

# THE FAMILY SYSTEM OF ISLAM

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## CONTENT

Third Edition	9
Preface	11
Translator's Note	15

### Family and Tribe

*Family (Importance and Brief History)	19
Man is a social being	19
Man is dependent on community	19
The beginning of Family	20
The need for Family	20
The importance of Family	21
The passion for Protection and Security	22
The reasons for associating with Family	22
Family life is a unique feature of Humans	23
Forms of Family	24
Patriarchal Family and Matriarchal Family	25
Family is the foundation of Society	26
*Is Family Important?	29
The decline of Family	29
Arguments against Family	29
1. Family is symbolic of male chauvinism	29
2. The control of man over financial resources	30
3. Family ties are based on economic reasons	32
4. The State would fulfil the role of Family	34
5. Family has got disrupted in the Modern Age	37
State is not an alternative to Family	38

<b>*The Family and Tribal system of Arabs and Islamic reformation</b>	<b>41</b>
Classes in Tribal system	41
Inclusion in Family by means of agreement	43
Tribal ally	45
The practice of <i>Tabniyat</i> (adoption)	45
Familial Prejudices	47
Tribal warfare	48
Allied tribes	51
<i>Hilf alFudul</i>	54
Islamic reformation	55
Marital ties and blood relations are the foundations of Family	55
The limits of brotherhood	56
Any person cannot be made one's son	57
Unity among tribes	57
Rise of a universal nation	59

### **The Structure of an Islamic Family**

<b>*The Islamic Family</b>	<b>63</b>
The Religious significance of Family	64
The Foundations of family structure	64
<b>*Right sexual conduct</b>	<b>67</b>
The importance of sexual relations	67
Abstinence v/s sexual relations	68
Sexual promiscuity and its disadvantages	68
Marriage- the permissible way to sexual gratification	69
The legal status of marriage	70
Society should support marriages	70
The abhorrence of secret sexual relations	71
The announcement of marriage	71
Only legitimate children have rights	72
Sanctity of lineage and close relations	73
<b>*Marital Relations</b>	<b>75</b>
Marital relations are based on love	75

The Family System of Islam	5
Rights and duties of husband and wife	75
Protection of women from atrocities	76
The permission for four marriages, subject to justice	77
Ways to solve differences	77
Procedure of <i>Talaq</i> (divorce)	78
<i>Zihar</i> and its atonement	79
<i>Ila</i> and its rules	80
Exhibition of good conduct	81
<b>*The Rights and Duties of Family Members</b>	<b>85</b>
Family is a blessing of Allah	85
The legal rights of family members	86
Rights of wife and children	86
Rights of parents	87
Rights of <i>mahram</i> relatives	87
Difference between the rights of wife and that of others	88
Girls would not be buried alive	88
Woman's rights in inheritance	89
The rights of orphans would not be usurped	89
Respect of relationships	90
Maintaining good ties with relatives	90
Prohibition against Severing Relations	92
Religious and moral grooming of family members	94
<b><u>Issues and Discussions</u></b>	
<b>*Marriage sermon</b>	<b>99</b>
<b>*Bride at her in-laws' house</b>	<b>111</b>
<b>*Dowry Crisis</b>	<b>117</b>
<b>*The issues faced by Muslim women today</b>	<b>127</b>
Issues and Problems faced by devout Muslim women in the present age	127
Status of Muslim women in Islamic society	131
Steps for reformation by Islamic movements	134

When Islam will reign supreme	135
Some points Islamic movements need to consider	136
<b>*Women and Economics</b>	<b>139</b>
Related questions and answers	144
Right of maintenance along with doing job	144
Permitted employment options	145
Helplessness in opting for forbidden service	145
Structure of maintenance	146
The need for new laws regarding women seeking employment	148
<b>*Certain Other Questions</b>	<b>149</b>
Veil and residential confinement	149
Men being in charge of women	150
Maintenance after divorce	151
Life-long maintenance of divorcee women	153
Why the restrictions of veil for women alone?	154
Intermingling of the sexes	155
Entry of women in mosques	156
Being Head of State	158
Women and Judicial post	159
Reservation for women	160
<b>*Certain Juristic Rulings</b>	<b>163</b>
Participation of women in congregational prayers in mosques	163
<b>Leadership of women in an Islamic state</b>	<b>169</b>
<b>The prerequisite of a Wali (guardian) and his authority</b>	<b>173</b>
<b>Marriage arranged by guardian</b>	<b>187</b>
<b>The issue of status compatibility</b>	<b>189</b>
<b>Prohibition of marrying a non-Muslim woman</b>	<b>197</b>

The Family System of Islam	7
<b>Journey of Hajj without a <i>mahram</i></b>	<b>199</b>
<b>The right to custody of a child</b>	<b>203</b>
<b>Job during <i>iddat</i></b>	<b>205</b>
<b>Reconciliation during <i>iddat</i></b>	<b>207</b>
<b>Forms of paying <i>mahr</i></b>	<b>209</b>
<b>Partnership of child in business</b>	<b>211</b>
<b>*Certain Social Issues</b>	<b>213</b>
Planning for practical revolution among the youth	214
Lack of cooperation between spouses in the field of propagation of Islam	215
Pursuit of higher education by girls while abiding by Islamic limits	216
Employment of women in foreign countries without a <i>mahram</i>	217
Definition of <i>fahash</i> (immorality)	217
Limits of a woman's dress ( <i>satr</i> )	217
A husband sponsoring his wife's Hajj	218
Restriction over voice	218
Going to a wedding hall during <i>iddat</i>	218
Leader of women' congregational prayers	219
Birth Control	219
Avoiding feuds between mother-in-law and daughter-in-law	220
Is it mandatory for a daughter-in-law to serve her in-laws?	221
Priority between domestic work and work for religious propagation	221
Staying and sharing meals with non-Muslim parents	222

Will the female head of state be in charge of men?	222
What etiquettes should a woman follow while going out of her house?	223
Maintenance of divorced women	223
Investing in Fixed Deposit	224
It is mandatory to share profits and losses in a business	224
Gifting the meat of sacrifice to a non-Muslim	225
Regarding the usage of television	225
<b>References</b>	<b>227</b>

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In the name of God, most Gracious, most Merciful

## **Third Edition**

The third edition of 'Islam ka Aaili Nizam' is currently being published. I am grateful to God for the acceptance it has received in scholarly circles. Many of the discussions included in this book are significant in the backdrop of today's scenario. Today the family system is being debated all over the world. An analysis of this system is presented in the first part of the book elucidating upon the need and importance of Family. The family lives of pre-Islamic Arabia during the revelation of the Qur'an and the core reforms brought about by Islam have been discussed in the light of authentic sources. After this, the structure of the Islamic family has been briefly highlighted and the rights and duties of family members enumerated.

It is usually alleged that certain Islamic laws concerning women are against equality and justice and the fundamental rights of humans. These include entry of women in mosques and their participation in congregational prayers along with men, the authority of a guardian in marriage, the issue of status and equality, the superiority of men and attaining public positions. These issues are discussed in Muslim societies as well, and demands are made to adopt revised stands on contemporary issues. A balanced opinion has been presented in this book based on the Qur'an, Sunnah and Islamic jurisprudence.



These days, the topic of women and economics has gained considerable importance. The Islamic perspective in this regard has been presented here in some detail. An English translation of the same by the name, 'Muslim women and Economic Enterprise' has been published by Markazi Maktaba Islami Publishers in the form of a booklet.

I hope that the structure of the model Family system of Islam has been clearly elucidated and answers to many of those questions put forth in this regard are also found herein. A Hindi translation of this book is also underway.

***Jalaluddin Umari***

30<sup>th</sup> May 2013 CE

9<sup>th</sup> Rajjab alMurajjab 1434 AH

## Preface

Family is the oldest institution of society. It was required in the past era, essential in the present age and the future generations would also find it indispensable. Whenever the family structure was constructed on sound principles, it served its purpose and was the source of tranquillity. On the other hand, when it got disrupted, it ceased to be beneficial and the world was deprived of its blessings and treasures. The disruption of Family is one of the most serious issues we face today. Today, the family system has been crippled by false customs and traditions, unreasonable laws and regulations, incorrect interpretation of religion and overwhelming materialism. An old and tattered frame of family still persists, deprived of its soul. The pleasant environment of love and affection seen in a family is being replaced by selfishness and opportunism. Family relations are getting so affected that the individual and family have become alien to each other. Now, the very need of a family is being debated with people now being inclined towards freedom from family restrictions and commitments. Hence, it is the need of the hour that the necessity and importance of the family should be understood and constructed on right principles. Without this, its decline cannot be averted.

The world is indebted to Islam in more ways than one. One of these favours is that it has presented a comprehensive family system. The relationship

between man and woman was erected on the pillars of justice. The rights and duties of family members were meticulously enlisted and it created an environment of empathy, love and kindness among them. It employed the faculties of both- law as well as morality in formulating the family structure and perfected it in heart and soul.

A humble attempt has been made on this topic in the form of this book. At the onset, the need and importance of a family has been highlighted. Next, the family system of pre-Islamic Arabia has been analyzed in some detail so that the constructive reforms that Islam has brought about can be better understood. After this it has been briefly explained how Islam presents family as a sound and strong institution and grants it prosperity and consolidation. It caters to the material as well as spiritual needs of a family- giving each its due importance- and also provides proper reformatory guidelines in cases of neglect.

The topics omitted here have been discussed in detail in my other works and studies. Here, they have been mentioned in overview. I have had the opportunity to speak and write on various aspects of Islam's family system on certain occasions. The questions raised therein have also been answered and deliberated upon in this book after due amendments. These include quite a few critical social and community issues and rulings.

In the early days of my writing life, I had started a column in the Rampur monthly 'Zindagi' under the head, 'Islam ka Aaili Nizam' (Family System in Islam). This got published in the form of a book before it could be completed. Although the present book shares its name and subject, only a handful of material

from the previous book has been reproduced here after some editing; the rest of this book's content has been produced much later. Thus, this book is completely new. I have tried my best to enhance it. But this has, nevertheless, been attempted by a student. There is a possibility of error in this work. I request men of knowledge to please demarcate the errors and shortcomings herein and let me know; they would be corrected *in-sha-Allah*. I pray that this humble service may prove to be a useful treatise in introducing the family system of Islam. May Allah accept it out of His grace and mercy and make me worthy of His favour and rewards.

***Jalaluddin Umari***

26<sup>th</sup> December 2006 CE

2<sup>nd</sup> Ramazan 1427 AH

## Translator's Note

To Allah is due all praise and gratitude, who is the Lord of the Worlds. Peace and blessings be upon His trustworthy Messenger, Prophet Muhammad ﷺ.

It has indeed been an honour and privilege to translate this book. I have tried my best to keep this book as lively as I could; resorting to a flowing translation instead of sticking to a verbatim in English. This task is itself difficult because I was required to deviate from the idioms and phrases used in the Urdu text and, at the same time, convey the essence of those idioms in English keeping the intention of the author intact.

Although it is the ubiquitous case with all translations that the emotions and depth of words tend to get 'lost in translation', this is all the more pronounced with the Qur'an and the Hadith. These are unmatched in the richness of their language and are hence inimitable; making them extremely difficult to translate. As for the Qur'an passages interspersed in this book, I have almost always reproduced the translation offered by Saheeh International. Translating the Hadith is much more tedious and quite delicate an exercise because of the immense responsibility it entails. The concise sentences used by Prophet Muhammad ﷺ and the cherry-picked words the Prophet has utilized can never be rendered in any other language. I request the reader to not expect a perfect translation of the Hadith in any book. Having

said this, I have tried my best to scout available translations of relevant Hadith from other sources to be as close to the actual meaning as possible, but errors are inevitable. Hadith scholars append even Arabic Hadith narrations with *Au kama qala Rasool Allah* ﷺ ('or something similar to this was said by the Messenger of Allah ﷺ'). Hence, the need for this refrain to be appended with translations cannot be overemphasized. I have not inserted this caveat through the text fearing loss of continuity, but I request the reader to keep this in mind wherever and whenever he or she comes across a Hadith narration- in Arabic or any other language.

Also, and for the same reason, I have not translated terminologies like Surah and ayat/ayaat as Chapters and verse(s), as is the usual (but erroneous) practice. Instead, I have let them remain, simply transliterating them.

All said and done, whatever justice I have been able to do with the original text I owe to none but Allah, and wherever I may have erred I blame my own weaknesses.

May Allah accept this work from the author and this translator.

**Dr. Parvez Mandviwala**

November 2016

# **Family and Tribe**

**\*Family (Importance and Brief History)**

**\*Is Family Important?**

**\*The Family and Tribal system of Arabs  
and Islamic reformation**



## **Family**

### (Importance and Brief History)

Individuals come together to bring a family into existence. Family is the basic unit and foundation of a state. Family and state come together to form a society. They not only benefit from each other but also influence each other.

When did the institution of family begin? How did it begin? What were the causative factors behind it? Answers to these questions can be sought in the nature and history of human beings.

#### **Man is a social being**

Man has been living with his co-species in the form of a community ever since he set foot on this earth. It is against his very nature to stay isolated from everyone. In other words, it can be said that man is a social being by nature. Not a single phase of history can be pointed out wherein he has adopted a lonely life cut-off from the rest of humanity.

#### **Man is dependent on community**

God has created man in such a way that he is always dependent on others in every aspect of his life— even for his basic needs of food, clothes, medicine, treatment and housing. Every morsel of food that man eats to satiate his hunger and the clothes that he wears to cover himself are a result of the efforts put in by scores of people. It is by virtue of this cooperation that man leads a luxurious life replete with all the bright

and colourful elements of culture and civilization. Without this collaboration, not only would man's life turn bland, but his very existence and survival would be threatened.

### **The beginning of Family**

No sooner does man open his eyes in this world than he develops a primary relationship with his mother, and the father also joins in soon after. Thereafter, he starts developing relationships with his brother, sister and near-far blood relatives. These people constitute his family and it is among these relatives that he begins his social life. His contact with people outside this sphere remains scant in these initial days; his association with the external world usually developing later in life.

### **The need for Family**

Man travels through many stages in his journey of life. Birth and childhood is one such stage, in which he is totally dependent upon others for his survival and needs. In this stage, his family protects and nurtures him, fulfils his needs and prepares him to face the challenges of life. The family never shows apathy in this regard, though there may be some cases of negligence at times, which are again, never deliberate. It is also true that people outside the premises of the family contribute in this demanding task as well.

The second stage of a man's life is his youth. At this stage, he is both- in need of the family and also capable of helping with the family's needs. In fact, he now stands to assist the family more than he receives from them. Accordingly, the family usually gains from his support.

Next come wisdom and old age, which follows his youth. In this stage, man becomes a victim of weakness and frailty. His strengths and grandeur begin to fade away. At times, this stage is so prolonged that man's second childhood sets in and he begins to rely on his family for his basic needs all over again.

These stages usually follow each other at a natural pace, but it may also happen that certain conditions like infirmity, sickness, accident and such other unpleasant occasions prolong the dependence of a person on his family. These periods of dependency may extend to life and the family is expected to serve and keep fulfilling his needs in all such cases.

### **The importance of Family**

The feelings of kindness, empathy and mutual protection are inherent among family members. They strive to fulfil each other's needs and requirements. All this happens by nature, without any external obligation to do so. There are many issues in a family that the family members collectively solve among themselves. They do not count it as a burden, but as their responsibility. Every member of the family feels assured that in case he stands in need of something, he would receive help from his family. Thus, a major advantage of the family lies in the fact that every member finds himself surrounded by his sincere well-wishers and empathizers, among whom he feels secure and protected, who help him in turbulent times.

### **The passion for Protection and Security**

We find an extreme passion for protection and security among members of a family. In olden days, any attack on a person's life, wealth, honour or

reputation was perceived as an attack on the entire clan to which the person belonged and they considered it mandatory upon them to seek vengeance against the atrocity. A clan failing to stand in defence of its members was looked down upon with contempt and ridicule.

It was hence important for a clan to be strong and powerful in order to protect and defend its members. Association with such a clan used to be perceived as a matter of pride, honour and reputation, to the extent that members used to boast about it. Being born in a weak clan used to be a source of embarrassment and humiliation for the person concerned. He himself used to see himself as weak and so would others.

### **The reasons for associating with Family**

When man sees that the family is shouldering the burden of his upbringing, his needs are being fulfilled by their assistance, they are helping him out with his problems, protecting his life, wealth, name and honour and are braving the might of his enemies, he would not only remain attached to the family but such an association would definitely keep increasing, discouraging him to forfeit this association and part ways.

Man is also connected to the family emotionally. He experiences a heartfelt attachment and expects it to share his joys and sorrows. Family members increase his happiness manifold. Their love and empathy attenuates his pains and sufferings and grants him tranquillity. Thus, family is man's need as well as a source of serenity.

### **Family life is a unique feature of Humans**

A very big differentiating factor between man and animal is family. Animals do not have families, and the distinction of man is that he leads a family life. In animals, male and female come together for sexual gratification. This also ensures the proliferation of their species. Both of them, especially the female, protect and nurture their young ones so as to make them self-reliant. Once this is achieved, they cease to maintain any relation with each other and simply part ways. Their feelings of mutual concern and love come to an end; there is no concept of predecessors and successors, and they become strangers for each other. It is necessary for a family that the realization of ancestry and progeny remains intact and that their relationships are based on these very bonds. These things are alien to animal instincts. This is why neither do they have a family nor do they have concepts of rights and responsibilities.

Human beings too exist as male and female. Sexual desires are found in them as well, gratification of which has led to the propagation of their species generation after generation. But man differs from animals because his relation with his children is not temporary or time-bound; but life-long and uninterrupted. He always maintains the distinction between ancestry and progeny, never ever discarding it. It is on this basis that he fosters cooperation, giving rise to the idea of rights and duties, ultimately leading to the origin of a family.

### Forms of Family

Families may be small or large, with a number of prototypes found since olden times. They have been broadly classified into three categories:

1. **Nuclear family:** Here, a man stays with his wife and children. At times, parents and very close relatives also become a part of it. They share the same food and residential space. Certain researchers have termed this as the most ancient form of family system, and it is commonly found to this day.
2. **Extended family:** In this system, the man stays with his wife/wives and children in a separate apartment. Some of his married children form their own families and some of them continue to live with their parents. They essentially stay under the same roof, but every earning member satisfies the needs of his unit family (wife and children) with his own income. In case the kitchen is common, then they contribute towards the food expenses in proportion to their earnings or expenditure.
3. **Joint family:** In a joint family, all the children of a single father- especially the male children, together with the grandchildren- everyone stays together and fulfils the financial requirements of the clan. They all share the same food and residential space or house. It is assumed that this form of family system came into existence during the agrarian age when the economy was based on agriculture. The more the people involved in agriculture, the better the results. Through this, it became easier to increase the area under cultivation and take over agricultural land. Bigger families could also afford greater protection to their members. Some people

also claim that this is the most primitive form of family and that other systems branched off from this system.

The distinguishing factor of a joint family is that it has a single authoritative head of family and all other members are subject to his commands and guidelines. On the contrary, there is no such head of family in a nuclear or extended family, though the elderly do have a position of respect. They can offer advice, which is given importance as well, but it is not considered binding upon anyone.

### **Patriarchal Family and Matriarchal Family**

The patriarchal family system is prevalent in most parts of the world, where the child belongs to the father. All authority rests with the father and the child inherits from him. Although the mother is deprived of legal rights, behaving well with her is highly appreciated. In certain primitive societies, we find matriarchal families as well. In this system, it is the groom who settles in the bride's house upon marriage. The woman is the master of the house and the children are named after her with all property rights vested with her. This is an unnatural behaviour, having been discarded by the civilized world.

Free sex has become quite common in the West, giving rise to a new form of matriarchal society. Sexual relations are not limited to those between man and wife. A single man has intercourse with several women and a single woman may have sexual relations with several men. In such cases, while it is easy to decide upon a child's mother (she having given birth to the child), but it is next to impossible to trace the man who has fathered the child, making him an unknown

entity! Accordingly, the child is invariably recognized by his mother alone. The child becomes her responsibility. As a result, the domestic responsibilities of men are coming to an end and those of women are increasing. This is nothing but a form of promiscuity and prostitution which is crippling the very structure of family and is proving destructive for the entire society.

### **Family is the Foundation of Society**

Families can be small or large. They come together to form a community and society. The consolidation or dissolution of the society is entirely dependent upon the consolidation or dissolution of the family. The foundations of the society would remain firm as long as the foundations of family remain so, leading to stability. Any weakness at the family level will, in turn, weaken and disrupt the society. The soundness of every brick contributes to the strength of a wall; a strong wall cannot be expected if the bricks that are used are hollow and weak. Family is the foundation stone, which if dislodged would cause cracks to develop in the entire society, spoiling relationships and causing chaos and corruption. The dissolution of the family breaks away the circle that is close to a man's heart. Even those people whom he considers his own and his close ones keep leaving him and are unwilling to cooperate with each other. All those relationships that existed because of the family and relied upon it for their survival get dissolved if the family is broken. Also, man becomes deprived of the tranquillity that family once offered him. The dissolution of family is not an ordinary thing. This is so great a tragedy that no society can survive the breakdown of the family system for a long time!



## **Is Family Important?**

### **The decline of Family**

These days, people are not convinced of the importance and benefits of Family. Questions are raised on the basic idea of a family system. These objections are of various kinds. It is alleged that the rights of women are not safeguarded. It is also assumed that certain financial necessities gave rise to the concept of family but now those factors are non-existent. Those who are convinced of the totalitarian concept of the state seek to subject all institutions, including the family, under the state authority. There are those who consider the family as an outdated system, having no relevance in the contemporary progressive era; it may have been indispensable in olden days, but not today. The benefits of a family that are usually enumerated can be achieved through the state as well. Such ideas are influencing the entire family system, causing it to lose its significance. Accordingly, the family system is breaking down and defeated in the West. Men and women prefer free sex. They are not willing to accept the 'restrictions' of marriage or bear the burden of raising a family.

