what God has ordained and made lawful, thus allowing the laws of the West. There are still others who call for these changes in other countries.

The incredible thing in this case is they want to justify their system of polygamy in the name of Islamic Law and have proofs in the form of jurisprudence. They have objected it is the right of the person in authority to prevent what is allowed when it is in the interest of the people, or to avoid harm. Such a pretext is unacceptable by Islamic Law. Some have even gone so far as to attempt, in a rude and audacious way, to use the Qur'an to justify their claims. The Qur'an has put a condition for the man who marries more than one to be sure of his fair treatment of the two (or more) wives, and whoever is afraid of not being fair should keep only one. Allah says: "And if you fear that you shall not be able to deal justly with the orphan-girls, then many (other) women of your choice, two or three, or four but if you fear that you shall not be able to deal justly (with them), then only one". [Surah 4:3] This is the Qur'an's condition for polygamy-fairness. However, the Quran, they claim, has clarified in another verse in the same Surah that the conditioned fairness is not possible, in the verse: "You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision)". [Surah 4:129] Therefore, it is claimed, this verse has negated the previous one. In fact, all the evidence which is being used is false and cannot stand sound criticism. Each will be discussed.

#### ***1- Islamic Law does not allow something whose evil outweighs its good***

The claim that polygamy has caused social and familial corruption and detriment is an open fallacy; Islamic Law cannot permit something which will do harm; likewise, it does not forbid something of benefit. This is expressed in the Qur'an in the most eloquent and comprehensive phrases with the description of the Messenger (blessings and peace be upon him), and addressing the people of the Book (i.e., the Jews and Christians). "He commands them for Al-Ma'ruf (i.e. Islamic Monotheism and all that Islam has ordained); and forbids them from Al-Munkar (i.e. disbelief polytheism of all kinds, and all that Islam has forbidden); he allows them as lawful At-Tayyibat [(all i.e. good and lawful) as regards things deeds, beliefs, persons, foods etc] , and prohibits them as unlawful Al-Khabaith (all i.e. evil and unlawful as regards things, deeds, beliefs, persons, foods etc.), he releases them from their heavy burdens (of Allah's Covenant), and from the fetters (bindings) that were upon them. [Surah 7: 157] All that is permitted by Islamic Law has pure benefit or benefits which outweigh harm. All that is forbidden by Islamic Law must have pure harm or the harms must outweigh the benefits. This is clear in what is said in the Qur'an about alcohol and gambling: Say, "In them is great sin, and (some) benefit for men, but the sin of them is greater than their benefit". [Surah 7:219] This is also what Islamic Law has provided for in polygamy, as it balances interests and corrupting matters, benefits and harms.

It permits what the individual needs and is able to do as long as he is sure of his fairness, and is not afraid of being unjust or having a greater inclination towards one of them: "but if you fear that you shall not be able to deal justly (with them), then only one". [Surah 4:3]

It may be in the interest of the first wife to be the sole one on the throne of marriage without any rivals, and she sees that she will be harmed by the presence of another wife; but it is also in the interest of the

husband to marry another to protect him from illicit relationships or bring him an awaited-for child, etc.; moreover it may also be in the interest of the second wife to have someone take care of her.

To have half a husband, to live under his protection and be in his charge may be better than living as a spinster, widow or divorcee, in deprivation.

It is also in the interest of society to protect its men and women by legitimate marriage-in which each of them bears the responsibility for himself or herself and the spouse and for what Allah may give them of children-that is, instead of promiscuity, allowing the multiplicity of mistresses, which is immoral and inhuman, and in which each has the pleasure of a companion without any responsibility for what follows, even if a child is born of that illicit relationship. In turn, the child is then considered a wild plant without a father to belong to, or a family to give him love and compassion or a heredity to cherish.

Which harms should be avoided then? On the other hand, Islamic Law has reserved the first wife's right to equity between herself and the second wife concerning maintenance, housing, clothing and staying at her place. That is the equity put as a condition for polygamy. It is true that some husbands do not observe the justice commanded by Allah, but the misapplication does not mean the basic principle should be cancelled; otherwise the whole of Islamic Law and all other laws would be abolished. Adherence of the law should be enforced.