### **Arguments against Family**

I have attempted to dispel certain doubts and accusations raised against the family system in the following pages:

### **1. Family is symbolic of male chauvinism**

‘The family system is reminiscent of the superiority of man over woman. It came into existence in order to confine women-folk within the four walls of the house, so that she may be made subservient to man. This is a form of oppression against women! Every person has the right to freedom of thought and action; this right should be granted to both- men as well as women. A system wherein a man is allowed to live his independent life in a manner that suits his will, while a woman is put under house arrest can never be justified.’

This is a grave misconception that the concept of family is based on the undue might and oppression of man and subjugation of women. The reality is that a family is the natural requirement of both- men and women. It is the centre of tranquillity for them, without which their life would resemble the life of a traveller who has lost his way in a forest. Family is the common institution of man and woman and they both assist each other in building it up. Neither does a man have intentions of destroying it, nor would a woman consent to it. Hence, the question of someone’s dominion and another’s subjugation does not arise at all.

### **2. The control of man over financial resources**

‘Women were compelled to conform to the family system because all financial resources and sources of money rested with the man and the woman was dependent upon him for her existence. Had it not been for financial compulsions, the yoke of man’s slavery would never have fallen upon women. But now, times have changed. She has the freedom of seeking her livelihood and is fast achieving financial

independence. Hence, she is no longer required to live under man's authority and spend a life of indigence.'

The concept that women were financially dependent on men and hence compelled to stay in a family to meet their daily needs of survival is not at all true. The world has been seeing, and still sees that a person is paralyzed, bedridden, far from earning for someone he is himself a burden on others, ever in need of help and service, but his wife still loves him and considers it an honour to serve him, not willing to sever relations with him at any cost. The world has seen umpteen cases where the woman is highly educated and skilful, has a high status or has several avenues of luxury and ease open to her but she still prefers a life of poverty and deprivation with her husband. She chooses to abandon the riches and grandeur of the world but does not accept dissolution of the marital bond. What explanation can be possibly put forth in these and many such cases? Had this relation been founded only on financial considerations, they would have ceased to exist in these situations.

It is argued that 'society has come up with some self-instituted standards of honour and disgrace, according to which it is considered ignominious and reprehensible for a woman to step out of the bondages of a family. Hence, a woman is forced to continue living with her husband despite all odds. To condone such social oppression by calling it her pleasure or satisfaction or attachment is simply unacceptable.'

This argument does not hold any water because it is against the nature of humans to love a cruel and oppressive person or have a soft corner for him in his heart. A person can at the most *tolerate* a detestable person, but can never forge a bond of love and

affection with him. The relation of love found between a man and his wife can never exist under social duress.

We cannot overlook the fact that marital relationship between a man and a woman is founded on the love that is naturally found to exist between them. The family system affords stability to this very feeling of love and affection. It makes their natural attraction a means of lifelong companionship, rather than a temporary expression of lust. It presents before them such aims and objectives that require them to put in their entire lives to attain and rise above financial and materialistic concerns, no matter how pressing they may be.

### **3. Family ties are based on economic reasons**

The human species is quite different from animals. Animals become independent soon in their life and start leading their lives by following their instincts. On the contrary, human beings require a prolonged period of love, attention and compassion. Even a slight amount of neglect and apathy can prove to be detrimental to his existence and future. Parents cheerfully fulfil this extensive and demanding task; exhausting their strengths and resources in the child's protection, upbringing and education. Other family members also help them in this process.

It is said that even this has financial motives working behind it. 'Parents bring up the child so that he may support them in their old age. When their strength departs and they become incapable of running around, they expect their children to shoulder their financial burdens, to serve them as they have served him. This was a form of financial security that

motivated parents to raise their children and provide for them.'

This entire philosophy that man brings up his children and loves them driven solely by material and financial concerns goes against his very nature. This is actually an insult to his selfless and pure feelings and emotions. Even history negates this theory. If this theory is accepted, man would find himself placed below animals, for even animals protect and nurture their young ones without any future financial motives involved, putting in all the skills and strengths nature has invested them with in this cause. The birds flying in the sky do not gather twigs to build nests for their young ones or collect grains and worms to feed their young mouths in the hope of receiving the same service from them later in life! Same is the case with all animals. Now if all this is a result of the instinct that God has given them, then why are only man's efforts spent on his children said to be pre-planned in pursuit of some financial motives? What validations have you to offer?

Let's look at it from another perspective. If indeed financial motives do play a role behind man's love and dedication for his children and it is for the same purpose that man sweats throughout his life, then there is no reason why wealthy couples should yearn for children. Even if they do have kids, their hearts should be bereft of the concern for their upbringing or the desire to see them succeed. Is this the manner in which wealthy parents think and act? Moving a step further, think of a child who is handicapped or retarded, who could be of no benefit to his parents at all, who would remain a burden to his parents their entire lives. I ask you, why does the mother embrace this piece of flesh

close to her heart? What compels his father to look after him? Can any sane person argue that this child is being raised up in anticipation of some financial support?

The truth, my friends, is that each and every species residing on this earth finds in itself a strong desire to leave behind him his successor, so that his progeny continues to spread. This drive is found to a much greater extent in human beings than in animals. If this drive is taken away, the world would become devoid of animals and even humans would cease to exist.

#### **4. The State would fulfil the role of Family**

One idea that is doing the rounds is that 'the need of a family for the upbringing and education of a child has now largely diminished, with the state better equipped at playing this role. We come across instances where the family finds it difficult, or even impossible, to fulfil their responsibilities as parents. How can a poor and deprived family that is itself dependent on alms for its survival be expected to arrange for the upbringing and education of its child? Not only the destitute but even the well-to-do parents are unable to fulfil their responsibilities at times. Consequently, many bright, intelligent and capable children who could have been an asset for the nation are wasted away. The state, on the other hand, can employ its vast means and resources to handle this responsibility in a much better manner.'

This issue needs to be looked into from various angles....

Although a state can definitely provide some ease and concession in this regard, but it can never

substitute a family. No institution in this world possesses the treasures of love and affection that parents pour out upon their children day in and day out. There is no grooming centre or trainer who can offer the lessons of humanity, chivalry and kindness that are taught by a mother's benevolent eyes. Her lullabies are not only a means of sound sleep for the child but are also instrumental in driving out the feelings of hatred, rancour and envy from the child's heart. The caring hands of a father can eradicate vices from his heart and mind in a way that no other hand is even remotely capable of doing.

These days, moral values are fast disappearing; feelings of love and selfless service are vanishing. Man has even surpassed wild animals in brutality and savageness, and his atrocities have turned this world into a hell. In such circumstances, it has become all the more important to cultivate and develop the qualities of love and empathy. Is it possible for a government coaching centre to develop these qualities in children? A wet nurse can feed the child milk on time, but cannot infuse those chaste feelings in him which only a mother can.

So far as the upbringing, nourishment, health, education and financial security of the child is concerned, it is the responsibility of a welfare state to fulfil the basic needs of its citizens so that no one remains hungry, unclothed or deprived of medical aid and that his housing is taken care of. Education is one of the prime elements of this list of basic needs. It is the responsibility of the state that no child remains illiterate and ignorant, and that educational resources and opportunities for higher education are provided. May I ask, 'Is it then necessary to abolish the family

system or separate the child from his family to achieve this?’

Sometimes, the current industrial age is believed to create hurdles in the path of a child's development. However, it is absolutely wrong to assume that man, today, has become so busy that he is left with no time to look into the proper upbringing and development of his child. Instead, what is true is that man has surrounded himself with so many useless and unimportant activities that he has become ignorant of his actual duties and responsibilities, which are relentlessly being neglected every passing day. The materialistic outlook of the present age has made man a slave of his own craving for pomp and splendour. He is insanely running after them, hankering after a life free from social restrictions. Since responsibilities create hurdles in this path, he develops an attitude of shirking his responsibilities. He wants to escape his responsibilities as a family member as well, which is why he dumps his child in a nursery and prefers to idle away his time in leisure centres and clubs. This has reached such an extent that man now favours free sex over family life and the responsibilities it entails. Hence, there seems to be no valid reason why a man should be negligent of his family duties even in this age.

### **5. Family has got disrupted in the Modern Age**

The idea of a family includes- other than a man's own wife and children- his parents, siblings and near and far relatives as well, with their rights and responsibilities well accepted. It is argued that 'the value and significance of these relations and attachments were valid only in those days when family



members used to live together in a joint family system, in which one family member used to witness the benevolence of another member, get inspired and feel obliged towards him. He, in turn, tried to repay the favour, giving rise to relationships. The importance of these relationships came to be accepted and certain mutual rights and duties were laid down. However, the present industrial age has changed these circumstances altogether. Today, a child does not share the same bonds with his parents and relatives as in olden days. In some cases, the child does not even know who his parents are and how he is related to others. Even if he does recognize his mother, there is no way he would respect her, having not received any true love from her. How can he be expected to honour her or recognize her rights when his mother has never had hugged him right from nursery to higher education to job or business life? Why would he ever love and obey a father who has shied away from shouldering the burden of his upbringing, passing the baton to the state instead?

The answer is that the family system has certain purposes. If these goals have any value and they are required to be achieved for the progress and development of a society, then not only should the family be preserved but it should be made to gain strength upon strength. Any lifestyle that threatens to destabilize and erode the family would be extremely detrimental. Man did not leave the family because it failed to achieve its goals; he revolted against the family because of certain other reasons, eventually reducing it to tatters. Now he is forced to seek the support of other institutions to fill the void that has

thus been created... a pursuit that has only led to failure!

### **State is not an alternative to Family**

Today, for people the fragility and disruption of the family is not a big deal. They feel that the state can very well step in and substitute for it, despite the fact that the state is incapable of replacing the family, no matter how vast its authority.

The family is a small institution. It has its own needs and demands. It has certain developmental and organizational principles. These can only be understood by those who are actually part of a family and it is they alone who can fulfil its demands keeping in mind the values and emotions attached with it. The scope of the state is immensely vast and it usually takes recourse to power and law to implement its system. The state can no doubt cooperate with the family, but it cannot nurture the emotions that family members share amongst themselves.

There is one more aspect here that cannot be overlooked- the more limited the control of the state, the more enhanced would the capabilities of the individuals be. Man becomes capable of shouldering great responsibilities only after navigating through the various stages of life. If the family is left untouched of state interference and allowed to work in the right way, it can act as a grooming centre capable of preparing individuals who would be trained in limited spheres to handle responsibilities and execute them in the best possible manner. If this grooming is done in the right way, it can prove beneficial in other spheres of collective life as well.

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## The Family and Tribal System of Arabs & Islamic Reformation

### Classes in Tribal system

In pre-Islamic days, Arabs were accustomed to tribal life. The tribe was made of families. It can also be said that when the families extended, they took the form of a tribe. The Arabs had a proper tribal system in their midst, wherein there were six classes from top to bottom- *sha'ab*, *qabeelah*, *amarah*, *batan*, *fakhaz* and *faseelah*.<sup>1</sup>

'*Sha'ab*' is a collection of tribes (*qabeelah*). Its plural is *Sha'oob*. *Sha'ab* literally means 'branched'. *Sha'ab* is one from which various tribes branch out. Allama Qurtubi says that "alShaubu Ri'ooos alQabail" which means that *Sha'oob* is the head of tribes (from which tribes branch out). E.g. Rabi'ah, Mudhar, Aus and Khazraj.<sup>2</sup>

'Qabilah' consists of many clans or '*Amair*'. *Amarah* is formed of *Butoon*. *Butoon* is a plural of *Batan*. *Batan* consists of *Afkhaz*, whose singular form is *fakhaz*. Below *fakhaz*, we have *fasaal* which is the plural of *faseelah*.

The Arabs of Hijaz traced their ancestry to Prophet Ismail (peace be upon him). Many branches developed

<sup>1</sup> Zamakhshari, alKashhaf an Haqaiq alTanzeel: 4/365,366. Published by Daar alKutub alIlmiyah, Beirut, 1995 CE. Some of these terms are found in the Qur'an while others have been taken from lexicon.

<sup>2</sup> Qurtubi, alJami' lilAhkam alQur'an, Volume 8, Section 16, Page 224. Published by Daar alKutub alIlmiyah, Beirut, 1995 CE

from this common ancestry. After many generations the family of Khuzaymah bin Aamir (Mudrahah) came into existence. Kinanah belonged to the progeny of Khuzaymah. Kinanah had several sons, one of whom was Nadhar, and Nadhar s/o Kinanah was called Quraish.<sup>1</sup>

To explain this classification, Allamah Zamakhshari states, "Khuzaymah is '*Sha'ab*' and Kinanah is its '*Qabeelah*'. Quraish is the '*Amarah*' from Kinanah. Within the Quraish, Qusayy is the '*Batan*', Hashim being the '*Fakhaz*' therein and Abbas being the '*Faseelah*'.<sup>2</sup>

Kalbi has enumerated five of these six classes in the same order, leaving out the last one- *faseelah*.<sup>3</sup>

Certain scholars have mentioned '*Asheerah*' after '*Faseelah*' which includes the people closest to the family.<sup>4</sup>

Imam Razi considers *Qabeelah* to be the foundation, not *Sha'ab*, followed by *Batan*, *Fakhaz*, *Faseelah* and *Aqarib* (relatives).<sup>5</sup>

It is quite clear from this discussion that while the tribal system of Arabs was indeed divided into various

<sup>1</sup> Ibn Katheer, al seerah alNabwiyah, Daar alMa'arif, Beirut 1983 CE. 1/83, 84

<sup>2</sup> Zamakhshari, alKashhaf: 4/362. Published by Daar alKitaab alIlmiyah, Beirut, 1995 CE. Baidhawi has also preferred the same interpretation in his exegesis. Mualim alTanzeel wa Asrar alTaweel: 2/418, Published by Daar alKitaab alIlmiyah, Beirut, 1995 CE.

<sup>3</sup> "The Sha'ab is greater than the Qabeelah, then the Qabeelah, then the Amarah, then the Batan, then the Fakhaz." Ibn Manzoor, Lisan alArab, Daar Sadir, Beirut 1994 CE, 11/541

<sup>4</sup> Ibn Katheer says that "Scholars of genealogy say its Shaoob, then Qabail, then Amair, then Batoon, then Afkhaz, then Fasail, then Ashair which refers to the people closest to the person, and there's nothing after that" in AlSeerat alNabwiyah: 1/6

<sup>5</sup> Razi, alTafseer alKabeer, Daar alKutub alIlmiyah, Lebanon 1990 CE. Vol 14, Sec 28, Pg 118

classes, their exact form has been debated by various scholars.

### **Inclusion in Family by means of agreement**

The actual association between family members is based on blood relations and ancestry. However, if someone was impressed by a particular young man's looks and personality, he would adopt him and give him his name.<sup>1</sup>

They would enter into an agreement to this effect, by virtue of which they used to become duty bound to help each other and inherit from each other, and they would receive the same rights that a man's closest relatives would possess.

Qatadah says:

كان الرجل في الجاهلية يعاقد الرجل فيقول دمي دمك وهدمي  
هدمك وترثني وأرثك وتطالب وأطلب بك.

*"During the days of ignorance, one person would enter into an agreement with another person and would say that 'My blood is your blood' i.e. if someone kills me then you may claim retribution or blood money in the same way as you would for the murder of your near-ones. 'He who attacks my honour, attacks your honour' (or that you forgive the murderer whom I forgive). 'I would inherit you and you would inherit me'. 'If I am wronged, you would seek vengeance and if you are wronged I would seek vengeance'."*<sup>2</sup>

<sup>1</sup> Qurtubi says, "During the days of ignorance, if some person was impressed by someone's brawn, youth and smartness, he would adopt him and give him a share in his inheritance equal to that of his own sons. Thereafter, he would be associated with his family and it would be said that he is the son of so-and-so" in *Jami alAhkaam alQur'an*. Vol 7, section 14, Pg. 80

<sup>2</sup> Ibn Jareer, *Jami alBayaan an Taweel alQur'an*. Research by Mahmood Muhammad Shakir, Daar alMa'arif, Egypt 1971 CE. 8/275.

Exegesis of the Qur'an contains discussion on this agreement in some detail.<sup>1</sup>

Zamakhshari says:

كان الرجل يعاقد الرجل فيقول دمي دمك وهدمي هدمك وتأري  
 ثارك، وحربي حربك، وسلمي سلمك وترثني وأرثك، وتطلب بي وأطلب  
 بك وتعقل عني وأعقل عنك.

*"One person would enter into an agreement with another person and would say that 'My blood is your blood, the spilling of my blood is the same as the spilling of your blood, exacting retribution or revenge for my blood is similar to exacting retribution and revenge for your blood, my battles are your battles and my truce is your truce. You would inherit me and I shall inherit you. If I am wrong, you would demand compensation and if I am wrong I would seek compensation. I would pay blood money on your behalf and you would pay blood money on my behalf'."*<sup>2</sup>

### Tribal ally

Sometimes it used to so happen that a person would approach a particular tribe and they would proclaim him to be their ally. This would mean that he would be one among them for all practical purposes.

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The same thing has been alternatively presented by Akramah in Tabari: 8/276

<sup>1</sup> Please refer Baghwi, Mualim alTanzeel. Also, Khazin, Lubab alTaweel 2/59. Daar alKitaab alIlmiyah, Lebanon 1995 CE

<sup>2</sup> Zamakhshari, alKashhaf an Haqaiq alTanzeel: 1/494. The same words can be found in alSeerah alHalbiyah, Daar alMa'arif alIlmiyah, Lebanon: 1/440. There are a number of remarks found regarding the amount of share such a person inherits. Some narrations only mention that they used to inherit from each other. One opinion is that the share used to be equal to his son's share, while another opinion is that he used to get a sixth of the inheritance. I have discussed this topic in detail in a yet-to-be-published article.

He was treated with generosity and kindness, but there would be instances of injustice as well—profiting from him if they had a claim or when they went to battle, but ignoring him if it was a matter of his right.<sup>1</sup>

### The practice of *Tabniyat* (adoption)

Arabs had a practice of declaring someone as one's own son, in which a person would publicly declare a young lad to be his son making them both father and son. He would bear his name and that person's wife would become the adopted son's mother, his children would become his siblings. He would live with them as if he were their own child. They would even inherit each other.<sup>2</sup>

The case of Zaid bin Harithah (May Allah be pleased with him) is quite well known. His mother, Sa'ada bint Thalba went to her tribe, Banu Ma'an along with young Zaid. During their stay there, people of Banu Alqeen attacked their tribe, taking Zaid (May Allah be pleased with him) along with them, and sold him in the market of Ukaz as a slave. Hakeem bin Hizaam purchased him and gave him to his aunt, Khadeejah (May Allah be pleased with her). Khadeejah gifted him to the Prophet ﷺ. While he was serving him, his father and uncle came to take him back. The Prophet ﷺ offered him a choice to either depart with his parents or continue staying with him. Zaid preferred to stay back with the Prophet ﷺ. After this, he set him free and adopted him as his son. He took him to the *Haram* and publicly proclaimed: اشهدوا

<sup>1</sup> Tabari, Jami alBayan: 8/280

<sup>2</sup> Ibn Katheer, Tafseer alQur'an alAzeem, 3/466, Daar alMa'arif, Lebanon 1969 CE

هذا ابني يرثني وارثه *"Bear witness that he is my son. He shall inherit from me and I shall inherit from him"*.<sup>1</sup>

Abdullah ibn Umar (May Allah be pleased with him) narrates that:

ما كنا ندعو زيد بن حارثة الا زيد بن محمد.

*"We used to refer to Zaid bin Harithah as Zaid bin Muhammad."*<sup>2</sup>

Allamah Qurtubi avers that Abdullah ibn Umar's (May Allah be pleased with them) following narrative is a proof of this practice:

ان التَّبَيُّ كان معمولاً به في الجاهلية والاسلام يتوارث به ويتناصر الى ان نسخ الله ذلك.

*"It was routine in the days of ignorance as well as after the advent of Islam to adopt kids, on the basis of which they used to inherit each other and there used to be mutual assistance and support. This practice continued until God prohibited it."*<sup>3</sup>

### Familial Prejudice

In a family, close relations are considered more important than distant ones. The unwavering firm bonds found in the former do not remain quite strong among the latter. If there's a clash between two relatives, man is naturally inclined towards siding with the closer relative. There was a strong sense of family and tribal prejudice among the Arabs with close relations being preferred over distant relations. If there

<sup>1</sup> Ibn Abdul Barr, alIstiyab fi Asma'a alAshab: 2/115-118. Daar alKitaab alIlmiyah, Lebanon 1995 CE. Ibn Atheer, usad. alGhabah: 2/351-353 Daar alKitaab alIlmiyah, Lebanon 1996 CE

<sup>2</sup> Sahih Bukhari, Kitab alTafseer, Surah alAhzab, chapter 'Call them by their fathers' names'; Sahih Muslim, Kitab Faza'il alSahabah, chapter Zaid bin Harithah

<sup>3</sup> Qurtubi, alJami alAhkam alQur'an. Vol 7, section 14, Page 80



was an altercation between the family and the tribe, the family was always supported. The impulse of backing the family eventually turned into prejudice. Truth, righteousness and justice were superseded by blood relations. Backing and supporting close relatives was considered obligatory at all times.

An Arab poet says:

لا يسألون اخاهم حين يابدهم في النائبات على ما قال برهانا

*In times of distress when their brother calls them  
He is not asked why they are being summoned*

The renowned poet of the times of ignorance, Turfah addresses his cousin thus:

قربت بالقربى وجدك انقضى متى يك امر للنكيشة اشهد

*I have fulfilled the vows of friendship, I swear by your  
fate, If there's an event of danger, I shall come to  
your aid.*

وان ادع للجلى اكن من حماتها وان ياتك الأعداء بالجهد اجهد

*And if summoned during a great calamity I shall stand  
by your honour, And if the enemy were to fight you I  
shall defend you using all my power.*

وان يقدفوا بالقدح عرضك اسقمهم بكأس حياض الموت قبل التهديد

*And if they attack your honour, I shall make them taste  
death before they can threaten you.*

### Tribal Warfare

The Arabian tribes shared a common ancestry. But despite this, battles and fatal episodes of violence were common among them. Swords were drawn out at the slightest of pretexts leading to bloodshed. Among these battles, the four Battles of Fijar are quite famous:

**The First Fijar:** A special gathering of Badr bin Ma'ashar alGhifari was held in the Ukaz fair, where he used to declare his high status and assert his pride and

glory. One day, he spread his legs apart and proclaimed that he was the most honourable man in all Arabia. 'Anyone who thinks he is more deserving of honour than me can strike my leg with his sword'. At this, one man got up and struck his leg, injuring it. This sparked off a battle between their tribes.