## ***2- The right of the person in authority to prevent what is allowed***

As to the claim that the person in authority has the right to prevent some of what is allowed, we have the following to say: what the Law has given to the person in authority is the right to limit some of what is permitted for a weighty interest at some times, or in some cases, or for certain people. He should not generally or utterly prevent it forever because that would be like forbidding, which is only Allah's right, denied by the Qur'an to the People of the Book. "They (Jews and Christians) took their rabbis and their monks to be their lords besides Allah by obeying them in things which they made lawful or unlawful according to their own desires without being ordered by Allah". [Surah 9:31] The Hadith came to interpret the verse, "They allowed for them and forbade them and thus followed them". [ Transmitted by Al-Termithy on the authority of Adeyy ibn Hatim in the interpretation sections (3095) and by Ibn Jarir in his interpretation section (16631). Al-Termithy said this Hadith is ghareeb (i.e., it has only one transmitter), but in the section about Hudhaifa, it is mauqf (i.e., it was narrated by the Companions, not by the Prophet [blessings and peace be upon him]) and transmitted by Al-Tabary (16634).]

To limit what is allowed is like preventing the slaughter of animals on certain days to lessen their consumption, as happened at the time of `Umar, may Allah be pleased with him; or like preventing excess cultivation of a certain crop so cultivation space will not encroach upon the space attributed to growing grains and other nutritious crops that are staple foods for the people. It is also similar to preventing the highest ranks of military officers or diplomats from marrying foreigners for fear of leaking state secrets through women to the enemies. It is also like preventing men from marrying a Christian or a Jew out of fear that it would affect Muslim women, especially in the communities that have small Islamic minorities and limited Muslim expatriates.

But to come to something allowed by Allah in His Book and mentioned by His Prophet (blessings and peace be upon him), established in the state, such as divorce or polygamy, and to prevent it utterly and forever is considered something different from limiting what is allowed according to the examples given.

The meaning of You will never be able to do perfect justice between wives. [Surah 4:129]

As to the illustration from the Glorious Qur'an, it is wholly rejected. It is a corruption of the order of words and carries within it an accusation against the Prophet Mohammed (greetings and peace be upon him)

and his companions (may Allah be pleased with them), implying they did not understand the Qur'an, or maybe that they did but intentionally deviated from its precept. The verse quoted to illustrate the point also gives an answer if the meaning is perused; Almighty Allah has allowed polygamy on the condition of fairness, then highlights the fairness needed in the same chapter when He says: " You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married)". [Surah 4:129] This verse indicates that complete and absolute justice between women is impossible due to the nature of the human being because complete justice requires equity between them in everything, even in the inclination of the heart and in sexual desire, and that cannot be controlled by the man. He may love one more than the other, incline towards one more than another. Hearts are controlled and turned by Allah in the way He likes.

Therefore, the Prophet (blessings and peace be upon him) used to say after dividing between his women the apparent affairs of maintenance, clothing and spending nights, "Allah, that is my division as it is in my power to do so. So not blame me for what You have and I have not". [ Transmitted by Abu Dawud (2134), Al-Termithy (1140), Ibn Majah (1971) Al-Doramy Book of Marriage p.154; and Ahmad 61144 on the authority of - isha] He meant the heart's inclination. It is this inclination in which one cannot be fair that Allah has pardoned, as the Almighty does not rebuke man for something beyond his ability when it is not in his power to do it.

Therefore the noble verse says: "You will never be able to do pefect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other suspended (i.e. neither divorced nor married)". [Surah 4:129] What is understood from this verse is that some inclination, which is the emotional inclination, is forgivable.

The amazing thing is that some Arab countries adopt the forbiddance of polygamy, though in their legislation they do not forbid adultery, except in certain cases when one is forced (rape), or in the case of the woman's marital infidelity if the husband does not drop the charge. Adultery is described by Allah as a great sin: "And come not near to the unlawful sexual intercourse. Verily, it is a fahshah (a great sin), and an evil way". [Surah 17:32]

I came to know through the great Imam Sheikh `Abd Al Haleem Mahmud, may Allah have mercy on his soul, that a Muslim living in an African-Arab country which had laws against polygamy secretly married another wife through a legitimate conventional contract, abiding by all its conditions except that it was not authenticated. This is because the country's established law refused to authenticate or admit it and considered such a marriage a crime for which he would have to be punished. The man used to frequent the house of his (second) wife, so the police watched him and came to assume that she was his wife and that he had committed an offence against the law. One night they waited for him, arrested him at his wife's place and took him to court accusing him of marrying a second wife.