**The Second Fijar:** A woman from the Banu Amir tribe was once sitting in the Ukaz market. A young man from the Quraish began encircling her and asked her to unveil herself, which she refused (This shows that in those days cultured women used to veil themselves). This young man quietly sat behind her and nailed her skirt in such a way that when she rose up she got disrobed, making her the object of ridicule in the entire market. The woman called out to the Amir clan, who responded by marching forward with their weapons. The young man, on his part, sought help from his Banu Kinanah clan leading to a fight.

**The Third Fijar:** A member of the Banu Amir clan had lent some money to a member of the Banu Kinanah clan. When he delayed the repayment of the debt, the two tribes resorted to fists and blows. It is said that the battle was called off only when Abdullah ibn Jad'an offered to pay the loan on his behalf.

**The Fourth Fijar:** Numan bin Munzir 'King of Heerah' used to send his trade caravan- which comprised of camel-loads of clothes and perfume- to the Ukaz market so as to sell them off and purchase the tanned hides of Ta'if from the money thus earned. He used to send his caravan under the care of some Arab merchant to ensure its security. On one such occasion when he was ready to send his caravan off, he had some Arab merchants present before him- Baras from Banu Kinanah and Urwatul Rihaal from the Hawazin

tribe being present among them. Baras contended that he can assure him that the Banu Kinanah would not play foul with the merchandise. Numan bin Munzir replied, 'I would rather appoint someone who can pledge its guarantee on behalf of all of Najd and Tihamah.' At this, Urwatul Rihaal said that he can offer this guarantee. Baras asked him, 'Can you protect the merchandise against the Banu Kinanah as well?' He replied, 'Yes, why not? Not just the Banu Kinanah, I can protect it from Ahle Sheh and Qaisoom (the entire Arab populace) as well'. This led to an altercation between him and Baras. When Urwah started off on his return journey, Baras followed him with the intention to kill him. Urwah halted at one spot and began relishing some wine. Using this opportunity, Baras murdered the drunk and defenseless Urwah. This news was brought to Kinanah when they were with the Hawazin in the Ukaz market. The Kinanah fled the market to find succor in the premises of the Haram. However, the news fell on the ears of the Hawazin as well; they ran in pursuit of the Kinanah and apprehended them before they could reach the Haram. Both the tribes engaged in a ferocious battle for six long days. It has been narrated that Abu Talib fought this battle in alliance with the Kinanah. He took the Prophet ﷺ along with him who was about fifteen years old then. Ibn Sa'ad avers that the Prophet had reached the age of twenty. The Prophet was assigned the task of collecting stray enemy arrows and handing them over to the warriors of his clan. Finally, this battle culminated in a truce arbitrated by Utbah bin Rabi'ah. The brunt of casualties was borne most by the Banu Qais. The Quraish paid blood money for the

balance casualties, while other narrations contend that they refused to accept the compensation.<sup>1</sup>

### Allied tribes

The tribes used to fight to prove their mettle in pursuit of authority and power. In order to achieve this end, some tribes would gather together and form an alliance. In retaliation, another coalition of certain tribes, who used to pledge allegiance to the principal tribe, used to form an alliance on the other side of the battle line. Such tribes were called *Haleef* or allies.

The word *half* means oath. *Half* also refers to the agreement of mutual cooperation and that they would help and support each other in all circumstances. Hence, an oath used to be taken on this agreement. All participants in such an agreement were referred to as each other's *haleef*. During the days of ignorance, when Khuza'a drove out Banu Asad from the Haram (Holy Sanctuary in Makkah), it allied with the Tai tribe, because of which they came to be called '*halifaan*' (allies of each other). Later, when Banu Asad entered into a similar alliance with Banu Fazarah, they too were referred to as *halifaan*.<sup>2</sup>

It was Qusayy bin Kilaab who truly united the Quraish. He drove out tribes like Khuza'a and Banu Bakr from the precincts of the Haram, settling the Quraish in all its quarters in their stead. Due to his

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<sup>1</sup> Ibn Sa'ad (Tabqat: 1/126-128) published by Daar Sadir, Beirut and Ibn Hisham (alSirat alNabwiyah: 1/221-224) published by Darul Ahya'a alTaras alArbi, Beirut, Lebanon 1994 CE have mentioned only this Battle of Fijar in which the Prophet ﷺ himself participated. Suhaili, Mas'oodi and others have mentioned all four. The book currently under consideration is Burhanuddin Halbi's alSirat alHalbiyah: 1/126-128 in which details of all the four battles have been provided.

<sup>2</sup> Ferozabadi, alQamoos alMuheet; Ibn Manzoor, Lisan alArab

achievements he was hailed as the undisputed chief of the Quraish. There was no one to challenge his leadership. Makkah was virtually under his rule. He held the posts of *hijabah*, *siqayah*, *rifadah*, *nadwah* and *liwa'a*.<sup>1</sup>

Qusayy bin Kilaab had four sons: Abd alDaar, Abd Munaaf, Abd aluzza' and Abd (he was named Qusayy after his father). Daughters' names were Takhmar and Barraah. Abd alMunaaf had earned laurels even during the lifetime of Qusayy, and people used to treat him with honour and respect. Abd aluzza' and Abd (Qusayy bin Qusayy) also shared in his honour, while his eldest son Abd alDaar did not enjoy the same status. In his last days, Qusayy had confided with Abd alDaar that 'I want you to enjoy the same position as your brothers'. Accordingly, Qusayy handed over all his positions to Abd alDaar. No one dared question his decision; all brothers accepted it and put it into practice. However, after the brothers, Abd alMunaaf's children held that they were more entitled to hold those posts, given their high status and position in society.

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<sup>1</sup> Ibn Hisham, alSirat alNabwiyah: 1/161. Hijabah means possessing the keys to the Kaabah. The possessor of the keys was free to open the doors of the Kaabah for anyone or close the doors upon anyone as per his will. Siqayah means to offer the Zamzam water to pilgrims. Serving the Hajj pilgrims was considered to be highly virtuous. Hence, during the pilgrimage, Zamzam was offered to the pilgrims in either its pure form or mixed with honey, milk or as a concoction of dates and raisins. Rifadah means hospitality of guests. During the Hajj, arranging for the meals of the pilgrims was also considered a religious responsibility. For this purpose, the Quraish used to pledge a portion of their earnings and hand it over to Qusayy; this tradition continuing in later days as well. Nadwa referred to meeting for discussions and put across one's opinions. Qusayy had established the Darul Nadwa and all important decisions were taken therein. Liwa'a was the flag or standard that was held during battles by the person whom the chief chose. All these positions rested with Qusayy.

Abd alDaar's children fiercely retaliated in defence of their posts- 'Qusayy's decision cannot be overruled' they claimed. Certain tribes supported Banu Abd alManaaf while some others rallied behind Banu Abd alDaar. There were other tribes who stayed away from this conflict.

Banu Abd alMunaaf filled a large vessel with perfume and placed it near the Kaabah. Their allies used to dip their hands in the vessel and rub them on the Kaabah symbolizing unwavering mutual support and cooperation. This gesture made their oaths binding. These tribes were called 'Mutayyibeen', which means the one who used perfume. On the other hand, Banu Abd alDaar and his allied tribes also pledged besides the Kaabah that 'they would help and support each other under all circumstances and not desert each other'. They are called 'Ahlaaf'.

Both groups started preparing for battle, but they soon realized that they would eventually finish off each other. This led to an agreement between them that Banu Abd alMunaaf would be allotted the services of Siqayah and Rifadah, while Banu Abd alDaar would continue to hold the posts of Hijabah, Nadwah and Liwa'a.<sup>1</sup>

A very important episode recorded in the Biography of Prophet Muhammad ﷺ is that when the Makkans noticed that the Prophet's followers are being accepted as refugees in Abyssinia, brave and determined personalities like Hamzah and Umar (May

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<sup>1</sup> Ibn Hisham, alSirat alNabawiyah: 1/159-169, Ibn Sa'ad, alTabqaat alKubra: 1/66-83, Tabari, Tareekh alUmam wal Mulook:1/505-509, Darul Kitaab alIlmiyah, Lebanon 1997 CE. Also refer: Ibn Katheer's AlSeerah alNabwiyah: 1/94-102 Darul Ma'arfah, Beirut, Lebanon 1983CE

Allah be pleased with them) are believing in the Prophet and supporting him (and his uncle Abu Talib not willing to forsake him), all of Quraish joined forces against Banu Hashim and Banu Muttalib and decided to boycott them. A document was also prepared in this regard which stated that no one should enter into any marital or business relation with the Banu Hashim and Banu Muttalib and all social relations with them would be suspended. This parchment was hung in the middle of the Kaabah so that it may be honoured and properly implemented.<sup>1</sup>

This boycott lasted two to three years, after which it was called off by some people among them citing injustice.<sup>2</sup>

### **Hilf alFudul (Arabic: حلف الفضول)**

At times, the tribes and their various branches used to come together with some noble motive as well, a very vivid example of which is Hilf alFudul.

Four months after the Battle of Fijar, Banu Hashim, Banu Abdul Muttalib, Banu Zahra bin Kilaab, Banu Asad bin Abdul uzza and Banu Taim bin Murrah responded to the call of Zubair bin Abdul Muttalib and gathered at the house of Abdullah bin Jad'an to pledge upon oath that 'We would rise against any and every form of injustice and stand united by the oppressed person, irrespective of whether he belongs to Makkah or not, and see to it that he rightfully gets his due. We shall all keep practicing it as long as the froth over the oceans remains moist and the hills of Thabeer and Hira endure, and we shall support each other financially and empathize with each other. Prophet ﷺ was also a part

<sup>1</sup> Ibn Hisham, alSeerat alNabawiyah: 1/388

<sup>2</sup> Ibn Hisham, alSeerat alNabawiyah: 1/402. Ibn Sa'ad, alTabqaat alKubra: 1/208-210

of this league before being honoured with the office of Prophethood. Once, while mentioning this league during his later years, he had remarked:

لقد شهدت في دار عبدالله بن جدعان حلفا ما احب ان لي به حمر  
النعم ولو ادعى به في الاسلام لاجبت.

*"I was present in the house of Abdullah bin Jad'an witnessing a pact that I wouldn't exchange for a herd of red camels, and if I were invited to it after Islam, I would respond."<sup>1</sup>*

### **Islamic reformation**

This was a brief and concise insight into the family and tribal system of Arabs. Although it does bear certain positive points, the negative ones far outweigh them. It is Islam's achievement that it brought about radical changes in this tribal system and amended it.

### **Marital ties and blood relations are the foundations of Family**

Islam has laid the foundations of family on legitimate marital ties and blood relations, without which no person can claim to be a member of any family, nor would he be entitled to familial rights.

### **The limits of brotherhood**

Prophet ﷺ had established brotherhood between the Muhajireen (emigrants) and the Ansar (helpers) soon after he emigrated to Madinah. On the basis of

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<sup>1</sup> Ibn Hisham, alSirat alNabwiyah: 1/169-171. Ibn Sa'ad, alTabqaat alKubra: 1/128-129. Also refer: Ibn Katheer: alSirat alNabwiyah: 1/257-262. A brief description of Hilf alFudul can also be found in this author's book 'Islam me Khidmate Khalq ka tasavvur'. For a detailed discussion on Hilf al Fudul please go through Dr. Muhammad Razi alIslam Nadvi's article in the quarterly, Tehqeeqaat Islami, Aligarh, April-June 2002 CE



this brotherhood, not only were the Muhajireen welcomed with an extraordinary form of kindness and goodwill, but going a step further the Ansar declared them legal partners and heirs in their estate as well. This was akin to inducting a foreign person in the family, resulting in the rights of family members being influenced. Hence, its legal validity was abolished in the following ayat:

وَأُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ إِنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ ﴿٧٥﴾

*"... But those of (blood) relationship are more entitled (to inheritance) in the decree of Allah. Indeed Allah knows all things."* [Surah alAnfal ayat 75]

This was further elucidated in these words...

وَأُولُوا الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا كَانَ ذَلِكَ فِي الْكِتَابِ

مَسْطُورًا ﴿٦﴾

*"...And those of [blood] relationship are more entitled [to inheritance] in the decree of Allah than the [other] believers and the emigrants, except that you may do to your close associates a kindness [through bequest]. That was in the Book inscribed."* [Surah alAhzab ayat 6]

### Any person cannot be made one's son

On the same lines, the system of adoption was also abolished. In effect, it was made illegal for any person to declare someone else's son his own and grant him those rights that his children enjoy. The Qur'an is very explicit on this...

وَمَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ذَٰلِكُمْ قَوْلُكُمْ بِأَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي السَّبِيلَ ﴿١٠٦﴾ اذْعُوهُمْ لِأَبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ فَإِنْ لَّمْ تَعْلَمُوا

أَبَاءَهُمْ فَأَخْوَانَكُمْ فِي الدِّينِ وَمَوَالِيكُمْ وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا ⑤

*"...And he has not made your adopted sons your [true] sons. That is [merely] your saying by your mouths, but Allah says the truth, and He guides to the [right] way. Call them by [the names of] their fathers; it is more just in the sight of Allah. But if you do not know their fathers - then they are [still] your brothers in religion and those entrusted to you. And there is no blame upon you for that in which you have erred but [only for] what your hearts intended. And ever is Allah Forgiving and Merciful."* [Surah alAhzab ayat 4-5]

This is an explanation of the rule that an adopted child shall have no legal rights. He would bear the name of his actual father. As for those of unknown parentage, they would be considered as brothers in faith and allies and would be treated with kindness. Thus, it became clear that a child would not be granted the rights of a son if he does not belong to his lineage.

### Unity among tribes

Arab tribes had become adversaries of each other, with rancour and enmity mounting up in their hearts, swords being drawn out at the flimsiest of excuses culminating in a sea of blood. Islam nurtured love and fraternity among these hostile warring tribes and united them into a single community, and they became companions of each other leaving behind their differences and prejudices. The following ayat is a reflection of this very transformation...

وَاذْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ إِذْ كُنْتُمْ أَعْدَاءً فَأَلَّفَ بَيْنَ قُلُوبِكُمْ فَأَصْبَحْتُمْ  
بِرِيعَتِهِ إِخْوَانًا وَكُنْتُمْ عَلَى شَفَا حُفْرَةٍ مِنَ النَّارِ فَأَنْقَذَكُمْ مِنْهَا ①

*"...And remember the favour of Allah upon you - when you were enemies and He brought your hearts together and you became, by His favour, brothers. And you were on the edge of a pit of the Fire, and He saved you from it. Thus does Allah make clear to you His verses that you may be guided." [Surah Al-e-Imran ayat 103]*

This holds true for all the Arabian tribes in general, but the more specific context is in relation to the Aus and Khazraj tribes of Madinah. These tribes were in a perpetual state of war with each other; the battle of Bu'as, the battle of Daamas and the battle of Hatib being among the most notable battles between them. During the Hajj season the Prophet ﷺ, as was his practice with all other tribes—conveying the message of Islam among them, invited the Khazraj to accept Islam at Uqbah. While accepting Islam they said that 'The enmity and rancour present within our tribes is probably unmatched in all of Arabia. We hope that Allah unites us by your intervention. We shall present this before them and invite them to accept the religion that we have accepted. If Allah brings us all together in Islam, you would certainly be the most honourable and respected person in our eyes.'<sup>1</sup>

This gives us a glimpse of the condition of the Aus and Khazraj tribes. Zamakhshari and some other scholars have written in their exegesis that although the Aus and Khazraj shared a common ancestry, the enmity found between them could be traced back a hundred and twenty years. Finally, it was Islam that doused this fire and the Prophet ﷺ was instrumental in fostering love and affection between them.<sup>2</sup>

<sup>1</sup> Ibn Hisham, alSirat alNabawiyah: 2/42

<sup>2</sup> Zamakhshari, alKashhaf an Haqaiq alTanzeel: 1/387

### Rise of a universal nation

The tribal system was confined in a small sphere and tried to solve its issues and matters within this limited sphere. It could not hold the outer world in its perspective. Islam liberated it from this suffocating premise and introduced it to a panoramic human dimension. It explained that despite the geographical, linguistic and racial barriers dividing people all over the globe and despite the variations in the colour of their skins, all human beings are indeed one because they share a common ancestry, are creations of one God and the progeny of a single pair of parents. Clans and tribes are only meant for the purpose of recognition and nomenclature; these cannot be made grounds for discriminating between men.

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ  
لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتَقْوَىٰ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ ﴿١٣﴾

*"O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted."*

[Surah alHujurat ayat 13]

When all mankind is one, their path to reformation and success ought to be one as well. That path is the path of obedience, subservience and service to God; and it is towards this path that the Qur'an invites us...

يَا أَيُّهَا النَّاسُ اعْبُدُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ وَالَّذِينَ مِنْ قَبْلِكُمْ لَعَلَّكُمْ تَتَّقُونَ  
﴿١٤﴾ الَّذِي جَعَلَ لَكُمْ الْأَرْضَ فِرَاشًا وَالسَّمَاءَ بِنَاءً وَأَنْزَلَ مِنَ السَّمَاءِ مَاءً  
فَأَخْرَجَ بِهِ مِنَ الثَّمَرَاتِ رِزْقًا لَكُمْ فَلَا تَجْعَلُوا لِلَّهِ أَدَاءًا وَإِنَّكُمْ تَعْلَمُونَ ﴿١٥﴾

*"O mankind, worship your Lord, who created you and those before you, that you may become righteous - [He] who made for you the earth a bed [spread out]*

*and the sky a ceiling and sent down from the sky, rain and brought forth thereby fruits as provision for you. So do not attribute to Allah equals while you know [that there is nothing similar to Him]."*

*[Surah alBaqarah ayaat 21, 22]*

Thus, Islam was successful in uniting these tribes, who were hitherto entangled in a mesh of battles and mutual bloodshed. It did away with all their differences and bitterness to transform them into a single league, a single *Ummah*. Those tribes who were accustomed to having a very narrow and opportunistic outlook were given a broad and universal one, presenting them as the leader and guide to all mankind. All this resulted in the noble revolution that history has never witnessed otherwise.

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The Structure  
of an  
Islamic Family

- \* The Islamic Family**
- \* Right sexual conduct**
- \* Marital Relationships**
- \* The Rights and Duties of Family Members**

## The Islamic Family

Allah's Prophets and Messengers are His honoured and selected servants. Their lives and piety are an example for all mankind to follow. The Qur'an has explicitly mentioned that they all led family lives and fulfilled its obligations.

Accordingly,

وَلَقَدْ أَرْسَلْنَا رُسُلًا مِنْ قَبْلِكَ وَجَعَلْنَا لَهُمْ أَزْوَاجًا وَذُرِّيَّةً

*"And We have already sent Messengers before you and assigned to them wives and descendants."*

[Surah alRa'ad ayat 38]

The Qur'an has introduced us to their family members- wives, children, parents and other relatives in its divine passages. These accounts paint a picture about their relationships with their family members, their love, empathy, sincerity and concern; as also the attitude of the family members towards them- in support or retaliation. All these aspects of the relationship between Prophet Muhammad ﷺ and his wives, children and relatives are also expounded upon in the Holy Qur'an.

This leads us to a question- 'Why is it that God's Prophets led a family life and entangled themselves in family matters instead of maintaining a distance from family and devoting all their time in worship?' The answer lies in the fact that the elevation which family life provides one's religious and moral life, the pure sentiments of support and compassion and concern that gain nourishment and the opportunities of forbearance,



reformation and grooming that it offers cannot be obtained by other means.

### **The Religious significance of Family**

This essentially means that family is not just a social or community institution; rather it has a religious significance as well. A person who leads a family life, in effect, follows the Prophets' example and thereby raises his standards of moral values.

### **The foundations of family structure**

Islam has accorded prime importance to the family in community life and has detailed the structure of the family system it espouses. It has presented detailed guidelines related to sexual relations, marital life, its responsibilities, its issues, relationship with family members, their rights and duties and other matters related to them, and has made them strictly binding upon its followers.

There are three principles which form the basis of the family system. These are:

1. Sexual Conduct: A family is founded on sexual relationships. The form of sexual conduct a person adopts has a direct bearing on the resultant form of family.
2. Marital relations: A man and his wife can lead a happy married life only if their relationship is based on justice, and an environment of sincerity, love and benevolence is found between them. On the contrary, if their relationship is fraught with mutual struggle, oppression and injustice, they would be left deprived of the tranquillity that a family otherwise offers. Moreover, the good or bad

influence of these relations would affect the entire family system.

3. Rights and duties of relatives: Family is not just composed of man, wife and children; it encompasses moral and legal obligations as well. It is very important that these obligations are fulfilled, lest the family turns meaningless.
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## **Right sexual conduct**

Family is not just the name of a group of men or women. Rather, both men and women are required to actively contribute towards erecting and establishing it. If some men or some women start living mutually together in a society and give vent to their desires through unnatural means, then such an arrangement would not be referred to as family. These days, the surge of homosexuality that is being witnessed in the West is an extreme reactionary consequence of family breakdown and collapse, wherein a man starts cohabiting with another man and a woman begins to cohabit with another woman. This is all the family they have, with mutual rights also having been laid down. Apart from the multitude of diseases this culture is giving rise to, this lifestyle does not fulfil the objectives of a family in the least bit!

### **The importance of sexual relations**

A family starts with the sexual relations of a man and a woman; hence it assumes a fundamental role in the establishment of family. There are two points of view regarding these relations- abstinence and promiscuity. Both are unnatural and deviate from the right course.

### **Abstinence v/s sexual relations**

Abstinence is nothing but suppression, rather strangulation, of sexual urges, and considers it to be a means to attain spirituality, despite being against

man's nature. Only one in a million people are probably able to abide by it. Man is unable to accept such restrictions, given the strong sexual desires found in him. If and when he is restricted from adopting the right and permitted ways to express his sexual urges, he takes recourse to wrong paths. Abstinence is in fact a form of escaping man's natural instincts, which has been labelled as religion. No society can be established on these foundations.

### **Sexual promiscuity and its disadvantages**

The second concept is that of promiscuity. This demands free sex and does not accept any restriction whatsoever. This attitude is extremely disadvantageous to both the individual as well as the society at large. This conduct adversely influences the physical and mental abilities of a person and he starts developing various diseases which lead to his devastation. It leads the society towards sexual anarchy and perversion, wherein a man does receive sexual gratification, but later dumps the love-child with its mother or they both shirk their responsibilities and leave the child in the care of some charitable or state institution. These institutions do fulfil the material requirements of the child to some extent, but can never give him the love that erupts in the hearts of parents and flows to their child. In order to escape the responsibilities of children, the concept of 'Childless Family' is gaining currency in the West. Two of its demerits are quite obvious. One, that man develops a penchant for satisfying his carnal desires while shirking his responsibilities making him reluctant of accepting any other community responsibility as well. Secondly, if this inclination to spend one's life without children

spreads, the population growth would definitely be affected. Society would be left deprived of manpower, inevitably resulting in mass outsourcing.

### Marriage- the permissible way to sexual gratification

Islam is against abstinence as well as promiscuity. It vindicates sexual desires as valid and natural, whose gratification is not wrong per se. However, it is emphatic that it should be attained in a legitimate manner; adopting forbidden means being prohibited and illegal. It refers to sexual transgression as 'zina' (unlawful sexual conduct) and proposes strict punishments in this regard. It wants to see a chaste society unadulterated by zina, as elucidated in the following passage:

وَالَّذِينَ هُمْ لِغُرُوضِهِمْ حَفِظُونَ ۖ إِلَّا عَلَىٰ أَزْوَاجِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ  
فَأِنَّهُمْ غَيْرُ مَلُومِينَ ۚ فَمَنِ ابْتَغَىٰ وَرَاءَ ذَلِكَ فَأُولَٰئِكَ هُمُ الْعَادُونَ ۚ

*"And they who guard their private parts. Except from their wives or those whom their right hands possess, for indeed, they will not be blamed. But whoever seeks beyond that, then it is those who are the transgressors."* [Surah alMuminoon ayat 5-7]

Two methods of legitimate sexual gratification have been narrated in this passage- deriving satisfaction from one's wife and slave women. Since there is no prevalence of slavery in contemporary society, we are left with only one valid option today.

Marriage is the permissible way of cohabiting with a woman. Marriage is a pledge and commitment that comes into existence with the free mutual consent of a man and a woman. There is no aspect of force or compulsion therein. Man independently consents for this and the permission of the woman is also

mandatory. In case an immature girl is married off, she can exercise her authority and will once she enters adulthood.

### The legal status of marriage

Marriage has been termed as *Sunnah* (Prophetic practice or tradition) by certain jurists. Some others consider it desirable while others call it *Sunnat e muakkadah* (emphasized tradition) and obligatory. However, if a man finds himself surrounded by a situation where there's a danger of him slipping into illicit sex and he is financially sound, marriage would become incumbent upon him.

### Society should support marriages

Society has been instructed to arrange for the marriages of bachelors and support them in this regard so that no man is compelled to adopt a life of abstinence simply because he lacks the necessary resources. The Qur'an instructs thus:

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ

يَغْنِهِمُ اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ ﴿٣٢﴾

*"And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing."*

[Surah alNoor ayat 32]

### The abhorrence of secret sexual relations

Islam declares it unlawful for a man and a woman to engage in illicit sexual relations, become guilty of sin and try to escape responsibilities. After mentioning the list of women that a man cannot marry (due to some family relationship with her), the Qur'an says:

وَأَجَلَ لَكُمْ مَا وَرَاءَ ذَلِكَ أَنْ تَبْتَغُوا بِأَمْوَالِكُمْ فَحُصْنَيْنِ غَيْرِ مُسْفِحَيْنِ

“...And lawful to you are [all others] beyond these, [provided] that you seek them [in marriage] with [gifts from] your property, desiring chastity, not unlawful sexual intercourse...,” [Surah anNisa ayat 24]

### The announcement of marriage

Islam wants marriages to be announced and expressed, so that the community is acquainted of the fact that a marital relationship has been established between a particular man and woman, that they are life partners of each other and have agreed to fulfil its moral and legal obligations, so that the community may help them in fulfilling their responsibilities and bring them to check if they show negligence therein. That is why two witnesses are required to solemnize a marriage, without which a marriage cannot take place. Accordingly, it has been narrated by Ayesha (May Allah be pleased with her) that the Prophet ﷺ has said:

لا نكاح الا بولي و شاهدى عدل وما كان من غير ذلك فهو باطل فان تشاجروا فالسلطان بولى من لا ولى له.

“A marriage cannot be conducted without a wali (guardian) and two upright witnesses. Any marriage conducted without these prerequisites is null-and-void. If there is some mutual difference, then in the absence of a guardian, the Sultan (Muslim ruler) would be the guardian.”<sup>1</sup>

### Only legitimate children have rights

A natural desire for children is found in all human beings. He has an emotional bond with children, loves

<sup>1</sup>Hidayah, Kitab alNikah with inputs from Ibn Hibban, 3/212. Details regarding the status of the guardian have been discussed later

them immensely, finds peace and tranquillity through them and gains pleasure in spending his wealth on them. He desires his name and lineage to be perpetuated through them. He considers his children to be the rightful inheritors of his wealth, property and resources. Islam does not oppose these sentiments; it has validated them and encouraged man to seek children...

وَابْتَغُوا مِمَّا كَتَبَ اللَّهُ لَكُمْ

*"... (By means of marital relations) seek that which Allah has decreed for you...."*

*[Surah alBaqarah ayat 187]*

Only the children issuing from marital union would be considered legitimate and entitled to legal rights. Children issuing from illegitimate sexual relations would have no legal right whatsoever. Even the biological father of the child would not have any right over him, none of them inheriting from each other.

Children are entitled to moral and legal rights and parents are duty-bound to honour these rights. They cannot be considered a financial or social burden and killed. Their food, clothes and other needs would be taken care of, they would be provided with the best of education and grooming and they would be treated with utmost love and compassion, they would not be discriminated against- with boys and girls receiving equal treatment.

### **Sanctity of lineage and close relations**

The rise of promiscuity does not leave the family unaffected; the world witnessing it with its naked eyes. Islam forbade sexual relations among closely related



family members forever. They are referred to as 'muhramat abdiya'. A man can never marry them. This is to curb sexual desires within the family premises and to ensure that a sense of sanctity and honour prevails therein. Certain other prohibitions are occasional in nature. Marital relations are forbidden with such relatives only in certain cases.

The purity and safeguard of lineage among the Arabs was getting eroded. Some people used to marry their stepmothers. The Qur'an has condemned this practice as abominable and perverted...

وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ إِنَّهُ كَانَ فَاحِشَةً  
وَمَقْتًا وَسَاءَ سَبِيلًا ﴿٢٢﴾

*"And do not marry those (women) whom your fathers married, except what has already occurred. Indeed it was an immorality and hateful (to Allah) and was evil as a way."*  
[Surah alNisa ayat 22]

One more wrong practice was to marry two sisters together or to marry one's wife's sister in her presence. This act was against nature. The Qur'an has forbidden it.

وَأَنْ تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ إِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا ﴿٢٣﴾

*"(Allah has prohibited) that you take (in marriage) two sisters simultaneously, except for what has already occurred. Indeed, Allah is ever Forgiving and Merciful."*  
[Surah alNisa ayat 23]

This injunction includes real sisters, step sisters and those women who are considered one's sisters by virtue of being breast-fed by the same woman. Having a woman and her aunt in one's matrimony at the same time is also forbidden in a Hadith.

The Qur'an has also forbidden marriage with one's mother, daughter, sister, father's sister, mother's sister,

brother's daughter, sister's daughter, (foster) mothers who breastfed him, sister through such fosterage, wife's mother, stepdaughter under one's guardianship and one's son's wife in addition to those mentioned above. [Surah alNisa ayat 23]

Thus, Islam fostered a sense of integrity amongst close relatives and did not allow this integrity to be violated under any condition, so that the family is protected from becoming a venue of sexual promiscuity.

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## Marital Relations

### Marital Relations are based on Love

Marital relation is essentially that of love and compassion. It should be seen and preserved in this context only. Man should consider his wife as a part of his own body and the wife should be a source of tranquility for her husband. The Qur'an avers that men of understanding can see many a signs of nature in this relation of love.

وَمِنَ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يُتَفَكَّرُونَ ﴿٢١﴾

*"And among his signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought."*  
[Surah alRum ayat 21]

### Rights and Duties of Husband and Wife

Marital relations are not merely a source of carnal gratification, but the foundation stone of family system. Husband and wife both are entitled to certain rights but both need to perform certain duties as well, to which they are obliged. The Qur'an has made it very clear that...

وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ

*"... and women have rights (over men) as (men have) rights over them, according to what is reasonable...."*

[Surah alBaqarah ayat 228]

While explaining the injunctions related to divorce, it is said,

لَا تُضَارُّ وَالِدَةَ بِوَلَدِهَا وَلَا مَوْلُودَهُ بِوَالِدِهِ

“... No mother should be harmed through her child, and no father through his child...”

[Surah alBaqarah ayat 233]

It is the responsibility of the husband to earn money, bear the expenses of his wife's needs and arrange for the household requirements. The wife is supposed to take care of the house, to make it systematic and organized, guard the honour and prestige of herself and her husband, take care of the children and raise them up with the best etiquettes and manners.

The Prophet ﷺ has said:

الرجل راع على اهل بيته وهو مسئول عن رعيته، والمرأة راعية على اهل بيت زوجها وولده وهي مسئولة عنهم-

“... A man is the guardian of his family and he would be questioned about them (on the Day of Judgment). A woman is the guardian of her husband's home and his children and she would be questioned about these (on the Day of Judgment)....”<sup>1</sup>

### Protection of Women from Atrocities

Woman is a weak creation. She remains, at times, deprived of her established rights as well. She has had to bear the brunt of injustice and oppression in olden days just as she has to bear them today. However, Islam has given her legal protection in this regard, certain aspects of which are being discussed below.

<sup>1</sup> Sahih Bukhari, Kitab alAhkaam

### **The permission for four marriages, subject to justice**

During the days of ignorance, man could marry as many women as he wished. Islam restricted the number of wives, at any given time, to four. Moreover, it attached a clause that even this would be permissible only if equality and justice is maintained with respect to the provisions, night turns and conduct meted out to them. No wife would be given preferential treatment over the other. If someone is not confident about this, he has been instructed to marry only one woman.

فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً

“... But if you fear that you would not be just, then (marry only) one....” [Surah alNisa ayat 3]

This means that every person would have only one wife by default. If he wishes to marry more than one woman, he can have at most four women in his matrimony at a given time; but he would have to compulsorily fulfil all parameters of justice. In case of injustice, Islamic law would ensure that the affected wife receives due justice.

### **Ways to solve differences**

At times, differences can also erupt within marital relationships. The guideline in this regard is that husband and wife should try to mutually solve the differences among themselves. Man is expected to exhibit a broad perspective, patience and forbearance; to gently make her understand if she is in the wrong. He can express his disdain in order to rectify the situation and can sleep separately as well. He is also allowed to take some stern steps if the situation so demands, but he is not allowed to transgress beyond a certain limit. Similarly, if a woman experiences disregard, she is advised to give up on her rights rather

than insist upon them. If despite this, the relations do not mend up, nominees from both families would be asked to arbitrate and their decision should be accepted. If all these fail to normalize their relations, then the spouses can resort to *talaq* (divorce) or *khula* (legal separation initiated by the wife) so that both of them can liberate themselves of marital bonds and decide upon their future. [Surah alNisa ayaat 34,35]

### **Procedure of *Talaq* (divorce)**

There was no limit to divorce earlier. Man would give as many divorces to his wife as he wished and for as long as he wished and would take her back whenever he wished. Islam saw this entire issue from a nuanced perspective and came up with a unique solution. It stated that the marriage agreement was one of love and togetherness; it should be preserved as much as possible, because its dissolution can affect the entire family system. In case of mutual differences the steps it has laid down to solve them should be resorted to. Even after this, if it becomes necessary to give divorce, it can be given only twice, with intervening periods between them. The right to reconciliation can be exercised in these intervening periods. If divorce is given the third time, the right to reconciliation would be annulled and they can then marry each other again only if she marries another man and he were to divorce her or he passes away. After this, if the previous husband wants to marry her and the woman herself is also ready, a new marriage can be contracted with a fresh *mahr* (the amount a groom is required to pay the bride upon marriage).

الطَّلَاقِ مَرَّتَيْنِ فَإِمْسَاكَ مَعْرُوفٍ أَوْ تَشْرِيحٍ بِإِحْسَانٍ... فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ  
لَهُ مِنْ بَعْدِ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ

*"Divorce is twice (with possibility of reconciliation). Then (after that) either keep (her) in an acceptable manner or release (her) with good treatment... And if he has divorced her (for the third time), then she is not lawful for him afterward (until) she marries a man other than him. And if he (i.e. the latter husband) divorces her (or dies), there is no blame upon them (i.e. the woman and her former husband) for returning to each other if they think that they can keep (within) the limits of Allah. These are the limits of Allah which He makes clear to a people who know (i.e. understand)*

*[Surah alBaqarah ayaat 229-230]*

### **Zihar and its atonement**

The practice of *Zihar* was prevalent among the Arabs. A man would tell his wife, 'You are like my mother's back to me' and separate from her. This was considered to be a form of divorce. The Qur'an, however, termed it meaningless and ridiculous that a man were to declare his wife as his mother.

الَّذِينَ يَظْهَرُونَ مِنْكُمْ وَمَنْ نَسَاهُمْ مِمَّا هُنَّ أُمَّهَاتُهُمْ إِلَّا الَّذِينَ  
وَلَدَتْهُمْ وَأُمَّهَاتُهُمْ لَيَقُولُنَّ مَنكِرَاتٍ مِّنَ الْقَوْلِ وَرُؤُوسًا وَإِنَّ اللَّهَ لَعَفُوفٌ عَفُورٌ ①

*"Those who pronounce zihar among you [to separate] from their wives - they are not [consequently] their mothers. Their mothers are none but those who gave birth to them. And indeed, they are saying an objectionable statement and a falsehood. But indeed, Allah is Pardoning and Forgiving."*

*[Surah al Mujadilah ayat 2]*

It was also commanded that if a man were to act upon this abominable practice of *zihar*, he would have to offer atonement before resuming marital relations

with his wife. The atonement would be to free a slave; in case he can't afford this or if it's impractical [as in today's age... Tr] then he should fast for sixty days at a stretch. If this is not possible as well, then he should feed sixty indignant people. [Surah alMujadilah ayat 3-4]

### **Ila and its rules**

*Ila* was also practiced among the Arabs. The word *Ila* means to 'take an oath to leave one's wife'. Saeed bin alMuyyib (May Allah be pleased with him) narrates that this was a means of troubling the wife during the days of ignorance. The husband would not liberate his wife by giving her divorce, because he wouldn't want anyone else to marry her. Instead, he would suspend relations with her on oath. Thus, she would then have to lead the life of an unmarried woman despite being married.

Abdullah ibn Abbas (May Allah be pleased with him) relates that the *Ila* pronounced during the days of ignorance would continue beyond a year or two.<sup>1</sup>

The Qur'an abolished this unjust system and restricted the duration of *Ila* to four months...

لِّلَّذِينَ يُؤَلِّقُونَ مِنْ نِسَائِهِمْ تَرَبُّصًا أَرْبَعَةَ أَشْهُرٍ فَإِنْ قَاءُوا فَإِنَّ اللَّهَ غَفُورٌ  
رَحِيمٌ ﴿٢٢٦﴾ وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ ﴿٢٢٧﴾

*"For those who swear not to have sexual relations with their wives is a waiting time of four months, but if they return [to normal relations] - then indeed, Allah is Forgiving and Merciful. And if they decide on divorce - then indeed, Allah is Hearing and Knowing."*

[Surah alBaqarah ayaat 226-227]

<sup>1</sup> Ibn Hayyan Andalusi, alBahr alMuheet: 2/191, Daar alKutub alIlmiyah, Beirut 1993 CE



Accordingly, if a man swears to suspend relations with his wife and reconciles with her within four months, then he would have to pay atonement for his (break of) oath. But if he has decided upon divorce, then he should pronounce divorce, failing which the judge would separate them (as per the Shafi school of jurisprudence). As per the Hanafi school of jurisprudence, an irrevocable divorce would come into effect by default if a man does not reconcile with his wife within those four months.<sup>1</sup>

### Exhibition of good conduct

These unjust practices apart, women were required to bear the brunt of various forms of oppression on a daily basis subjecting them to an uncivilized and uncouth behaviour. The Qur'an has commanded men to adopt the best conduct and high moral standards, and to overlook any weakness in one's wife.

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ  
 اللَّهُ فِيهِ خَيْرًا كَثِيرًا ⑩

*"... And live with your wives in a good manner. If you dislike them in any manner, it may be that you dislike something in which Allah has placed much good for you."*

[Surah alNisa ayat 19]

This passage has been addressed to each and every married man; that his behaviour with his wife should be 'noble and dignified'. This means that her rights would be meticulously honoured and all her valid needs would be fulfilled. She would not be dealt with sternly or spoken to harshly; she would not be treated with contempt, but with love and affection. All this

<sup>1</sup> For a detailed discussion on Ila, please refer Ibn Kathcer, Tafseer alQur'an alAzeem: 1/268-269

constitutes 'good manner'. Any behaviour contrary to this would be counted as uncouth and evil.

An important feature of this passage is that it points out the possible weaknesses in a woman's nature. It is also quite probable that one may dislike an aspect of her behaviour, but man should bear with her for the sake of marital bonds. Marriage cannot survive if every dislike were to result in separation and divorce. At times, driven by strong emotions, man takes some steps in his arrogance and superiority complex for which he has to repent later. It would be possible for him to bear with unacceptable predicaments only if he can visualize the results and consequences of his reactions through his farsightedness. It is a fact that many of life's seemingly distasteful events eventually result in much good and lead to joy and pleasure. It is quite possible that the woman whom a person dislikes may give him a goodly child or opens up the door to some other delights. Hence, man should adopt a path of patience, forbearance and good conduct.

Abu Hurairah (May Allah be pleased with him) relates from the Prophet ﷺ that:

لا يفرک مومن مومنة ان کره منها خلقا رضی منها آخر-

*"A believing man should not hate a believing woman (his wife). If he dislikes something in her character, he should be pleased with some other trait of hers."*<sup>1</sup>

This means that no person is absolutely bad. If he has some weaknesses, he possesses some merits as well. Man should focus on the good points instead of the bad ones, and he should derive benefit from them.

<sup>1</sup> Muslim, Kitaab alRaza'a, Baab alWasiyah binNisa'a

If a woman has some harmful weaknesses that have got imbibed in her character, then man should adopt the procedure that has been explained in the following narration:

Laqet bin Aamir bin Sabrah (May Allah be pleased with him) narrates his own episode that "I submitted to the Prophet ﷺ that 'My wife is foul in speech'. The Prophet ﷺ replied, 'Divorce her'. I said, 'We have been living together since years now and she is the mother of my children'. He replied, 'Then admonish her. If she has some goodness in her nature, she would rectify herself, but don't you hit her as slaves are hit.'"<sup>1</sup>

This means that if a woman has some fault which is troubling him, then it is best to separate from her. However, if the children she has borne or the years spent together or some other factor is considered, then he is advised to tolerate her faults, keep admonishing her and expect rectitude. It would not be right to hit her and start beating her, for she is not a slave girl but a wife.

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<sup>1</sup> Abu Dawood, Kitaab alTaharah, Baab fil Istanl aar

## The Rights and Duties of Family Members

### Family is a blessing of Allah

Marital relations give birth to the entire family. Children, parents, brothers, sisters and, through them, a number of relations are established. Family is a grace and favour of God. Its importance in the social and community life cannot be overemphasized. The Qur'an also points out that...

وَاللَّهُ جَعَلَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا وَجَعَلَ لَكُمْ مِنْ أَزْوَاجِكُمْ بَنِينَ  
وَحَفَدَةً وَرَزَقَكُمْ مِنَ الطَّيِّبَاتِ أَفَبِالْبَاطِلِ يُؤْمِنُونَ وَبِنعْمَةِ اللَّهِ هُمْ  
يَكْفُرُونَ ﴿٧٢﴾

*"And Allah has made for you from yourselves mates and has made for you from your mates sons and grandchildren and has provided for you from the good things. Then in falsehood do they believe and in the favor of Allah they disbelieve?" [Surah alNahl ayat 72]*

A man has close and distant relationships with his family members. Some are directly related to him while some others are related by some another member. It is through this that their rights and responsibilities are laid down in this world and they inherit from each other. The passage on inheritance contains the following pearls of wisdom:

...أَبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمَا أَقْرَبُ لَكُمْ نَفْعًا

*"... Your parents or your children - you know not which of them are nearest to you in benefit...."*

[Surah alNisa'a ayat 11]

## The legal rights of family members

Islam has laid out the family structure in such a manner that every member is related to every other member in some way or the other. However, their relations naturally differ at different levels. Some are quite close and others are distant relatives. Considering this factor, Islam has fixed certain rights and duties for each of them.

## Rights of wife and children

The rights of wife and children are foremost in a family. Islam has entrusted man with the provision of food, residence and other needs of his wife as per his status and has instructed him to live with her in kindness. Accordingly, it is mentioned...

لِيُنْفِقَ ذُو سَعَةٍ مِّن سَعَتِهِ \* وَمَن قَدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ حِمْلًا أَنَّهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَّا آتَاهَا \* سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا ﴿٢٠﴾

*"Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it. Allah will bring about, after hardship, ease."*

[Surah alTalaq ayat 7]

The child is actually a part of man himself. Hence, he is required to provide for the children as well. While explaining the procedure of divorce, the Qur'an mentions,

... وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا  
لَا تُضَارُّ وَالِدًا بَوْلِدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدَيْهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ

*"... (If upon divorce, the mother feeds the child) Upon the father is the mothers' provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be*

*harméd through her child, and no father through his child. And upon the heir is [a duty] like that [of the father] ...."* [Surah alBaqarah ayat 233]

This shows that the child belongs to the father and he is expected to bear the expenses of the child's sustenance. It further entails that the father is also responsible for the provision of the child's needs. In case the father is no more, the heir would be charged with this responsibility.<sup>1</sup>

### **Rights of parents**

Man is very closely related to his parents. It is incumbent upon him to look after their provision and other needs.