The man was clever and asked those interrogating him, "But who told you she is my wife? She is not a wife. She is a mistress whom I took as a companion and I call on from time to time " The interrogators were taken aback and told the man very politely, "We are awfully sorry for the misunderstanding. We thought she was a wife and did not know she was a companion." Thereupon, they released him because, to them, to have the illicit company of a woman as a mistress to commit adultery with is considered within the framework of personal freedom protected by the law.



Some biased people who are guided by personal interests propagate that Islam has forced the woman to be imprisoned at home and not to go out except to the grave!

Has that verdict a true basis in the Qur'an or in the Sunna (prophetic traditions) or in the history of Muslim women in the first three centuries, which were the best? Certainly not.

The Qur'an makes the man and woman partners in bearing the heaviest responsibilities in Islamic life, and that is the responsibility of enjoining the right and forbidding the evil. The Almighty says: "The believers, men and women, are "Auliy," (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) Al-Maaruf (i.e. Islamic Monotheism and all that Islam orders one to do), and forbid (people) from Al-Munkar (i.e. polytheism and disbelief of all kinds, and all that Islam has forbidden); they offer their prayers perfectly Iqamat-as-Salat and give the Zakat and obey Allah and His Messenger". [Surah 9:71] As an example of the application of that principle, it happened that there was a woman in the mosque who disagreed with the caliph `Umar Al-Faruq ("The One Who Distinguishes Truth from Falsehood", i.e. `Umar ibn Al-Khattab) while he was addressing the congregation from the pulpit. He accepted her opinion and discarded his, saying openly, "A woman is correct and `Umar is wrong. [Mentioned by Ibn Kathir in his interpretation, improving its authority, as mentioned earlier] The Prophet (blessings and peace be upon him) said, `seeking knowledge is obligatory for every Muslim. [Transmitted by Ibn Majah, part 1, (224), on the authority of Anas, corrected by Al-Seyoti in ancient times, and by Al-Albany in modern times.]

The Muslim scholars agree that a Muslim woman is also included in the meaning of the Hadith, as she is obliged to know what corrects her creed, improves her worship, and controls her manners within the morals of Islam, etc. She is obliged to know Allah's laws about what is allowed, what is forbidden, and her rights and duties. She could reach the highest stage of knowledge to achieve the grade of ijthihad (independent judgement of religious matters).

Her husband has no right to prevent her from seeking knowledge, which she is obliged to do, if he is not able to teach her or if he does not do it properly. The wives of the Prophet's Companions used to go to the Prophet (blessings and peace be upon him) to ask him about issues that concerned them. They were not prevented by modesty (shyness) from knowing their religion well.

Congregational prayer is not demanded of a woman, as it is demanded of a man. Her praying at home could be better for her circumstances and calling. However, her husband cannot forbid her if she wishes to go to congregational prayer in a mosque. The Prophet (blessings and peace be upon him) said, "Do not forbid Allah's women to go to Allah's mosques". [Transmitted by Muslim in his Sahih on the authority of Ibn Umar, 1/327, (442).]

A woman can come out of her house to run an errand for herself, her husband, or her children in the field or in the market place, as did Asma'a bint Abu Bakr That Al-Nit, gain ("The One Who Possessed Two Belts"). She said, "I used to carry date pits on my head from Al-Zubeir's land-my husband's-while I lived in Medina, and it was about two thirds of a league from Medina."

A woman could accompany the army for first aid and nursing tasks and similar services suitable to her nature and her abilities. Ahmad and Al-Bukahri recounted on the authority of Al-Rubayyi' bint Muaawith of the Ansar who said, "We went to the battle with Allah's Messenger (blessings and peace be upon him) offering water to the men and doing them service and returning those killed and wounded to Medina". [Transmitted by Ahmad, 6/358.]