### **Rights of *mahram* relatives**

Those relatives of a man who are his *mahram* (those whom he cannot marry because of close family relations), or a young boy, or a grown up blind or handicapped boy, and they are unable to fend for themselves- their provision is mandatory upon their heirs, in proportion to the share of inheritance that each of them is entitled to.

### **Difference between the rights of wife and that of others**

It should be clearly understood that all family members, except the wife, have to be provided with provisions only if they are in express need of it. Their provision would not be mandatory upon the man if they are well-to-do and are able to bear their own

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<sup>1</sup> There is a difference of opinion as to who this 'heir' is. One opinion is that this refers to the father's heir. Another opinion is that this refers to the child's heir. As per the Hanafi school of jurisprudence, the heir should be a *mahram* blood relative. For details, please refer Abu Hayyan alAndalusi, alBahr alMuheet: 2/227

expenses. In case their earnings are not sufficient enough to cover their expenses, he is required to help them with it.<sup>1</sup>

### Girls would not be buried alive

The family member who was strong usually subdued other members, oppressed them and usurped their rights in more ways than one. The women and orphans were usually his prime victims.

Girls had no status when compared to boys; rather they were considered to be a liability. Girls were even buried alive. Islam raised its voice against this injustice and declared it to be an offense so grave that the perpetrator of this crime would not be let off on the Day of Judgment.

وَإِذَا الْمَوْءُودَةُ سُئِلَتْ بِأَيِّ ذَنْبٍ قُتِلَتْ ۖ

*“And when the girl [who was] buried alive is asked  
For what sin she was killed” [Surah alTakweer: 8-9]*

### Woman's rights in inheritance

Islam has granted rights of inheritance to women in compliance with her status and rights as a family member. Women were not allowed any property rights hitherto. Hence, they were denied their share in inheritance in pre-Islamic times. Islam granted her this right and fixed definite shares in her favour.

لِلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ  
الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ مِنْهُ أَوْ كَثُرَ نَصِيبًا مَّفْرُوضًا ۖ

*“For men is a share of what the parents and close  
relatives leave, and for women is a share of what the*

<sup>1</sup> This is as per the Hanafi school of jurisprudence. Please refer Marghinani, Hidayah, Kitab alNikah, Baab alNutfah to check with the differences found in other woks of jurisprudence

*parents and close relatives leave, be it little or much - an obligatory share.” [Surah alNisa ayat 7]*

Thus, Islam included women in family rights along with men and fixed their share in proportion to their responsibilities.

### **The rights of orphans would not be usurped**

Orphans had to bear with a lot of injustice. Their own guardians would oppress them and usurp their wealth and property. The Qur'an warned such guardians of dire consequences on the Day of Judgment and cautioned them to refrain from acting unjustly.

إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَىٰ ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا  
وَسَيَصْلُونَ سَعِيرًا ۝

*“Indeed, those who devour the property of orphans unjustly are only consuming into their bellies fire. And they will be burned in a Blaze.” [Surah alNisa ayat 10]*

The Qur'an has advised men to deal kindly with orphans and treat them with concern, love and affection. Their property would be completely secured, until when they reach puberty, upon which their property would be handed over to them in the presence of two witnesses. [Surah alNisa ayat 6]

### **Respect for relationships**

Islam has not only framed laws to sustain the family system, but has also created a moral spirit around it. One aspect of its all-encompassing and universal teaching also includes honour and special treatment of blood relations. Hurting them would go against piety.

وَ اتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا ۝



*"... And fear Allah, through whom you ask one another, and the wombs. Indeed Allah is ever, over you, an Observer."*

[Surah alNisa ayat 1]

### Maintaining good ties with relatives

A quality of the favoured servants of God, as mentioned in the Qur'an is that they join those relations that they are commanded to join. This includes, first and foremost, kind and good treatment with relatives.

وَالَّذِينَ يُصَلُّونَ مَا أَمَرَ اللَّهُ بِهِ أَنْ يُوصَلَ وَيَخْشَوْنَ رَبَّهُمْ وَيَخَافُونَ سُوءَ الْحِسَابِ ﴿٢١﴾

*"And those, who join that which Allah has ordered to be joined and fear their Lord and are afraid of the evil of [their] account."*

[Surah alRa'ad ayat 21]

In this passage, maintaining ties with relatives is mentioned along with fear of God and fear of the accountability in the Hereafter. This speaks volumes of its importance.

The Qur'an reiterates many a times that the rights of relatives should be honoured.

وَابِ ذَا الْقُرْبَىٰ حَقَّهُ

*"And give the relative his right...."*

[Surah Bani Israil ayat 26]

إِن تَأْتِي ذِي الْقُرْبَىٰ

*"Indeed, Allah orders justice and good conduct and giving to relatives...."*

[Surah alNahl ayat 90]

These rights can be both- moral and legal in nature depending upon the kind of concerned relation or circumstances.

Family members and relatives- whether close ones or distant- would be treated with kindness, concern and empathy and family members would be there for them

in their hour of sorrow. The teachings of the Prophets of God used to include:

وَبِالْوَالِدَيْنِ إِحْسَانًا وَذِي الْقُرْبَىٰ

“...and to parents do good and to relatives....”

[Surah alBaqarah ayat 83]

This kind treatment is called *silah rahmi*. The Hadith speaks of it as a highly virtuous act. Anas (May Allah be pleased with him) narrates that the Prophet ﷺ has said,

من سره ان يُبْسَطَ له رزقه ويُتَسَّأَ له في اثره فليصل رحمه

“Whoever is pleased to have his provision expanded and his lifespan extended should keep good relations with his family.”<sup>1</sup>

Islam has determined legal rights of close relatives and commanded good treatment, cooperation and kindness with distant ones. This can be gauged by the injunctions on inheritance wherein it is mentioned that ‘give the rightful their due and don’t ignore those who are not legal heirs either’; they are entitled to kind treatment, starting with one’s relatives.

وَإِذَا حَضَرَ الْقِسْمَةَ أُولُو الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينُ فَأَرْزُقُوهُمْ مِنْهُ وَقُولُوا

لَهُمْ قَوْلًا مَّعْرُوفًا ⑤

“And when (other) relatives and orphans and the needy are present at (the time of) division, then provide for them (something) out of it (i.e. the estate) and speak to them words of appropriate kindness.”

[Surah alNisa ayat 8]

<sup>1</sup> Bukhari, Kitaab al-Buyu’, Baab man Ahabbal Basta fi alRizq and Muslim, Kitaab alBirr wa alSilah, Baab Silah alRaham wa Tahreem Qatee’atuha

### Prohibition against Severing Relations

Severing relations has been strictly prohibited. It has been declared to be against belief and closer to hypocrisy. The hypocrites have been described as:

فَقُلْ عَسَيْتُمْ إِنْ تَوَلَّيْتُمْ أَنْ تُفْسِدُوا فِي الْأَرْضِ وَتُقْطِعُوا أَرْحَامَكُمْ ۗ

*"Now, if you were to turn away, what else can be expected but that you will cause corruption and severities of relationship?"* [Surah Muhammad ayat 22]

Severe warnings have been narrated in the Hadith in this regard. Jubair bin Mut'am (May Allah be pleased with him) narrates that the Prophet ﷺ has said

لا يدخل الجنة قاطع-

*"The one who severs relations would not enter Paradise."*<sup>1</sup>

In another Hadith it is narrated that the Prophet said, "When God created creation, blood relations caught His cloak and sought refuge against severing of ties.

God replied:

الا ترضين ان اصل من وصلك واقطع من قطعك

*'Are you not content that I shall join him who joins you (I shall bestow my grace on him) and I shall sever him who severs you (he would be deprived of my grace)?'*

*At this, blood relations replied that 'I am satisfied with this'.*<sup>2</sup>

A similar narration is derived from Ayesha (May Allah be pleased with her) in which she says that the Prophet ﷺ says,

<sup>1</sup> Bukhari, Kitab alAdab, Baab Ismu alqate- Muslim, Kitab albir wa alsilah

<sup>2</sup> Bukhari, Kitab alTafseer, Surah Muhammad, Baab Wataqtau Arhakumu and Muslim, ibid

الرحم معلقة بالعرش تقول من وصلني وصله الله ومن قطعني قطعته الله.

*"Blood relations are holding the throne and beseeching that 'May Allah join (with Him) he who joins me and sever (from Him) he who severs me'."*<sup>1</sup>

There can be many forms of maintaining ties. These include greetings, conversations, visits, keeping abreast of their conditions and being a part of their joys and sorrows. However, financial assistance is more important by some aspects. Islam desires that every such person who is financially and materially better-off should assist those family members who are deprived and make them self reliant so that they may fulfil their responsibilities in life. Islam does not like a person to be absorbed in his riches and luxuries while showing apathy towards the pains and sorrows of the family and refusing to help out despite being able to do so. This is a serious case of 'severing relations'.

### **Religious and Moral Grooming of Family members**

Along with fulfilling the financial and material requirements of wife and children, a person should strive to rectify and keep improving the religious and moral character of his family members. This is an essential part of a man's own religious duty and concern for his family. Any negligence on this part can lead to destruction in this life as well as the Hereafter. The Quran is very explicit in this regard:

يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ

<sup>1</sup> Muslim, Kitaab alBirr wa alSilah wa alAadab, Bab Silah alRaham wa Tahreem Qatee'atuhu

*"O you who have believed, protect yourselves and your families from a Fire whose fuel is people and stones...."*  
 [Surah alTahreem ayat 6]

A child should be raised in such a way that he does not just grow up to be an animal or a slave of his desires; rather he should be imbibed with piety and fear of the Day of Reckoning. He should grow up to be a loyal servant of the Lord and a well wisher of His creation, spread virtue on earth, prevent vice and corruption from spreading its tentacles and have within him the courage and determination to face the challenges of this path.

Luqman (peace be upon him) instructs his son thus:-

يٰٓبُنَيَّ اٰمِ الصَّلٰوةَ وَاْمُرْ بِالْمَعْرُوفِ وَاَنْهَ عَنِ الْمُنْكَرِ وَاصْبِرْ عَلٰى مَا اَصَابَكَ اِنَّ ذٰلِكَ مِنْ عَزْمِ الْاُمُوْرِ ۝

*"O my son, enjoin what is right, forbid what is wrong, and be patient over what befalls you. Indeed (all) that is of the matters (requiring) determination."*

[Surah Luqman ayat 17]

These are a few of the instructions that Luqman gave his son, having advised him on several other things as well. The relationship between a father and a son is of a unique nature. A son can treat his father's advice as his command and follow it accordingly. This cannot be expected of others. However, this does teach us that it is the religious and moral responsibility of a person to put on the right course those of his family members who are under his guardianship and can obey him.

## Issues and Discussions

- \* Marriage sermon**
- \* Bride in her in-laws' house**
- \* Dowry Crisis**
- \* The issues faced by Muslim women today**
- \* Women and Finance**
- \* Miscellaneous queries**
- \* Certain Laws of Jurisprudence**
- \* Certain Social Issues**

## Marriage Sermon

I had offered a brief explanation of the marriage sermon (Khutba e Nikah) at a friend's son's marriage ceremony many years ago. This explanation was appreciated by my friends and its audio cassettes were made and distributed. One friend also attached an English translation of the same along with the Urdu recording. Later, it was published in the form of a booklet. It had an oratory style. Now the same has been reproduced here with some amendments to suit this book....

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

*In the name of Allah, most Gracious, most Merciful.*

اَلْحَمْدُ لِلّٰهِ نَحْمَدُهُ وَنَسْتَعِيْنُهُ وَنَسْتَغْفِرُهُ وَنُؤْمِنُ بِهِ وَنَتَوَكَّلُ عَلَيْهِ  
وَتَعُوْذُ بِاللّٰهِ مِنْ شُرُوْرِ اَنْفُسِنَا وَ مِنْ سَيِّاْتِ اَعْمَالِنَا مَنْ يَهْدِيْهِ اللّٰهُ فَلَا  
مُضِلَّ لَهُ وَ مَنْ يُضِلُّهُ فَلَا هَادِيَ لَهُ وَ نَشْهَدُ اَنْ لَا اِلٰهَ اِلَّا اللّٰهُ وَحْدَهُ لَا  
شَرِيْكَ لَهُ وَ نَشْهَدُ اَنَّ مُحَمَّدًا عَبْدُهُ وَرَسُوْلُهُ - اَعُوْذُ بِاللّٰهِ مِنَ الشَّيْطٰنِ  
الرَّجِيْمِ - بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ -

*To Allah is due all praise. We praise and thank Him, beseech His help, ask Him to forgive our sins, believe in Him and have faith in Him (trust Him). We seek the refuge of Allah from the evils of our own selves and the results of our bad deeds. No one can lead astray whom Allah guides and no one can guide him who is led astray by Allah. I stand witness that there is no deity save Allah; He is One without a partner and I stand witness that Muhammad ﷺ is His slave and Messenger.*



يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا  
 زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً. وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ  
 وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا ①

*O mankind, keep fearing your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah, through whom you ask one another, and maintain the ties of blood relations. Indeed, Allah is ever, over you, an Observer. [Surah alNisa ayat 1]*

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تَقَاتِهِ وَلَا تَمُوتُنَّ إِلَّا وَأَنْتُمْ مُسْلِمُونَ ②

*O you who believe, fear Allah as he should be feared and do not die except as Muslims (in submission to Him). [Surah Al-e-Imran ayat 102]*

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا ③ يُصْلِحْ لَكُمْ أَعْمَالَكُمْ  
 وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ. وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا ④

*O you who have believed, fear Allah and speak words of appropriate justice. He will (then) amend for you your deeds and forgive you your sins. And whoever obeys Allah and His Messenger has certainly attained a great attainment. [Surah alAhzab ayat 70-71]*

وقال رسول الله صلى الله عليه وسلم اما والله انى لا خشاكم الله و  
 اتقاكم له، لكنى اصوم و افطر و اصلى و ارقد و اتزوج النساء فمن  
 رغب عن سنتى فليس منى-

*And the Prophet ﷺ has said, "Hearken! By Allah, I am the most God-fearing and pious among you. Despite this, I observe (supererogatory) fasts and leave them as well; offer prayers (at night) and sleep as well. I marry women as well. This is my way. He who forsakes my way is not from me (has no relation with me)."*

This is the translation of the marriage sermon. The sermon delivered at the marriage ceremony is called 'Khutbah Masnoonah'. This is called so because the

Prophet ﷺ used to deliver this very sermon at marriage ceremonies and this tradition has continued since. Towards the end of the sermon, a Hadith has been narrated that emphasizes upon the importance of marriage.

After the customary praise of God Almighty and prayers of peace and blessings on Prophet Muhammad ﷺ four ayaat from different places of the Qur'an are recited in this sermon. When we ponder upon these ayaat, we can sense great wisdom and meaning behind their selection. All the things that are to be said at a marriage ceremony, or the advice that can be offered, or the instructions that are to be brought to the notice of the bride and the groom- they have all been narrated in these ayaat.

The first ayat among these is from Surah alNisa'a, wherein it is said, 'O mankind, keep fearing your Lord'. The ayat begins with the guidance to adopt piety and keep fearing God. In the four ayaat recited in this sermon, we find the command of adopting piety and fearing God mentioned five times. This is being reiterated again and again. The most important reason behind this is that there are two occasions where man usually tends to forget God- an occasion of joy and an occasion of sorrow. The blessings and favours of God are forgotten in times of exuberance and the honour of Allah is not preserved in times of despair, with man even speaking ill of God. It is being said, 'It is an occasion of joy for you, but do not forget God, don't exploit His commands, don't neglect His guidelines, and spend your life with the awareness that you have a Creator, a Master, a Lord and Protector. Your success lies in spending your life while fearing Him'. This has been mentioned at several places in the Qur'an. Here, a

particular aspect has been highlighted. It is said, 'Your Lord is He who created you from a single pair of parents; created Adam first and then, from him, created his pair.'

To mention here that 'God has created you all from a single person, and created his pair from him' contains within it a lot of connotations. Through this, it is being reminded that there might as well be a thousand differences among you- differences of form and colour, of wealth and possessions, of nationality, of language, status and class, of knowledge and virtue- but you are all children of the same parents. Yes, it is true that some of you have been born in India and some others in Arabia, some in Europe and others in Asia, but this is not an actual difference because you have a common ancestry.

It is said that 'God created you from one soul and created from it its mate'. A very important truth has been referred to here that the mate of the first man (Adam), Hawwa [peace be upon them] was present within him. Similarly, the mate you are receiving today has also risen from within you. She is a part of your body. Don't think of her as someone alien. Some scholars have explained that Adam's mate was from his own species. This means that your mate is also from your own species, not some cow-buffalo that is being sent with you or you are purchasing away.

In a Hadith it has been mentioned that a man's wife has been created from his rib. This is indeed a beautiful explanation; perhaps a better expression of the close relation between a man and his wife cannot be presented. If a man accepts that his wife is a part of his own body, then he would treat her just as he treats one of his body parts. Even if it gets spoilt, one feels

concern and empathy for it instead of readily cutting it off. After this, it is said,

وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً 'And dispersed from both of them many men and women', which means that God created many men and women through Adam and Hawwa (peace be upon them) and spread them throughout the world, thus perpetuating the human race. Man and woman both were required for this, since it is impossible to perpetuate the race without either of them. Hence, neither of them is superior or inferior- both command equal importance.

An important purpose of marital relations has been expounded in these words- i.e. propagation of the human species; without which, mere carnal gratification not being the actual purpose of marriage. It is mentioned in a Hadith that the Prophet ﷺ has said that, "Marry into a family that bears children. Tomorrow, on the Day of Judgment, I shall pride upon your numbers."

Further it says, وَأَتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ 'And fear Allah, through whom you ask one another, and maintain the ties of blood relations'. Again, an emphasis on fearing God, in whose name you ask for your rights and assistance! He is invoked whenever you are stuck up with a situation. Pay heed to relationships and refrain from severing relations. New relationships are being established today. The girl who is a wife today would become a mother tomorrow and the husband would soon become a father, giving rise to a new family, new relationships- brother, sister, uncle, aunt, grandfather on the paternal as well as the maternal side. Accordingly, the importance and honour of relationships is being delved into at the onset itself. This is also being reminded because man is a part of

family; he should not forget other relations in his marital bliss. Indeed, a new relation is surfacing now. It has a lot of attraction. It is important to honour it and fulfil its dues, but there are other relationships as well. Do not forget the old relations because of this new one. Thereafter it is said, إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا, 'Indeed, Allah is ever, over you, an Observer'. Fear God, God is watching you. Don't think that He is absent, nothing escapes his vision. Hence, begin your new life with the conviction that God is watching you. Do not think that God is not observing you and that you would escape accountability if you do something wrong on this occasion or violate the injunctions of *Sunnah* (Prophetic tradition) and *Shariah* (Islamic law). At this time of mirth, what greater can be said than: 'God is watching your every action'?

The second ayat is that of Surah Al-e-Imran. It begins with, يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تَقْوَاهُ, 'O you who believe, fear Allah as he should be feared'. The word '*taqwa*' used in this ayat means to follow a path of piety, to obey Allah's commands and to abstain from sin. The gravity of the instruction presented in this ayat is not properly appreciated at times. This idea has entered into our subconscious mind that when we are already believers in Allah and His Messenger, are acquainted with the injunctions of *Shariah* and follow them too, we are naturally fulfilling the demands of this ayat. But the point to ponder is that the Qur'an does not only command us to adopt piety, but it wants us to fulfil the demands of piety and lead a life fearing Allah. This is an extremely difficult proposition. Apparently, it is beyond the abilities of a weak person to fulfil the demands of piety. It might even discourage him and he may forsake piety altogether. Hence,

elsewhere, a concession has been added which says, **فَاتَّقُوا اللَّهَ مَا اسْتَطَعْتُمْ** 'Fear Allah to the best of your ability'. Allah knows quite well how much a particular person is capable of attaining and what is beyond his scope; He would deal with him accordingly.

The importance and demands of piety can be understood by the next clause: **وَلَا تَمُوتُوا إِلَّا وَأَنْتُمْ مُسْلِمُونَ** 'And do not die except as Muslims (in submission to Him)'. In other words, remain steadfast on Islam all your life, till your last breath. Whenever the Angel of Death knocks- in youth or old age, in health or sickness, in daylight or the darkness of night, in sleep or while awake, in travel or at your residence- he should find you in a state of Islam, that you may arrive in your Lord's presence in a state of submission to Him.

Here, a thought can cross one's mind. What is the purpose of mentioning death at the joyous occasion of a wedding? Does it not seem out of place?

The fact remains that after the marriage agreement is ratified, the bride and groom begin a new stage of their lives and start shouldering new responsibilities. At this juncture, they are being reminded that this new life can have its ups and downs. But you should embark upon this journey with the determination that 'as long as our hearts keep beating and our breath endures, we shall remain loyal servants of our Lord and never deviate from His obedience and command'.

The third and fourth ayaat are from Surah alAhzab. They too begin with the injunction to fear God. **يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ** 'O you who have believed, fear Allah'. The purpose of reiterating the commandment of *taqwa* was that this is an occasion where, along with the old relationships, new ones are being formed. For a

while after his wedding, man is immersed in an emotional state, which may cause damage to these relationships. Hence, the need for piety is stressed repeatedly and he is called to fear God and decide upon his stance and refrain from taking a step that would violate the sanctity of relationships causing their rights to remain unfulfilled.

After this, it is said, 'وَقُولُوا قَوْلًا سَدِيدًا' and speak words of appropriate justice'. In these words, an important point with regards to marriage has been underlined. Man usually enters into the marital bond by uttering two simple words [I agree/ I do/ I accept... Tr]. It should be very clear to him that this is not a joke but a serious pledge which carries with it a huge responsibility. Hence, both the spouses should be very careful while agreeing to the marriage. It would be extremely foolish to treat it like a prank or temporary amusement.

ثلاث جدمن جدو بزلهن جد، النكاح والطلاق والرجعة-

*'Three things are such that anything spoken seriously in their regard would be treated seriously (and it would be taken on face value), and if spoken in jest would also be considered as serious; those are-marriage, divorce and reconciliation thereof.'*<sup>1</sup>

In some narrations, we also have 'freeing the slaves' in the same list. This means that marriage, divorce and reconciliation/ freeing of slaves are not those matters wherein a casual approach can be taken. Even if a man proceeds with these in jest, they would be considered binding.

This is followed by 'يُضَاحِكُكُمْ لَكُمْ أَحْمَالَكُمْ وَيَغْفِرُ لَكُمْ ذُنُوبَكُمْ' 'He will (then) amend for you your deeds and forgive you

<sup>1</sup> Narrated by Tirmizi, Abu Dawood and ibn Majah (Mishkat alMasabeeh, Kitab alNikah, Baab alKhulah wa alTalaq with Mirqat alMafateeh: 6/426-427

your sins'. With reference to marriage, it means that 'If you want to adopt a pious lifestyle and are entering into marriage for the same reason, then God would amend your deeds and protect them from getting spoiled or corrupted and guide you to the straight path'. The Prophet ﷺ has said that 'God Almighty definitely helps three kinds of people- one of those being he who marries someone so that he/she may lead a chaste life and stay away from falling into sin and temptation'. [Tirmizi, Nasai, ibn Majah]

Despite adopting the path to piety, it is almost impossible for men to remain immune from errors and mistakes. Hence, it is being said that God would forgive them by His grace. This is a very big favour of God upon those men who choose to adopt a pious lifestyle that He accepts their good deeds and forgives their bad ones.

The ayat concludes with, وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا, 'And whoever obeys Allah and His Messenger has surely attained a great attainment'. Each and every person wants to lead a successful life in this world. He dreams of success during his wedding as well. But he does not know what success is. Successful is not he who obtains the riches of this world, acquires land, property and bungalows, or attains posts of government and authority. Rather, successful is he, on whose mane is the yoke of God and His obedience, and who follows His commands through thick and thin. He then attains that success that no one else can dream of.

This is the simple translation and explanation of these ayaat. When we ponder over them, we gain certitude of the fact that no other ayaat could have



been more suitable for the blessed occasion of marriage.

Towards the end of the sermon, a narration of the Prophet ﷺ has been presented. The circumstantial context of this narration is as follows: Certain companions (Sahaba) of the Prophet enquired about his daily routine [of worship... Tr] from one of his blessed wives. When the Prophet's ﷺ worship was narrated to them, they felt that the worship they were currently performing was quite less compared to the Prophet ﷺ and presumed that since God had already forgiven the Prophet ﷺ, a little amount of deeds sufficed in the Prophet's ﷺ case. 'We (Sahaba), on the contrary, need to do much more', they concluded among themselves. Overwhelmed by this determination, one of them said that he would offer prayers all night. The second one said that I shall fast at a stretch without ever breaking the fast. The third companion pledged that I shall never marry, so that I might concentrate on worshipping God without getting distracted. When the Prophet ﷺ came to know about this, he spoke out against such practices.

اما والله انى لا خشاكم لله و اتقاكم له لكنى اصوم و الفطرو اصلى  
وارقد و اتزوج النساء فمن رغب عن سنتى فليس منى-

This Hadith (that has been quoted in the sermon above) repudiates the monastic concept of piety and religiosity. Monasticism refers to a life entirely dedicated to worship, cutting off oneself from worldly interests. However, true devotion lies in strengthening one's relation with God, and fulfilling the rights of fellow human beings at the same time. This includes the rights of body and spirit, wife and children. The

Prophet ﷺ has elucidated this with his own example. This Hadith and the life of the Holy Prophet inform us that marital life is a part of his way. Any deflection in this regard amounts to deviating from the path that the blessed Prophet has shown us.

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## Bride at her in-laws' house

Today, we find news of brides being harassed in their in-laws' place in every part of our country. There have been umpteen instances of them being beaten for bringing less dowry or no dowry at all, some have been accused of being ill-mannered and overtly bold, others are blamed of being lazy and lethargic, some are troubled for (allegedly) not being cultured and well-mannered, while others are taunted on being unattractive or less educated. Usually the bride accepts this as part of her life and quietly takes it in her stride. But if she were to defend herself and utter a word of protest, she can be subjected to various forms of torture, which indeed is quite prevalent in our society. It is commonplace to accuse her of absconding with household items and jewellery and throwing her out of the house. At times she is brutally set ablaze or battered to death and it is cunningly declared that she caught fire in the kitchen or suffered an electric shock or fell off the roof. The entire world knows that there is no truth behind such declarations; they are only meant to cover-up a heinous crime. If the situation becomes intolerable, the poor girl herself commits suicide or immolates herself. Such incidents probably took place earlier as well, but its news was left confined to the locality concerned. However, now with the recent advances made in media, breaking news and information spreads rapidly across the country. Those few cases that receive coverage by the media can help us in gauging the countrywide situation.

Actually this is an issue that has been mostly plaguing non-Muslim society. Its experts and analysts should put their heads together to come up with tangible solutions. But the Muslims have also been influenced by this. Fights among Muslim mother in-laws and daughter in-laws are also being cited these days. It is an undeniable fact that brides are being harassed in their in-laws' houses in various ways. There are some points in this regard that need to be considered....

1. The first thing that is required is that when we think about the girl, we should keep in mind the boy as well; this would clear up a lot of confusion. The bride and groom are indirectly related to their in-laws. The feeling of bonding with them is not as strong as that found among blood relatives. A bride can feel as much love for the groom's relatives as the groom experiences for his own in-laws. The groom loves his in-laws because of his wife. So also, the girl's relationship with her in-laws is hinged upon her husband. If these two intervening people are cut off, there would remain no strong basis for the relationships to endure and a sense of estrangement would develop between them. Hence, if it is instilled in the minds of the two families that the love they are entitled to is indirectly linked to their son and daughter, there would be not be any undue expectations from them and, thereby, no cause for grievances and complaints.
2. It should be accepted and borne in mind that a new aspect is added to the man's personality after his marriage. She is his mate and life partner. They have to plan their life together and act upon it. For this purpose, God has

ingrained extraordinary love and affection in their hearts. It is because of this love that they wholeheartedly assist each other and willingly endure through the thick and thin of life. While this love pleases the bride's family, satisfied that their daughter is enjoying the comfort of her husband's love, it creates an opposite reactionary effect on the groom's family, especially his mother. They realize that now they are not the only ones to find place in the boy's heart, but his wife is also contending for that space. When they notice that the boy loves his wife and displays extraordinary affection for her, they suspect the boy himself and treat his wife as their adversary. They desire the 'unadulterated' love of their son even after his marriage and that his relation with his wife remains merely customary. This is absolutely against nature and should never be expected!

3. Just after marriage, the new couple is overwhelmed with sexual desires and they desire its gratification again and again. While this is a natural appeal of their youth, it so happens at times that the elders of the family see this as something bad and despicable, despite it not being so in the very least. This is, on the contrary, a valid and desirable relation. Man derives physical and mental satisfaction from this relation and, moreover, it is an instinctive and natural means by which the love between a man and his wife grows and blossoms. As per Islamic *Shariah*, the couple is worthy of divine rewards on the basis of these relations.

There is no doubt that immoderation in this regard is detrimental. Proper steps can be taken to rectify it. It is not correct to express disgust or try to impose restrictions on it. This creates a bad influence on both the bride as well as the groom. When they are not provided with the amount of sexual freedom that they are naturally entitled to, they develop a guilty conscience pushing them into a kind of mental stress and depression. Ironically, the 'elders' of the family tend to forget their own youth and how they used to feel irritated at the very same attitude displayed by their own elders then, and how they used to take it as an injustice and usurpation of their rights. At times, it is also unfairly claimed that it is the girl who is guilty of the excesses, as if the boy is exceptionally innocent. Such allegations are absolutely unfounded, and they only serve to create hatred and revulsion in the heart of the bride for her in-laws, let alone fostering love and attachment.

4. It cannot be denied that sometimes the girl is also at fault. She may have extreme pride about her family background, she may have a superiority complex about her status, she may be rude and quarrelsome, and she may be disobedient or untrustworthy. Her parents keep bearing with her faults, and it is also possible that out of their love for their daughter they refuse to accept to admit these faults. However, this cannot be expected of the in-laws. They do not harbour the love that the bride's parents have for her. Hence, it becomes difficult for them to ignore her faults and behave kindly with her. Having said that, the way in which her in-laws behave with her can also not be

condoned by any yardstick. A young and inexperienced girl is suddenly introduced to an entirely new environment. It is somehow expected of her that she should completely understand and adapt to the new environment. This is an undue expectation. Every family, rather every individual, has its own routine and habits; there's a unique way in which they eat, drink and dress up. The bride would need time to get acquainted with the mannerisms of her new home, leave her habits and get accustomed to theirs or get them habituated to her own. This is her age to learn. She can always be rectified if she is benevolently made to understand, without making haste. But the way she is brought to book for the smallest of her slips and her faults pointed out- there is very little chance of correcting her. It is also overlooked that the bride may have some good qualities too and that they can be benefitted from.

Love gives rise to more love and hatred gives rise to more hatred. If the new bride receives love, love would erupt in her heart as well. Every person is hungry for love. When the girl sees that her in-laws love her and are happy with having her around, she too would love them back, even more. But if she comes to realize that her status is not that of the queen of the house; not even that of a life-partner, but just a relegated servant, negative reactions would start developing within her. Either she humbly submits to the superiority of the elders and quietly accepts the status that has been allotted to her or she develops feelings of dissent and the house eventually turns into a battle ground.

Even today there are thousands of such Muslim families who recognize and give regard to these things. This brings down the number of feuds between a mother and her daughter in-law and they are able to lead a peaceful and happy life. But despite this, there remains a veil of separation between them. Neither does the daughter in-law become a daughter, nor does the mother in-law become a mother. The solution prescribed by Islam is that if the bride does not want to reside with her in-laws, her husband is required to arrange for a separate house. This is so prudent a solution that if acted upon, Muslim families can be relieved of family tussles and their family life can inspire other communities as well.

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## Dowry Crisis

Dowry! How terrifying a word! Some words 'sound' terrifying, while some words are terrifying by their meaning. Here, it is probably the latter that is true. The word dowry has been made terrifying by the idea behind it. A word is often worked upon by the passage of time. It might be possible that the word may have, in the olden days, merely connoted munificence with the new relationship and its mention may have aroused sentiments of love and brotherhood; or at least it might not have been as terrifying as it is today. Nevertheless, now it has adopted an extremely horrifying meaning.

Today, the parents are not only required to bring up their daughter, educate her, ensure her religious and moral grooming, teach her household etiquettes, manners and culture, find her a groom and discharge their parental duties by giving their piece of heart in marriage to a respectable man. No. Today, it is also their responsibility, and an enormous one at that, to fulfil the demands of the groom they have found for their daughter; those demands that he is himself inept at fulfilling. The list of these demands is so long and diverse that apart from cash, it contains- as per the groom's status- expensive wardrobe, watch, cycle, scooter, car, radio, television etc. etc. As per the circumstances, this list can be short or long. Nonetheless, this is *the* golden opportunity when the groom and his relatives try to satiate all their desires.

Along with this it is also required that the girl be decked up with the specified jewelry, that she should be sent along with so many objects that the house starts resembling a showroom. There is no fixed amount of value that a girl is supposed to bring with her, but it definitely should exceed the capacity of the girl's father!

The lust for wealth has reached such epic proportions that the girl's beauty, her education, grooming, religious character have all become secondary to it. The first thing that is seen is how much wealth the girl can bring along. The world has perhaps never witnessed such a flagrant disregard for beauty, or even religion and virtue. Wealth has defeated every higher value... a humiliating defeat indeed!

Dowry is not only the yardstick of a man's status in society, but it also determines his honour and fame. The more a person is willing to spend in the name of dowry, the 'better' and more 'high standard' a groom he can find. The person who cannot afford to arrange for dowry is of low and inferior status. He cannot expect a suitable and reasonable match for his daughter. If anyone commits the folly of marrying off one of his daughters without paying the dowry, God alone can suffice his other daughters. Now he would not be able to easily find a match for them. Who would want to visit such a niggardly or bankrupt person?

Owing to this many girls have remained unmarried and have passed their prime for the sole reason that they are unfortunate enough to have been born to parents who cannot afford their dowry. Many of these poor pitiable girls remain spinsters all their life. Some virtuous ones, aware of the sorry state of affairs,

themselves refuse to marry, so as to relieve their parents from getting anxious over their weddings, in the process strangulating their own feelings and desires. Moreover, joint family systems are usually found all over the subcontinent. When boys of a family keep getting married while the girls remain unmarried, it creates a lot of emotional and psychological turmoil in the family; wreaking the peace and tranquillity at home. The fact remains that the very existence of these spinsters is a perpetual appeal against this tyrannical society. But is there anyone to hearken to their plea?

Still graver is the case of the girl who is sent off to her husband's house without the dowry. She may have a thousand virtues; but this mistake of hers that she has come empty handed from her father's house cannot be forgiven. The one to interrogate her is not only her husband, but the entire clan of in-laws starts bringing her to account. She has to offer an explanation for the offence she has not even committed to each and every member of that house. Her usual punishment is humiliation and insult, taunt, rebuke, castigation, torture and beating.

She may even be thrown out of the house lock, stock and barrel, and may be separated from her husband. And it does not stop at this; she might also have to lose her life for having committed this 'crime'. News of brides being murdered for dowry has become so common these days that there's nothing new or unique about it. It has become more of a routine now. Sometimes this punishment is delivered by the husband himself; and if he is reluctant to do so, then other family members come forward to render their services.

In order to escape the issues and problems involved with dowry, the girl contemplates suicide as well. For this, she uses kerosene or petrol, or throws herself off some tall building, or hangs herself from the ceiling, or slips into an endless sleep by consuming poison. God alone knows how many an innocent life this blood thirsty practice of dowry has claimed till date, and how many are yet to follow. Such savageness can very well put wild beasts to shame.

Every person can today see, rather *is* seeing, these deadly incidents related to dowry. Despite this, the overwhelming majority of our society has accepted it as an inevitable social evil. According to them, it has become so much necessary for grooms to take dowry and brides to pay it that there is no way one can keep away from it. They justify their observation by saying that brides have to anyway cough up the dowry (which includes fulfilling the demands of the groom), lest they remain unmarried. Parents cannot afford to see their daughters sitting at home unwed. The one who gives dowry is also compelled to take dowry; it being ridiculous to presume that he would give a truckload of dowry to his daughter but stay away from claiming it from his daughter in-law. It might be possible for some people to overcome this loss, but this cannot be expected from everyone.

By this logic, just imagine how unfortunate would a person be who has only daughters and who continues to bear loss upon loss by virtue of this mathematical equation! And how fortunate would that person be who has only sons and continues to hoard dowry upon dowry!

This logic also leads us to believe that we ought to not only tolerate, but even practically adopt a

particular vice just because the world is practicing it and people are apparently benefiting from it. This means that man can even vindicate and validate bribes, fraud, treachery and cheating; for these are tried and tested practices which have proven very successful time and again. Moreover, those who forsake them have to bear definite loss.

Such sick rationales provide sustenance to every evil under the sun. They also serve to dilute the abhorrence these evils carry, leading man to practice them with full confidence.

Verily, the injustice perpetuated in the name of dowry can never be condoned by any religion, philosophy of virtue or law. These days, this has become a hot topic of our newspapers. Voices of protest are being raised from various quarters. The government wants to ban it by making it illegal. But social and state pressures are insufficient to clamp down upon any vice. This requires a reformation of one's thought and preformed notions and the fear of accountability before God. Islam fulfils this very obligation. It begins by breaking away false social restrictions and teaches us a simple and chaste concept of life. Hence, it has not kept anything complicated that would make life difficult for a person. Accordingly, it has offered simple and easy solutions to all marital issues. It teaches us that marriages should be conducted in a very simple and hassle-free manner; making it difficult and taxing is highly atrocious. Some of the basic Islamic principles in this regard have been discussed here:

1. Islam is strictly against adopting any unjust attitude in any matter. According to Islam, it is absolutely unlawful to take undue advantage of

and exploit a person's helplessness or vulnerability. This includes the exploitation of the bride's family in the name of dowry. Islam does not condone this in any manner.

2. Marriage is not a means of amassing wealth from the bride's family; rather, it has some very high objectives. Only that marriage is truly successful that attains those objectives. Forsaking those objectives in the lust for wealth is wrong and undesirable.
3. God has made man the *qawwam* (administrator and manager). It is in this capacity that he enters into the marriage contract. He holds her hand with the pledge and undertaking that he is responsible for her provisions, residence and other needs. It is extremely ignominious for a man, whom God has raised to such a stature, to beg for dowry in front of the girl or her parents just days or moments before the wedding and knock on another girl's door if his wishes are turned down here.
4. There is no religious or moral justification available for the torment the bride usually has to undergo for getting less or no dowry. It goes absolutely against the teachings of Islam. Instead of harassing the bride for wealth and dowry, Islam has commanded that women be appeased. 'Mahr' is one of these ways. There are many points of wisdom behind *mahr* (the amount a groom gives his bride upon marriage). One aspect of this wisdom is that since the bride is departing from her house and family, the groom offers her a gift of his sincerity and love in the form of *mahr* and thus expresses to her

that he is not her foe, but her sincere well-wisher and sympathizer. Moreover, harassing her for dowry also goes against the tenets of kindness unto women that Islam has taught us.

A person who has been brought up with such high and chaste values can never have the mentality that today's youngsters have. Instead of exploiting the girl and her family in the name of dowry, he would adopt an attitude of empathy and love towards them. Instead of resorting to savagery, his kind behaviour would exhibit to them his nobility and humanity.

It is because of Islamic teachings that the issue of dowry has never reached such deplorable levels in Muslim society as it has in others. However, this disease is gradually penetrating some of its sections and creating problems that the Muslim society was by and large immune from. One solution is to spread Islamic teachings in society and urge it to return towards Allah and His Messenger ﷺ. The second solution is that those people who realize the evil of dowry should take some bold steps and stop its exchange. In this case, since the bride's side is the victim, it needs empathy, not admonishment. It is the groom's side that needs to step forward against dowry and bear with the financial setback, seeking God's pleasure. Until man does not abandon those profits that he can gain from illicit practices, he can never be reformed.

Before concluding this discussion, it is important that certain things be clarified. This would present a clear perspective of the Islamic stand on this topic.

1. After marriage, the bride and groom have to set up their new house. Both families can help them with this. If the new couple is in need of any

assistance in this regard, such assistance would always be appreciated. This assistance can be in the form of money or household equipment. It is also possible that some things are given for temporary use. But this is not obligatory or compulsory, such that the person who does not provide assistance be declared a criminal. Nor is it a prerequisite for marriage without which marriage is not possible.

2. The bride and groom can be offered gifts from friends and relatives on their wedding. But this should be limited to mere permissibility. To consider it mandatory and to feel bad or complain if one does not receive gifts is unacceptable. The very essence of gifts lies in them being given willingly; anything else would be considered a tax or penalty.
3. It is wrong to assume that the jewellery and other objects the bride brings with her belong to the groom or his family. It is the bride who is its rightful owner. Those items cannot be used without her permission.
4. Islam has kept marriages simple. Hence, all the restrictions that society imposes upon this ceremony are worth condemning and Muslims should keep away from them.

This is the balanced path that Islam has shown. It has love and empathy, kind treatment, prohibition of injustice and atrocity, while offering ample concessions for human requirements, emotions and temperament. If acted upon, not only would the acrimony created by dowry come to an end, but a tranquil and peaceful life can also be attained.

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## **The issues faced by Muslim women today**

The renowned religious monthly, 'Tarjuman ul Qur'an', Lahore had put forward a questionnaire that dealt with questions related to the contemporary issues and problems faced by a devout woman, the attitude of Muslim society towards its women, attempts at reformation by the Islamic movement and the status of women in an Islamic state. The following article has been written in its reply:

### **Issues and Problems faced by devout Muslim women in the present age**

Of the umpteen issues created by the West, the basic issue is that of the philosophy of life it espouses. So vicious is its attack and so strong its pressure that Muslim women have to repulse it with steadfastness and consistency. At every step she realizes that this entire philosophy is not only obstructive, but seeks to derail her to an altogether different course. There is no concept of faith in God, His worship or obedience, Prophethood, His guidance or accountability in the Hereafter. It strides ahead in complete disregard to these articles of faith and seeks to promote a lifestyle independent of them. This is a great mental dilemma that a Muslim woman has to go through. (This dilemma holds true for Muslim men as well. But since we are discussing the issues faced by Muslim women alone, we have mentioned only them.)

In light of Islamic teachings, the Muslim woman considers her house and family her focus of attention and actual sphere of influence. Western culture is adamant upon 'bringing her out of this centre. It intrudes her home and violates her serenity and throws her into doubts and discomposure. Of the various aspects by which the West has imposed itself upon us, it is their family system that especially stands out. By means of various advocacies it is trying to prove that 'the Islamic family is no less than a prison for women. It is based on male autocracy, with women being relegated to the status of subjects, her rights insecure and responsibilities countless. Her movements have been restricted under the pretext of the veil. She is not allowed to express herself clearly before people. She is under the supervision of her parents from her birth to marriage; and under the slavery of her husband thereafter. Man can keep as many as four women to satisfy his sexual desires and can throw any of them out of his house by simply uttering a word of divorce. She has no financial security whatsoever, being totally reliant and dependent upon man.'

This is an extremely wrong interpretation of Islamic teachings. It is possible to present the best of teachings as senseless and abominable. This is one such attempt. It is our collective responsibility to defeat this attempt and present the true picture of Islam to the world.