Similarly, Ahmad and Muslim recounted on the authority of Um `Ateyya, who said, "I went to the fighting with Allah's Messenger (blessings and peace be upon him) seven times, following them in their

campaigns, preparing food, treating the wounded and helping the sick". [Transmitted by Ahmad, 6/407 and Muslim (1812)]

This is the work for the woman and for the nature of her function; but to carry a weapon and fight or lead a battalion is not one of her affairs, unless there is a special need for that; then she could share with men in their struggle against the enemies as much as she is able. On the Day of Hunain Um Salm took a dagger, and when her husband asked her the reason, she said, "I took to so that if any of the polytheists came near me I would stab him in his abdomen". [Transmitted by Muslim (1809)] Um `Imarah of the Ansar fought so well in the Battle of Uhud that the Prophet (blessings and peace be upon him) commended her, and in the apostate wars she witnessed the battles herself until Musaylimah Al-Khattab ("The Liar") was killed. She returned with ten stab wounds.

If in some ages the women are deprived of knowledge, isolated from life at home as if they were pieces of furniture, not taught by the husbands and not given the chance to learn-even going to the mosque is considered forbidden-if such a picture is prevalent, then it is a consequence of ignorance, exaggeration and deviation from the guidance of Islam. It is then an exaggeration in rigidity, not allowed by Allah. Islam is not responsible for such absurd traditions of the past; likewise it is not responsible for other exaggerated conventions created at present. The nature of Islam is the gentle balance in every thing legislated and suggested concerning rules and morals. Islam does not grant one thing to forbid something else, nor does it exaggerate one side at the expense of the other. It does not exaggerate in giving rights, nor in assigning duties.

Thereupon, it was not the intention of Islam to pamper the woman at the expense of the man, nor to be intent on satisfying a woman's whims and diminishing her calling, nor satisfying the man while belittling her dignity. But we find that Islam's stance towards the woman illustrated as follows:

1. It protects-as we have already said-her nature and her femininity as created by Allah, and it keeps her away from the wolves who like to devour her illicitly and away from the greediness of exploiters who wish to exploit her femininity as a commercial tool and for illicit profit.
2. It respects her supreme function for which she is intuitively and chosen by her Creator, Who gave her more than man's portion of compassion, affection, sensitivity and excitability to be prepared for the compassionate vocation of motherhood, which supervises the greatest industry in the nation, the industry of the future generations.

Islam considers the home as the great kingdom of the woman. She is its mistress, its head and axis. She is the man's wife, his partner, the solace of his loneliness, and the mother of his children. Islam considers a woman's job of keeping house, looking after her husband's affairs, and raising her children well as a kind of worship ('ibaadah) and struggle in the cause of Allah (jihad). Therefore, it resists every method or system that hampers her from fulfilling her task or that impairs her from performing her duty in the best way or that destroys her home.

Every method or system that attempts to remove the woman from her kingdom, to take her from her husband, or displace her from her children in the name of freedom, work, art, etc., is in fact the woman's foe that wants to rob her of everything and hardly give her anything. Doubtless, it is rejected by Islam.

3. Islam wants to establish happy homes to be the basis of a happy society. Happy homes are established on confidence and certainty, not on doubts and suspicion. The family whose consistency is based on a couple exchanging suspicions and fears is a family on the edge of an abyss, a family for which life is an unbearable hell.
4. Islam allows her to work outside the home in an appropriate job which suits her nature, her concern, and her capacity, and which does not crush her femininity. Her work is legitimate within certain limits and certain conditions, especially when she or her family needs the outside

work or when the society itself needs her work in particular. The need for work is not merely limited to the financial aspect. It could be a psychological need such as the need of a specialised learned woman who is not married, or the married woman who has no children, or who has a lot of leisure time and to alleviate boredom.

The matter is not as claimed by those who are for the woman 's work without any limitations or controls. We will deal with this topic in some details in the next pages, Allah willing.

### **Those who exaggerate about woman's work and the misconceptions concerning them**

However, as the captives of intellectual invasion call for a mixed relationship between the man and the woman, and the melting of the barriers between the two sexes, we see the call to put the woman in any kind of job, whether she needs the job or not, and whether society needs such work or not. This matter is a completion of the first, as it is fulfilling the goals of mixed relationships, melted differences, and the liberation of the injustice and darkness of the Middle Ages, as claimed.