These repeated ideological attacks on the family system are intended to make it detestable in the eyes of Muslim women so that she comes to see it as unjust and revolts against it; that she revolts against her parents, husband and her entire family. It is a fact that the family cannot stay in its place if the woman rebels

against it and nothing can then save it from getting disturbed and scattered. Family is the basic institution of a society. Islam is still, to a great extent, alive and thriving in this institution. If this institution were to collapse, Islam would easily become extinct from other community institutions as well. This is precisely what Western culture wants.

The West harbours a peculiar concept of equality between men and women, which is against nature. Hence, it has not been completely adopted by the West as well. The difference in the inherent skills of men and women is the biggest obstacle in this regard. Despite this, this concept is presented in such a way that it seems infallible, making it difficult for anyone to utter a word of dissent against it.

Under this concept of equality, there has been a sustained attempt at impressing upon Muslim women that Islam is not only reluctant to grant it a status equal to those of men in the family, but in other spheres as well. She does not have the rights that a human being ought to receive in a civilized society. She is considered inferior to men, her testimony holds half the value as that of a man, the compensation amount for her life is also half and her share in inheritance is also half of that of men. She has no role to play in jobs, businesses or industries. She can never be the head of state. This melancholic story of the 'injustice' meted out to Muslim women has been spread like wildfire by the modern media to such an extent that it is hardly surprising to find minds not getting influenced by its rhetoric. Moreover, the correct Islamic stand is not being propagated with the same intensity; the hostile environment making its task more difficult.

A Muslim woman finds herself in a practical dilemma as well. On the one hand, her thinking is contradictory to prevalent ideologies, her way of thinking is different from contemporary concerns and her interests contradict the vanities of today's world. On the other hand, her strict observance of fasts, prayers and other forms of worship, her insistence on moral values, her distance from the present debased culture and art, her bashfulness and modesty, her dress and her veil- all these make her a complete stranger to her surroundings. She feels suffocated and is unable to breathe in a chaste and blemish-free environment even if she wants to do so. If by coincidence- and it has no longer remained a mere coincidence but is a serious reality- her parents, husband or other family members possess an un-Islamic outlook and perspective, her struggles begin in her family itself. This is a very serious dilemma. Because of the antagonistic environment within her close circles, she has to put up with a lot of problems.

One of the problems haunting Muslim women today is that of the grooming and upbringing of her children. Today, knowledge is not merely the name of some gain in one's natural or ideological information. Our educational institutions do impart literary, social and scientific knowledge to the student, but do not channelize these bits of information towards the right course. Hence, the student is unable to receive mental and ideological grooming and this burden of information occasionally makes him drift away from religion. The world outside these educational institutions only contributes towards moral deprivation. Quite often, the environment at home is

also not conducive enough for the proper upbringing of the child.

In such circumstances, when the woman possessing Islamic perspective sees that the young generation, which includes her kids, is succumbing to the deluge of un-Islamic ideologies and that she is unable to contain it, she starts seeing the world as a dark place. It is not difficult to imagine her predicament.

These are certain issues and difficulties, which are not hard to imagine in the presence of a hostile environment. Instead, the contrary would seem unrealistic. But there is no need to feel dejected. A Muslim woman can overcome them by her faith and belief, association with God and wisdom, and by adopting proper steps. If she is determined to remain steadfast on her convictions and decisions and patiently bears with the hardships involved in changing the un-Islamic environment Allah would definitely help her with it and clear the hurdles from her way. The darkness of night would give way to the bright dawn of success.

### **Status of Muslim women in Islamic society**

The condition of women has been very dismal in the contemporary Muslim society, especially if seen in reference to the subcontinent. She was and still is deprived of most of the rights that Islam has granted her. As in the days of ignorance, girls are considered to be a liability. Her birth is not celebrated; rather the parents and other family members recede into a gloom. Her upbringing, education and grooming show a stark lacking when compared to that of boys. Her education is neither ancient, nor modern. Her sphere of

information is limited to the mannerisms of the family and the customs and traditions practiced by them; she is neither educated in the Qur'an and Hadith, nor does she receive modern education. She does not gain the required foresight in any field to discern a matter from the religious or worldly perspectives and differentiate between the right and wrong therein. She remains oblivious of national and international affairs. What changes are happening in this world? Why are they happening thus? What are the factors active behind them? Ask her these questions and you would get a blank and clueless face. As a result, she is virtually cut off from the world. While it cannot be denied that this scenario is witnessing positive changes in some places and our women have made great strides in the field of knowledge, it is also true that she has lagged behind in education to such an extent that it might take decades to overcome this gaping deficit.

Apart from education, some other points also need to be considered. Large sums of *mahr* are decided during marriages, but there is no honest attempt at paying it up. After marriage she is lectured on her responsibilities, which also include those responsibilities that have no place in the *Shariah*! Islamic law contends that women should not be overburdened with regard to domestic work and responsibilities, (which includes cooking, sweeping, mopping etc). If this burden is indeed heavy, then the husband is directed to help her out. But here the situation is such that in addition to this burden, she is also required to serve her husband along with his brothers, sisters and near-far relatives. Even the slightest slips are not tolerated, subjecting her to various atrocities. The best part of her life is spent

away in fights with her mother-in-law and facing ill treatment by her in-laws. All her strength and youth is wasted away by the harsh environment, making her inept at contributing to the family and society in any fruitful way. She is left deprived of inheriting from movable or immovable assets. She is discouraged from remarrying upon getting divorced or losing her husband. In some cases, all her life is spent without a husband. In such conditions it is but natural for a Muslim woman to feel despaired. She feels ignored. She feels her weakness and helplessness is being exploited. There is a lot of talk about her religious and social duties and responsibilities and she is strictly required to adhere to them, but there is no concern regarding the fulfilment of her rights. This feeling is gradually turning her away from Islam. We might not find her revolting against Islam's ideology and principles, but the sincere devotion one can expect towards Islam is certainly waning off. She does not find Islamic society compelling enough for her to completely adhere to it or to remain steadfast to it.

### **Steps for reformation by Islamic Movements**

It would be a grave injustice if the various attempts at reformation, carried out by Islamic movements to change the prevalent situation, are not mentioned. Consequently, wherever these Islamic movements hold influence, Muslim women are getting back their Islamic rights, and correct Islamic perspective is developing among a section of Muslim women themselves. Some of them are filled with Islamic sentiments and are bravely facing the challenges. All said and done, it should be conceded that the impact at the grassroots level has nevertheless

been quite limited. It has not resulted in any noticeable change in the society. Even today, Muslim women are forced to spend their lives in an environment devoid of, and even opposed to, Islam's clear teachings.

What is actually required is that the society gets radically transformed. The woman should be made equipped of religious and worldly knowledge, she should recognize her rights and duties, obey Islamic teachings and strive to obtain her usurped rights within the parameters of Islam. At the same time she should not neglect her duties. Instead, she should try to wholeheartedly and systematically discharge them. On the other hand, men also need to reconsider their attitude. He should gladly fulfil women's rights and not leave any stone unturned in redressing her grievances. He should endeavour to provide her with a better, dignified and peaceful environment.

Reforming the society and creating an Islamic environment therein is not an easy task. It needs to be carried out with wisdom and insight. There should never be an attitude of revolt among women and the attitude of its suppression among men, lest the family system experiences turmoil. Instead of legal lawsuits, there should be love and affection on both sides, just as Islam has taught us. This alone can lead to the establishment of an Islamic society.

### **When Islam will Reign Supreme**

Once this phase of struggle between Islam and other systems ends, it is believed that Muslim women would enter the work domain with a new life and energy. Some of its vivid points would be:

- Un-Islamic ideologies and perspectives would lose their sheen. The effect of their false



propaganda and hollow slogans would vanish. Muslim women would be the torch bearers of Islamic ideology, representatives of Islamic character and observant of Islamic limits and etiquettes. Her entire life would be a manifestation of Islamic teachings.

- She would be equipped with religious knowledge, aware of worldly issues and possess an Islamic foresight. Thus, it would no longer be an easy task to put her in an ideological discomposure or turn her away from religion.
- She would get all those rights that Islam has promised her- including those related to the political, social, economical and family life, and would be spared the ordeal of having to fight for these rights. On the contrary, she would consider herself their guardian and would be introduced to the real concept of equality as opposed to the false ones prevalent in today's society.
- Muslim women would also be conscious of their duties and responsibilities. She would not belittle family responsibilities, but would give family the place it deserves in the construction of society. She would support her husband in making it a strong fortress of Islam and strive to mould the future generation as per Islamic character and etiquettes.
- Muslim women would be closely connected to national and international affairs. She would be aware of the nation's development and progress and plan accordingly. She would play an influential role in public life, participate in debates, discussions and consultations and try

her best to rectify any fault that she comes across.

### Some points Islamic movements need to consider

It is a grim reality that the role and participation that women ought to have in an Islamic movement is largely missing, despite the fact that the responsibility of 'amr bil ma'aruf' (enjoining good) and 'nahi an al-munkar' (preventing evil) has been entrusted on both men and women. This is the objective of Islam not only in the field of inviting people to Islam but in the field of politics as well. The society that Islam espouses cannot be imagined until both join hands in establishing good and eradicating evil. The Qur'an highlights the importance of their mutual cooperation in achieving this noble purpose, when it says in Surah Taubah:

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ  
عَنِ الْمُنْكَرِ وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ  
أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ ④

*"The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those - Allah will have mercy upon them. Indeed, Allah is Exalted in Might and Wise."*

[Surah al-Taubah 71]

The history of early Islam is before us. She has been equally forthcoming in accepting Islam, tolerating atrocities because of it, migrating, struggling and contributing towards the establishment of the Islamic state, in various capacities. Muslim women need to adopt the same role today. For this, it is important that she should be taught the importance of

inviting people to Islam, that the spirit of sacrifice be inculcated in her. She should be told that a basic requirement of Allah's worship and obedience involves enjoining good and forbidding evil, which can only be met with the joint cooperation of men and women. The discontent that is caused in a devout man's heart when he witnesses the abolishment of good and spread of evil should also be experienced by a devout woman. At the same time, she should be allowed to get practically involved, within the limits of *Shariah*, in all those activities that are helpful in fulfilling this objective.<sup>1</sup>

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<sup>1</sup> For details, please refer the author's book, 'Muslims and Khawateen Ki Zimmedariyan' published by Markazi Maktaba Islami Publishers, New Delhi

## Women and Economics

The Institute of Policy Studies (IPS) is a studies and research centre in Pakistan. It is being headed by the globally renowned economist, Professor Khurshid Ahmad, while Mr. Khalid Rahman is his deputy. While on my Pakistan tour, I was invited to speak at this institute on the topic 'Women and Economics' on the 25<sup>th</sup> of March 2005 to a select audience of more than a hundred people. One third of the audience comprised of educated women. The lecture was followed by a prolonged 'question and answer' session. Certain questions were related to the topic, while some other questions were asked on other topics, but all pertaining to women. Most of the questions were asked by women. The lecture and question-answers have been recorded in cassettes. They are now being reproduced here along with the necessary editing.

Family is a social and community institution. Every institution requires a proper system to carry out its operations, without which it cannot be run and may even collapse completely. The institute of family is run by the mutual cooperation and support of man and woman. According to the Islamic formula, a woman has been entrusted with the internal affairs of a family, she being absolved of all other responsibilities. It is the duty of the man to take care of her expenses, which includes her food, clothing, residence and even a

servant if the couple can afford it. Her medical expenses would also be covered by the man.<sup>1</sup>

This is the legal perspective. As far as morals and ethics are concerned, it is expected of man to be as kind as possible to his wife and take care of her comforts to the best of his ability.

There is no doubt that the actual sphere of a woman is her home, and the very rationale behind relieving her of financial responsibilities is that she be allowed to devote her time to the survival and development of the family. However, it has often been misinterpreted to mean that she has no right to pursue other professions or that all avenues of financial opportunities have been prohibited on her. This is an absolutely wrong notion. Islamic history is witness to the fact that women have definitely served in the religious and worldly fields- without ever neglecting their familial and domestic responsibilities- and have even engaged themselves in financial pursuits as and when required. This can be variously considered in light of Islamic principles.

1. At times it is necessary for a wife to financially assist her husband. This is usually seen in the labour class where husband and wife have to both work to make ends meet. On an individual level, such conditions may be faced by a highly educated and skilful woman as well; in which case she is entitled to adopt a permissible means of earning money.

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<sup>1</sup> Our jurists do not mention medical expenses. This may be because in those days people were usually treated by home-remedies, which did not incur any considerable expense. However, these days, it is a routine expenditure and hence needs to be shouldered by the husband.

2. Women have some definite sources of income. She receives *mahr* from her husband and owns jewelry. She also shares in the inheritance which may fetch her cash, land, shop, house or any other property. She can put this to use in some profitable business and improve her finances.
3. There was a time when women were absolutely preoccupied with household work and affairs. Along with catering to the needs of her husband and children, she was also required to carry out various taxing and physically demanding chores like husking grains, operating the flourmill, grinding spices, cooking, filling water, washing clothes, cleaning utensils, dusting, mopping etc., taking away almost all of her available time. This, however, is the industrial age. Machines have taken care of much of the work that women were required to perform. This has eased up her schedule, particularly in cities. Kids are being sent to nurseries by the age of three or four. This has relieved mothers of the constant care and attention they were hitherto required to give their kids at home. Hence there is no harm if she, after completing her household work, organizes her spare time and uses it in improving her and her family's finances.
4. After marriage, a woman is usually quite busy for some years. This is the time when children are born and she has to concentrate on their upbringing, their primary education, grooming and character building. It would not be an exaggeration if this is regarded as the busiest

phase of her life. As her age crosses forty, her responsibilities also come down. But this does not mean that at that age her abilities and strengths wane off. If she wishes, she can continue with her financial activities in a more focused manner.

A woman can adopt a skill or profession as per her circumstances, determination, strengths and abilities. She can enter the field of education and teaching; nor are the roads to employment closed upon her. She can invest in business, agriculture, manufacturing and industry and manage them as per her convenience. She can also come up with similar other economic options to choose from:

It should always be kept in mind that the maintenance of a woman is the responsibility of her husband. It is incumbent upon him to provide for her; even if the wife is financially secure or has a source of income- it is mandatory in all cases. A woman's income is her personal property and she is allowed to spend it as she wishes. If the husband is financially weak and she spends her money on the family, it would be counted as a kind favour on her part and not a legal obligation.

Abdullah bin Masood was financially weak. His wife Zainab used to spend on him. [*May Allah be pleased with them*]. She visited the Prophet ﷺ and asked him whether she can spend upon him and the orphans under her care. An *Ansar* woman had also approached him with the same question. The Prophet replied,

نعم لهما أجران أجر القرابة وأجر الصدقة.

*"Yes, and there are two rewards in store for this- one of helping close ones and the other of charity."*<sup>1</sup>

When we speak of Women's economics, we should keep a couple of things in mind, lest steps be taken in the wrong direction. These are:

1. Islam has set the parameters of *halal* (permitted) and *haram* (forbidden) in various fields. They need to be compulsorily followed by all men and women. According to Islam only the permitted economic sources can be pursued. No one is allowed to adopt the forbidden ones.
2. A unique feature of the social order it has laid down is that it does not entertain intermingling of the sexes. Hence, a woman cannot pursue those financial avenues in which she is required to work with unrelated men. Chastity and dignity are extremely precious. These are the jewels of a woman's honour and self respect. Islam does not approve of any violation therein nor does it allow the woman to take such steps that could possibly lead to them being compromised upon.
3. Family is a very important social institution. It commands a fundamental position in the religious system as well. Its strength lends credence to the strength and establishment of Islam. If it is not safe and sound it would be impossible for Islam to sustain and progress in society. Men and women run it together and it enlists their rights and duties. It also entrusts them with the important responsibility of

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<sup>1</sup> Bukhari, Kitab alZakaat, Baab Zakaat ala alZauj wa alYataam fil Hijr. Muslim, Kitaab alZakaat, Baab Fazl alNafaqah wa alSadaqah ala Aqrabeen wa alZauj wa alAulad



upbringing, education and grooming of the children. Along with recognizing the legal and moral rights of parents, siblings and other close relatives, it also entrusts them with a share of its responsibilities. The woman plays an important role in its internal affairs, for which the family demands her time and skills. Finance has its own importance, but the economic pursuits of the woman should not affect her family or be such that she starts neglecting her family responsibilities, draining the zest out of relationships, making them cold and lifeless. A family is a source of tranquility for its members and guarantees their healthy development. Its loss is the loss of both- the individual as well as the society. It is highly detrimental for a woman or both men and women to take any step overlooking this factor.

### **Related questions and answers**

The lecture was followed by a question and answer session. Certain questions were related to women's economy while some others pertained to her other social rôles. The former have been enlisted first:

**Q:** *Right of maintenance along with doing job*

Women are unable to discharge their domestic responsibilities completely because of job requirements and other engagements. In such a case, is she entitled to maintenance?

**A:**

There can be two aspects here. One is that the woman is engaged in some activity by the permission of her husband. If this is compelling her to devote less time to her house, then there is no ground for

complaint and the wife would continue to be entitled to maintenance. The other is that the woman is engaging herself in an activity despite the refusal of her husband. If due to such activities she spends time outside the house or goes and stays at her father's house, she would not be entitled to any maintenance. This is similar to a person going on leave after duly applying for it or going somewhere for some official work. His salary is not deducted in this case. However, if he is absent without leave, he would lose his salary.

**Q:** *Permitted employment options*

Please inform us, in the context of our society, about the employment options that a woman can choose from while adhering to Islamic limits.

**A:**

In my opinion, a Muslim woman is best suited to differentiate between the employment options that allow her to remain observant of Islamic limits and those that make it impossible for her to do so. She should absolutely refrain from pursuing the latter employment or service options.

**Q:** *Helplessness in opting for forbidden service*

In certain cases where the income of the husband is quite less and there are no other sources of income, the lady is forced by necessity to accept those jobs in which she may not be able to adhere to Islamic principles. What would be the correct way, then?

**A:**

Such helpless situations are a result of the current culture and economic system. It is the responsibility of the Islamic state to create an environment that would provide financial opportunities to all its citizens within Islamic limits, and that one is not compelled to transgress these limits. To achieve this, you would

have to endeavour to make this country of yours a true Islamic state. It is only then that you would see that those women who are educated, who have time to spare and who can contribute to the progress of the nation's economy have jobs carved out for them and their services can be benefitted from, without transgressing due Islamic limits. If in the present situation someone pleads helplessness and is forced by necessity to accept such jobs that do not allow her to adhere to Islamic guidelines, then this would be treated as such. However, the concession should not be considered as a general rule.

**Q:** *Structure of maintenance*

In a Hadith men have been asked to feed the wife what he eats and clothe the wife according to what he wears. On this basis, certain women feel that cooking, serving and other kitchen work are not part of her responsibilities, and they thus refuse to perform those jobs expecting men to make arrangements for their food. Have the respectable jurists said something similar?

**A:**

We find legal arguments about the role of women in household work in the books of our jurists- whether it is their responsibility or not. In my opinion, the clause in the Hadith about feeding the wife what he himself eats and clothing her what he himself wears does not mean that he needs to provide her with cooked food or clothe her with ready-made suits. Rather, it means that the status of your wife should not be inferior to your own. At least in India and Pakistan, we don't come across cases where the status of wives is inferior to those of men; rather the converse is usually found to be true here- that men keep their

wives in better conditions than themselves. Occasionally, women are ill-treated because of difference in nature, lack of tolerance, disputes and such other reasons. Hence it was communicated that as long as the woman remains your wife, she is entitled to enjoy the same status as that of her husband. It should not happen that she is not provided with money to spend on her needs, or provided with a sum that is below the standard of the husband or the wife herself. Such should not be the case that a man travels by car but his wife is not offered the convenience of even a rickshaw; that he has a string of servants to serve him, but the wife has no maid to serve her. As far as cooking food and tending to household work is concerned, this role was carried out by women during the time of Prophet Muhammad صلی اللہ علیہ وسلم and now as well. If a wife were to insist that she would not perform these duties citing her list of legal obligations, then she can expect only her legal rights to be fulfilled by her husband as well. In other words, she should not expect the kind treatment that has been meted out to her all these years.

**Q:** *The need for new laws regarding women seeking' employment*

You have suggested in your lecture that if a woman is unable to pursue economic activities in some phase of her life, she can pursue them later. But if she wants to play an active role in economics, she would have to prepare herself for it right from the beginning. This means that she should have had a professional education; for how would she then enter this field later?

**A:**

This is a very vital question that needs to be seriously pondered upon. If a woman receives professional training, she is entitled to it. It would not be right to restrain her. Upon discharging her familial responsibilities if, by the express permission of her husband, she wants to engage in economic activities or if she finds it comfortable to devote the required time for it in some phase of her life, she should have the opportunity to do so. We need to formulate an appropriate plan for this. A corollary question pertains to her professional service or job. Right now, the present laws and policies are tailor made to suit men. It might be possible that the working hours of men may not be suitable for women. The rules of appointment and retirement applicable to men may have to be tweaked for women; she should be allowed to start her career at even forty and be allowed to retire after sixty. At the same time, her strength, health and activeness should also be considered. While we should all contemplate over these points, this is actually the responsibility of the government to analyze all aspects of this issue in light of Islamic teachings and formulate a new roadmap to obtain the service of women.

### **Certain other Questions:**

**Q:** *Veil and residential confinement*

Once, the term *chadar aur char-deewari* (veil and confinement in the house) was used in the context of the Qur'anic injunction **وَقَرْنَ فِي بُيُوتِكُنَّ** "And abide in your houses" [Surah alNisa ayat 33... Tr]. This led to an uproar by self-proclaimed women liberty organizations

and declared it to be against the freedom of women. What is the Islamic viewpoint in this regard?

**A:**

This Qur'anic injunction does not suggest that women should be confined to the house or that she should not go out of the house. All it means is that women should not abandon the house in such a way that its affairs are disrupted. Women used to visit the mosque during the Prophet's time. They used to leave the house and go to the market and fields as well. They used to go for Hajj and Umrah; no one restricted her from performing them. In fact, Hajj is obligatory upon every man and woman who can afford it. Islam has invested women with the internal affairs of the house. It is her duty to see to it that the house becomes a source of peace, comfort and safety and not adopt an attitude that would seemingly suggest that she is concentrating more on the market, office or factory instead of the house. After fulfilling her responsibilities at home, there is nothing wrong in stepping out of the house for some religious or worldly need. Such a practice should not be misunderstood to go against the Qur'anic passage in question.