The cunning and slyness is frequently shown in not declaring outright what is wanted is woman to rebel against her nature, exceed the limits of her femininity and make use of that femininity for illicit pleasure or illicit earning. They appear in the image of pure and loyal people who do not seek anything but the general interest. Opinions concerning the work of the woman are stressed through scattered reasons, collected as follows

1. The West, which is more advanced than us in civilisation, has preceded us in employing women; so, if we wish to advance like the West, we should follow suit in everything, for civilisation is an integrated whole.
2. Women represent half the society. If they stay at home without employment, it is a waste, and it has harmful effects on the national economy. It is in the interest of the society for women to work.
3. It is also in the interest of the family for the woman to work, as the costs of living have increased in our age. The woman's employment increases the family's income and helps the man with expenses of living, especially in an environment where income is limited
4. It is in the interest of the woman herself for her to work. Coming into contact with people and life, with the society outside the home, polishes her personality and provides her with experiences she would never have obtained inside her home.
5. In addition, work is a weapon to arm her against the enmity of time. Her father might pass away, her husband might divorce her, or she might be neglected by her children. In that case, she would not be humiliated by poverty and need, especially at a time characterised by selfishness, widespread ingratitude, and cut-off blood relations in which everyone is merely concerned about himself. [ See "Woman's Work and the Call of its Propagators" and the replies to them in "Woman between Jurisprudence and the Law" (Al-Mara'ah baina al-Fiqh wal-Qann) by Dr Mustafa Sib.,]

### **The reply concerning these misconceptions**

As to the claim of the West, it is a false claim for the following reasons:

1. The West is not a good example for us to follow, and we are not committed to take the West as a worshippers of Allah or as a model to be followed. " To you your religion and to me my religion (Islamic Monotheism)". [Surah 109:6]
2. In the West the woman has been forced to go to the factory, the store, etc. and does not do so out of her own choice. She is driven by the need of food and is obliged to earn her living after being rejected by man, who refuses to be in charge in a cruel and merciless society which does not have mercy for the young nor for the weak females. Allah has provided us with the maintenance system in our Islamic Law, which makes such action unnecessary for the woman.

Professor Mohammed Youssef Moussa, may Allah have mercy on him, mentioned in his book Islam and Humanity's Need of it, while discussing Islam's care for the family:

It may be relevant to mention here that during my stay in France, I lived with a family whose maid-servant seemed to me to be of a good family and did in fact arduse my curiosity. I, therefore, asked the lady of the house, "Why should this lady debase herself in this way? Has she no relative who can support her and put an end to her degrading job?" The answer was that the lady had an extremely rich uncle, but who still did not look after her. When I told her that the lady could sue him to get support, she was greatly surprised and told me that the law did not provide for this at all.

When she knew that Islam states that such an uncle was legally obliged to support his poor relative, she commented that this blessing of Islam is really needed to put an end to the debasement of the fairer sex in outdoor jobs. [ Islam and Humanity's Need of It by Mohammed Youssef Moussa (trans. by The Supreme Council for Islamic Affairs, Ministry of Waqfs, Cairo).]

She means that their fear of hunger and loss is what has led such an army of women to work, through necessity.

3. The West which is followed as a model has been complaining now of woman's work and its consequences. Women themselves are complaining of such misfortune on which they have no choice. The famous writer Anna Rhode, said in the newspaper Eastern Mail:

If our daughters work at home as servants or like servants, it is better and less unfortunate than working in laboratories where girls are infected by disease and dirt which take the gleam from their lives forever. I wish our country were like the Muslim's, arrayed in purity and chastity where the servant and the slave enjoy the best in life and are treated as if they were the children of the home. Their honour is undefiled. Yes, it is shameful for the English to make of our daughters a model of evil by their promiscuous relationships.

Why don't we seek what agrees with a girl's natural tendency to work at home and leave men's work to men to keep her honour intact? [From Islam and Sex (Al-Islam wal-Jins) by Fathy Yakan.]

4. It is not in the interest of the society to abandon her first calling at home to work as engineer, or a lawyer, or a representative, or a judge, or a factory worker; but it is in its interest for her work in the field of her specialisation for which she is instinctually prepared, the field of marital life and motherhood, which is not less serious but more so than working in stores, laboratories and establishments. Napoleon was asked, "Which castles of France are more impregnable?" He said, "Good mothers."

Many have undermined the work of the house wife which is one of the greatest services to the community. The responsibilities of a home and children are abundant and challenging. The

woman has the task of homemaking, which entails a lot of physical labour, and the job of shaping her children to be productive citizens. If some women have some leisure time, it can be spent doing crafts, serving their communities and their fellow women, or contributing to fighting poverty, ignorance and vice.

In fact, a lot of working women employ other women as baby-sitters for their children or as servants at home. This means that the house needs a woman to look after its affairs, and the priority goes to its mistress and queen instead of to the outsider, who in most cases a stranger to the house with different morals, religion, language, ideas and habits, as is prevalent in the Gulf societies where nannies and servants are imported from the Far East. The danger of that situation cannot be hidden from the sane person.

5. The happiness of the family rests not in merely increasing the income-which is mostly spent on buying clothes for going to work, and necessities for a mixed life (e.g. men mixing with women) which is based on affectation, the fashion race and being in vogue. In return, the home is deprived of the quietude and companionship established by the woman in the atmosphere of the family. The working woman is exhausted, quick-tempered, and needs someone to lessen her burden, so she cannot give what she has not got to the home.
6. It is not in the interest of the woman to force her out of her nature and her responsibility and force her to do a man's work. Allah has created her a female. To do a man's work, then, is cheating her nature and reality. A woman could gradually lose her femininity until she is what some English writers have called the "third sex". That is what many women of moral courage have confessed.
7. What is claimed as weapon in the hand of the woman, if it works in the West, does not work for us as Muslims. This is because in Islam a woman has her needs satisfied due to the obligatory maintenance decreed by Islamic Law on her father, or her husband, or sons, or brothers, or others of blood relation. If copying the West has started to make us gradually lose our traits so that even the brother has started to deny his sister, the male relative has started to abandon his duty towards his female relative, and many people think merely of themselves, we still must adhere to Allah's Laws until the religious motive supersedes the worldly motives.

### **The harmful effect when a woman is involved in men's work without restrictions or limits**

Therefore we learn that when the woman is involved in men's work without restrictions or limits, it has its harmful effect on various aspects:

1. It is harmful for the woman herself because she loses her femininity and her distinguishing characteristics and is deprived of her home and children. Some become barren and some are like "the third sex", which is neither a man nor a woman.
2. It is harmful for the husband because he is deprived of a bounteous source flowing with good company and cheerfulness. Nothing flows any longer except arguments and complaints about the troubles of work, the rivalry of work mates, men and women. This is in addition to the competitor jealousy the man may feel, real or imagined, of other men in the workplace who vie for her attention.
3. It has a harmful effect on children because a mother's compassion, sympathy and supervision cannot be compensated by a servant or a teacher. How can children get benefit from a mother spending her day at work and on her arrival at home being tired and stressed? Neither her physical nor her psychological condition would allow the best she has to give regarding

education or direction to her children.

4. It is harmful for men because every working woman takes the position of an eligible working man. As long as there are unemployed men in the society, the woman's work is harmful to them.
5. It is harmful for the work itself because women are frequently absent from their work due to natural emergencies which cannot be avoided, as menstruation, giving birth, nursing a baby, and the like. All such things deprive the work of discipline and valuable output.
6. It is harmful on morals. It is harmful to the woman's morals if she loses her modesty and on the man if he loses his attentiveness. It is harmful on the whole society if earning a living and increasing the income is the main goal sought by people, disregarding higher principles and good models.
7. It is harmful on social life because going against the grains of nature and dislocating things which are naturally located spoils life itself and causes imbalance, disorder and chaos.

### **When is a woman allowed to work?**

Do we understand that the woman's work is forbidden by Allah in any case? Certainly not. However, here we have to indicate to what extent and in which fields the Islamic Law allows the woman to work. That is what we are going to point out briefly and clearly, so that the right will not be mixed with the wrong on this sensitive issue.

The woman's first and greatest work, in which no one can rival her, is to rear new generations. She is prepared for that by Allah, both physically and psychologically, and she should not be occupied by anything else materialistic or moral whatsoever, as nobody can replace her in that great work on which the future of the nation and its wealth, i.e. its human wealth, depend. May Allah have mercy on the poet of the Nile, Hafiz Ibrahim, who said:

Mother is a school, if well-prepared  
An entire healthy society is prepared.

That does not signify that the woman's work outside her home is forbidden by Islamic Law. No one has the right to forbid without an authentic text which is clear in meaning. On that basis, we say that the woman's work in itself is allowed. It is even requested if she is in need of it, if she is a widow, divorced, or did not have a chance to marry, and if she has no income to avoid the humility of asking for charity or people's condescension. It could be the family who needs her work, such as to help her husband, or to care for her children, or young brothers and sisters, or her father in his old age, as in the story of the two daughters, of the old man mentioned in Surah Al-Qasas in the Qur'an, who used to look after their father's sheep. The Almighty says: " And when he arrived at the water of Midian (Madyan) he found there a group of men watering (their flocks), and beside them he found two women who were keeping back (their flocks). He said, "What is the matter with you? " They said "We cannot water (our flocks) until the shepherds take (their flocks). And our father is a very old man. [Surah 28:23]

The society itself might be in need of the woman's work, as in giving medical treatment to women and looking after them, teaching girls and such work that concerns women. It is more proper for a woman to deal with another woman like herself, instead of with a man. The acceptance of a man in some cases is a matter of necessity which should be considered accordingly and should not be taken as a rule. The same case applies when the society needs working hands for the sake of development. If we allow some women to work, it should be restricted by a number of conditions:

1. The work itself should be Islamically lawful in the sense that it should not be Islamically forbidden (haram) or lead to what is forbidden, for instance as a maid working in the house of a bachelor, or as a private secretary for a manager, whose position requires her to stay with him alone, or as a dancer who excites physical instincts and lusts, or as a worker in a restaurant serving alcohol. The Prophet (blessings and peace be upon him) condemned those who produce alcohol as well as those who transport or sell it. She should not work as an air hostess, a position which obliges her to wear forbidden clothes and offer what is unlawful (haram) to passengers. Her job would also require her to stay overnight alone in foreign countries, some of which are not safe. She should not work in other types of work forbidden by Islam for women in particular, or forbidden for men or women.
2. If she goes out of her house, she should adhere to the morals of a Muslim woman in her clothing, her talk and movement. " And tell the believing women to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts) and not to show off their adornment except only that which is apparent and let them not stamp their feet so as to reveal what they hide of their adornment. [Surah 24:31] then be not soft in speech, lest he in whose heart is a disease (of hypocrisy or evil desire for adultery, etc.) should be moved with desire, but speak in an honourable manner. [Surah 33:32]
3. Her work should not affect other duties which cannot be neglected, such as her duty towards her children and husband, which is her foremost and basic duty. [For more information about the woman's position in Islam, see The Liberation of Woman in the Period of the Message (Tahreer al-Mara'ah fe Asr Ar-Resalah) by Abd Al-Haleem Mohammed Abu Shaqqah. It is a six Volume encyclopaedic book documented with texts from the Qur'an and Sunna.]
4. What is required of the Muslim community is to organise matters and make arrangements so that the Muslim woman can work-if her interest or her family's or her society's requires that-without touching her modesty, or contradicting her commitment towards Allah, herself or her home. The general atmosphere should help her to perform her tasks as well as obtain her rights. There should be some arrangements where she can work part-time for half pay (three days a week, for example). She should also be granted enough leave for her marriage, delivery and nursing.
5. Some of the arrangements should include setting schools, colleges and universities especially for girls where they can practise sports and physical exercises suitable for them and where they can have freedom of movement to practise different activities. There should also be women in ministries, establishments and banks, away from places of temptation and where a woman will not be alone with one or more men, in addition to other and new means which cannot be counted.

It is Allah Who says the truth and guides to the right path.