**Q:** *Men being in charge of women*

The Qur'an says that man is in charge of women. Accordingly, they have been made responsible for the provisions of their wives. My question is that if a man is unemployed and unable to financially support his wife, or he is physically handicapped and unable to physically protect her- would he still remain in charge of her?

**A:**

You can present examples that are even worse than this. A man is blind, or crippled. He is himself dependent on others for his upkeep. His wife serves him and bears his expenses. Would the man be considered in charge in such a case as well? Its reply is that the Qur'an has declared the male species to be in charge citing two reasons. One that God has made men superior to women: This superiority can be physical, intellectual and practical in nature, or in one or two of these aspects. It is because of this superiority that Islam has invested man with more political, social and economical responsibilities as compared to women. The second reason for declaring man to be in charge is that he spends his wealth on his wife. This is a general statement with exceptions seen in all ages. Even today, we see certain women who are stronger and more intelligent than their husbands and financially sound as well. She is even spending on her husband's needs. Despite all this, the status of man as 'in charge' or manager remains unchanged. The house will collapse if the man starts contending his position on the basis of being a man and the woman starts contending on the basis of being financially better off. Secondly, along with declaring man to be the in-charge, the Qur'an praises righteous wives as those who are devoutly obedient to their husbands and who protect their dignity and honour, the husband's wealth and property, his private matters and secrets in his absence. Hence, the Qur'an and Hadith enjoin upon the woman to consider her husband her in-charge under all conditions. She is supposed to obey him and treat him with respect. The Prophet ﷺ has praised righteous wives by saying that she delights the husband when he

sees her, obeys him if he commands her to do anything and does not adopt any attitude with her own self or his wealth that would be disliked by him.<sup>1</sup>

**Q: *Maintenance after divorce***

It so happens at times that a woman helps her husband in achieving financial stability and he thus attains a good position by virtue of her support. Then, they get divorced because of some dispute. After this, the woman loses all her rights. How can this be justified? Who is responsible for the maintenance of such women?

Some people conveniently reply that it is her father who is now responsible for her provisions. However, it seems quite bewildering that a woman, who spends forty-fifty years of the best part of her life with her husband, discharges her duties properly and contributes handsomely, is now being sent to her father's house. Is it not imprudent to burden her aged father with her responsibility?

**A:**

Many situations similar to the one you have put forth can be presented wherein the provisions of the woman become an issue. For instance, who would bear the responsibility of the provisions, education and marriage of an orphan girl? What would be the future of a wife whose husband divorces her or passes away? One may have to face such a situation in her youth, middle age or even in her old age. Islamic law suggests that the responsibility of such a woman, who cannot fend for herself, would rest on her closest male relative. A husband, on the other hand, is required to provide for his wife even if she is well-to-do. The

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<sup>1</sup> Mishkaat alMasabeeh, Kitab alNikah with reference to Nisai and Baihaqi



responsibility of an orphan girl rests on her closest inheritor like her paternal grandfather, brother, paternal uncle etc. Likewise, a young woman whose husband has passed away or has divorced her and she has no source of income would return to her father with all those rights that she was entitled to before her marriage. If an elderly woman meets with a similar fate, her children would shoulder her responsibility. Thus, Islamic law has a system of maintenance, in light of which these issues are addressed. It is another story that we do not observe Islamic law and hence consider the issue impossible to solve. Now if you respond by seeking out a case where the woman has no relative- neither a father, nor a son, nor a brother or uncle- or does have a relative, but who is not in a position to bear her burden- then the answer would be that the maintenance of such a woman is the state's responsibility. If the state shows negligence in her case, then it is not discharging its duty. There is no point in having a government that cannot shoulder the responsibility of a helpless woman. Actually it is very difficult to imagine the existence of such a helpless woman who had nobody to look after her in an Islamic state and society.

**Q:** *Lifelong maintenance of divorcee women*

Sometimes it is proposed that a man should be made liable to pay lifelong maintenance to the woman whom he has divorced. This would pull down divorce cases and solve the issue of maintenance of the divorcee to some extent. What is your opinion in this regard?

**A:**

This proposal goes against *Shariah* (Islamic law), because Islam has mandated maintenance only till the

waiting period (*iddat*) after divorce. How can we enforce something in the name of *Shariah* when it has not made it obligatory? Secondly this proposal is only apparently in favour of women and seems to benefit them, while the truth is that it is quite detrimental to the interests of women. Let's say a person wants to divorce his wife because of his foolishness or because of his wife's fault. If you were to caution him that if he divorces her, he would have to bear her lifelong expenses, why would he ever divorce her in the first place? He would neither treat her as his wife, nor liberate her by divorce. He would consider it best to leave her case suspended. At times, a woman may want to free herself from a tyrant husband and a divorce can solve her purpose. In such cases, creating roadblocks in the divorce process can prove disadvantageous for the woman. She would be compelled to approach the court of law and obtain a divorce only after having to go through the procrastinated legal procedure.

**Q:** *Why the restrictions of veil for women alone?*

Veil is compulsory on women while men roam around without wearing veils. Is this justified? Is this not against the idea of gender equality? Does it not violate the precincts of justice? Human intellect vouches for equal status for men and women. How is the veiling of women, then, justified?

**A:**

It cannot be denied that there exists a strong feeling of sexual attraction between men and women. Remaining mutually unveiled and freely mixing up with each other causes an outburst of their sexual desires and can lead to the spread of promiscuity. Past

experiences from history and our own observation of contemporary society tell us that sexual misconduct and profanities become common in those communities where the veil is discarded, leading to gross violation of honour and dignity. The veil serves to provide protection from this very eventuality. Now, there are only two possibilities to it- either the man veils himself or the woman. Islam has commanded the woman to observe the veil and this is absolutely in accordance with nature. Men have not been asked to use a veil, lest the entire system of life goes into turmoil. Man is required to sweat his brow in the market and ensure provisions for himself and his family. At times he is required to do such physically demanding work that is often beyond the capacity of a woman, who is gentle and delicate by nature. If all these factors are overlooked and a man is made to wear a veil while a woman is left to roam around uncovered, it would essentially mean that the man would then be made to do the household work and the woman would have to take care of the finances. A woman cannot be burdened in such a manner.

**Q:** *Intermingling of the sexes*

Today, men and women intermingle with each other in various forms. Are all these forms equally forbidden? Some quarters do not approve even if men and women are seated separately in a single auditorium, as is the case today. Please clarify.

**A:**

It is an established fact that Islam dislikes intermingling of men and women. The more the intermingling, the more severe would the prohibition be. Intermingling can be of various forms. One of these is the joint seating of men and women in a

program creating a casual environment between them, allowing them to candidly and closely interact with each other. If they are misusing this opportunity, then such an intermingling would be forbidden because there is a high chance of a person going wayward. The second form is that of a classroom where we have coeducation. Let's suppose the strength of a class to be fifty, having twenty five boys and twenty five girls. If both have separate seating arrangements, then despite being in the same room, they do not intermingle. There is apparently nothing to worry about in this case. During the time of the Prophet ﷺ women used to visit the mosque and Eid grounds but they were allotted separate rows. They used to offer prayers along with men and attend the Prophet's sermons. Men and women walk together in markets, but there is hardly any opportunity for casual engagements there; hence it is tolerated out of necessity.

There is one more aspect to this issue. The difference in their ages should also be considered. Elderly women have received certain exemptions in Surah alNoor (ayat 60). From this it can be concluded that Islam is not as strict with elderly women as it is with young women when it comes to intermingling with men.

**Q: *Entry of women in mosques***

Women used to attend mosques during the time of Prophet Muhammad ﷺ. Despite this, present scholars forbid women from entering mosques citing moral corruption and provide juristic justifications for the same. A major disadvantage of this prohibition is that women are left deprived of the sermons and admonishments that are delivered at the mosques. It is quite puzzling that women are allowed to roam about

in the markets but forbidden from setting foot in mosques. Would you please explain the correct stand on this issue?

**A:**

There is no doubt that women used to visit mosques during the blessed age of Prophet Muhammad ﷺ. They had separate facilities as well. At the same time, the Prophet ﷺ also said that it is more virtuous for a woman to offer her prayers at home instead of the mosque. He had also instructed women to visit the mosque during the evenings, not during day time. This tells us that offering prayers at the mosque is neither compulsory, nor obligatory, nor preferred for a woman. At best, it is permissible as per the situation.<sup>1</sup>

Scholars have discouraged women from visiting mosques or have prohibited them from doing so in view of the moral corruption witnessed in contemporary society. You claim that women are forbidden from enter mosques but are not restricted from roaming the markets. But there is a difference between a mosque and a market. A mosque is a place of worship, and an extremely revered one at that. It is required that man should visit a mosque not only being bodily clean, but mentally and psychologically pure as well, so as to concentrate only on his worship of God. His heart and mind should be devoid of any profanity or sexual feeling. In the present context, the unrestricted movement of women has made this exceedingly difficult to achieve. Women usually visit markets for their everyday grocery and household

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<sup>1</sup> This has been further explained in this book in a reply to another question

items. Market is a place of material exchange of goods. There is no concept of reverence attached to it. Women have been allowed here only out of necessity; it is not allowed for her to simply roam the market out of leisure and she should be corrected if such is the case with her. The Prophet ﷺ has instructed women not to leave their house if there's no explicit need to do so. If she has to go out, she should not adorn and embellish herself, her dress should be simple and not eye-catching; she should not wear strong perfume and should avoid crowded places, walking along the sidewalks. These are some of those guidelines that a Muslim woman should nevertheless observe, lest she becomes guilty of violating Islamic law.

Now the question that remains is that mosques are also a centre of sermons and admonishments, which the women remain deprived of if they do not attend the mosques. In my opinion, women should definitely get the opportunity to listen to those lectures that are delivered at the mosque and due arrangements should be made in this regard. They should be especially allowed to attend Friday and Eid sermons by which they would gain in knowledge and religious fervour. Women have been encouraged in a Hadith to visit the Eid grounds and participate in the congregational prayer.

**Q:** *Being head of state*

It is said that a woman cannot be the head of an Islamic state. If this is true, then why did Maulana Maududi endorse the Mother of the Nation, Mrs. Fatima Jinnah?

**A:**

The Prophet ﷺ has very clearly said that 'That nation can never progress that has a woman as its

head'. Hence, the Islamic community is unanimous on the view that she cannot be reposed with this responsibility.<sup>1</sup>

In my opinion, Maulana Maududi's endorsement of Mrs. Fatima Jinnah was an exceptional case. President Ayub Khan was a dictator. He had annexed all the powers of the state and he wanted to abolish the democratic process of replacing the government in power. This was absolutely anti-Islam and anti-democracy. It was only to get rid of this, reinstitute the citizens' democratic rights and to pave ways for the establishment of an Islamic system in the country that Maulana Maududi had endorsed Mrs. Fatima Jinnah. This was a temporary and emergency decision to salvage the political interests of the country, not an established principle of Islamic law.

**Q:** *Woman and Judicial Post*

Can a woman be a *Qazi* or a Judge? Has a woman ever been a judge during the lifetime of Prophet Muhammad ﷺ or is it an issue that is to be solved by consultation?

**A:**

The Prophet ﷺ was himself the judge. This was a vital part of his prophetic office. He used to decide upon all matters and his decisions were considered final and binding. The governors that he had appointed used to judge matters in the capacity of his vicegerents. There was no woman among these. However, the companions (*Sahaba*) of the Prophet ﷺ who used to expound upon Islamic laws and jurisdiction and give edicts during the time of the

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<sup>1</sup> More clarification on this topic is being offered in response to another question in this book

Prophet and the Rightly Guided Caliphs included women as well. The name of the Mother of Believers, Ayesha (*May Allah be pleased with her*) is quite prominent in this regard. The respectable jurists have debated upon the question of a woman being a judge. This is a consultative issue. Certain scholars do not favour its permissibility. According to the Hanafi school of jurisprudence, a woman's testimony would be acceptable in all cases other than *huddood* (established penalties) and *qasaas* (retribution). She can judge only those cases in which her testimony is deemed acceptable. This effectively means that she *can* be a *qazi* or judge, albeit with some restrictions. This issue needs to be further pondered upon.

**Q:** *Reservation for women*

Women lag behind men in the field of education, finance and politics by several yards. The reservation system has been proposed to uplift them, according to which 30% or more seats would be reserved for them in all fields. This system would eventually be rolled back when men and women attain equal status. I would like to know what effect it would have on the family and society as a whole.

**A:**

The reservation system for women cannot be rejected if it is indeed true that the system of reservation can solve women's issues and she can be socially and economically uplifted by its means. However, some of its aspects need to be considered. I shall only point towards a couple of issues related to employment....

The employment status of men in your country is not quite encouraging. People are migrating to foreign lands in search of jobs. If you reserve 30% or 50% job



reservations for women, then an equal number of male workers would be further left unemployed. If 40% of men are unemployed right now, the figure would rise to 70% then. You cannot generate as many new employment opportunities for them that would be required to bring down this number.

Another disadvantage of the quota system is that, at times, less qualified or under-skilled people are preferred over better people just to fill the quota. This goes against the interest of the state.

It is indeed the responsibility of the Islamic state to provide employment to financially deprived women, but the family system would definitely be negatively affected if it reserves 40-50% jobs for them. It would then be difficult to preserve it in its pristine condition.

It is nevertheless a difficult issue. Institutions like the IPS should bring into consideration all its aspects and propose a strategy in front of the nation.

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## Certain Juristic Rulings

### **Participation of Women in Congregational Prayers in Mosques**

A couple of years back, there was a raging debate in newspapers regarding the participation of women in congregational prayers in mosques. This topic raises its head every now and then. When certain quarters spoke of the permissibility of women to offer prayers in mosques, it was hailed by the media as 'a revolutionary step which points towards a change in attitude among Muslims'. An Urdu newspaper had raised some questions those days. Those questions, and the reply that was given to them, have been reproduced here after some necessary editing:

#### **Query:**

1. Is it permitted or forbidden for women to offer congregational prayers in mosques?
2. Why is it causing such a big issue here when women are offering prayers in mosques in other Muslim countries (where the Islamic law is being implemented)?
3. Islam has permitted many a things with disdain and strict restrictions (like triple divorce, polygamy etc.) which are not being declared prohibited or forbidden even to day. If this is so, then how justified is it to declare the congregational prayers of women in mosques as unlawful instead of allowing them in with the condition of observing a full veil?

4. The prohibition of women from offering prayers in the mosque is being attributed to Umar, whereas it has been recorded in Sahih Muslim on the authority of Abdullah ibn Umar that when Umar heard his son, Bilal (May Allah be pleased with them all) say that 'By Allah, we shall never allow our women to visit mosques', Umar got infuriated and rebuked him saying, I am narrating the edict of Prophet Muhammad ﷺ which says 'Allow them' and you are saying that 'we would not allow them'! In light of this narration, please clarify the prohibition of women from offering prayers in the mosque.
5. Have the women been exempted by the Qur'an or Hadith from attending the Eid and Juma'a prayers- which cannot be offered without a congregation-? If there is no such mention in the Qur'an or Hadith, please explain how they can offer these prayers without participating in the congregation. If they are deprived of these prayers because of lack of partitions or separate rows, will the sin thereof not rest with men who, instead of providing proper arrangements for women to offer their prayers with the congregation, resort to declaring their entry to the mosque itself prohibited?

### Reply:

Instead of replying in the same sequence as you have put up these questions, I shall try to address the actual issue at hand in some detail.

First and foremost, this debate is being presented in the media in such a way as if the scholars of Islam are facing a new situation today. Certain scholars,

under duress, have given women the right that they were deprived of, and some others are opposing this. However, this is not a new issue. We do have related guidelines in authentic Hadith and our respectable jurists have discussed this issue in detail. It has been narrated by Abdullah ibn Umar that the Prophet ﷺ said,

إذا استأذنت امرأة أحاكم إلى المسجد فلا يمنعها.

*"When one of you is asked by his wife permission to visit the mosque, he should not deny her."*<sup>1</sup>

We find evidence from Hadith that women were allowed to visit mosques during the blessed time of Prophet Muhammad ﷺ. On the other hand, it is also stated in Hadith that it is much better and more virtuous for women to offer prayers at home as compared to offering them at the mosque. We have another Hadith narration of Abdullah ibn Umar that says,

لا تمنعوا نساءكم المساجد وبيوتهن خير لهن

*"Do not deny your women from visiting the mosques, but their homes are better for them."*<sup>2</sup>

Narrations also contain that it is better and more virtuous for women to offer their prayers in a small chamber within their homes.<sup>3</sup>

Certain narrations suggest that Umar had prohibited women from visiting mosques. You have averred that this cannot be an authentic narration because certain other authentic narrations have Umar getting furious over his son for wanting to restrict women from visiting mosques. But you have erred

<sup>1</sup> Bukhari, Kitaab alNikaah, baab Ista'zaan alMaraat zaujaha fil khurooj ilal masjid; Muslim, Kitaab alSalaat, baab Khurooj alNisa'a ilal Masajid

<sup>2</sup> Abu Dawood, Kitaab alSalaah, baab Maaja'a fi khurooj alNisa'a ilal masjid

<sup>3</sup> Abu Dawood, Kitaab alSalaah, baab alTashdeed fi zalik

here. The incident that you have cited is not that of Umar, but that of Abdullah ibn Umar. What actually happened was that when Abdullah ibn Umar narrated this Hadith that 'Women have a role in the mosque; don't deny her this', his son Bilal dissented: "By Allah, we shall definitely deny them." In response, Abdullah ibn Umar got furious and reproached him saying that 'I am conveying to you what the Prophet ﷺ has said and you are adamant upon your own views!'<sup>1</sup>

Actually, Abdullah ibn Umar disliked the attitude of his son. Otherwise, even he knew that the husband is entitled to permit or forbid his wife from visiting the mosque.

The respectable jurists have forbidden women from visiting mosques keeping in mind the times and circumstances. It cannot be denied that if women were to offer all five daily prayers in mosques along with men, a lot of disconcerting incidents can crop up in these woeful times. The jurists have also written that women can visit mosques provided they are old of age, do not embellish themselves and the time of the day is not such when loafers and rogues roam about the street.

It is quite evident that such an edict can only be issued in view of specific circumstances. In my opinion, women can be allowed to visit mosques in areas where it is routine for them to do so and there is no explicit danger of any immorality breeding thereby.

Women used to visit the mosque for Juma'a (Friday) prayers during the Prophet Muhammad's ﷺ time. We find evidence of them participating in Eid prayers as well. Moreover, this has been encouraged

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<sup>1</sup> All this has been recorded in Sahih Muslim. Kitaab alSalaat

upon. Hence, if there's no danger anticipated, women can participate in these prayers. There are certain places where this is practiced even today. They can also visit the mosques to attend religious sermons and to fulfil other such requirements, provided proper arrangements have been made in this regard. I conclude by reiterating that it is neither compulsory, nor obligatory, nor can it be established that it is more virtuous for women to offer congregational prayers in mosques. It is not at all recommended to emphasize upon such issues, rake up juristic differences and to launch a campaign in its favour. This is not a beneficial service to religion.

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## Leadership of Women in an Islamic State

### Query:

A lady writes in her letter:

I am not in favour of women's leadership because it is impossible for her to discharge the responsibilities of a leader while abiding by Islamic limits. Moreover, this is physically unfeasible for her as well.

It is clear from the Qur'an and Hadith that the leadership of women is disliked, but is it appropriate to designate it as prohibited or forbidden under all circumstances?

Certain scholars are of the opinion that the leadership of women can be accepted in emergency conditions. The question is that is it permissible to make her a leader in such conditions, or would it remain prohibited and forbidden? If permissible, then which are those emergency conditions and who would decide upon that?

In your book, 'Aurat Islami Ma'ashre Mein' (Woman in an Islamic Society) you have written that there is a consensus on this matter. Kindly elaborate upon the details of this consensus so that the community may be acquainted of the correct position.

### Reply:

I have come across some of the arguments put forth about the permissibility of women being leaders but I feel that she does not possess the eligibility

conditions that Islam has laid down and it is impossible for her to discharge its responsibilities while abiding by Islamic limits.

You have stated that, as per the Qur'an and Hadith, the leadership of women is 'disliked'. In my opinion, it is not just 'disliked' but 'prohibited'. The content of your letter suggests that you also share the same opinion.

When the Prophet ﷺ came to know that the people of Persia have raised the daughter of Khusrow to the throne, he had remarked, 'A nation that appoints a woman its ruler can never succeed'. This remark has led scholars to believe that it is forbidden to appoint a female as head of state, and that such an appointment can only invite ruin.

It is sometimes contended that this remark has a specific context in relation to the people of Persia of that time; it is not a universal edict. But neither is there any hint to suggest this, nor has anyone interpreted it as such till now. In fact, the Prophet ﷺ has issued a general order and it has always been understood to be a universal law. This is why it is not permissible for a woman to become the head of an Islamic state in any era.

Emergency situations can confront an individual as well as a group. So far as the individual is concerned, the Qur'an has offered him some concessions. For instance, man has been commanded to eat only permitted and pure foodstuffs; but he can have prohibited and unlawful things if his life is in danger- and he cannot find any permitted thing to eat- just to save his life. Some jurists opine that in such cases he is not only permitted, but it becomes incumbent upon him to save his life, or else he would



be considered a sinner. While they have discussed in detail the emergency conditions and rulings with respect to the individual, we do not find similar material on group emergencies. We can, however, form an opinion based on some hints. For example, Islamic law requires the leader of Muslims to be pious and God-fearing, but in case there is no option and protection from riots and anarchy becomes a priority, the leadership of a sinner can also be tolerated. This is a form of helplessness, which cannot change the established law.

In the same vein, a woman can be accepted as head of state only when there is no other viable option available and the nation and its citizens are threatened with some disastrous eventuality in case she is opposed. It is, nevertheless, the prerogative of every nation to decide upon this.

If a woman gains supreme authority in an Islamic state, steps should be taken to abdicate her in a peaceful manner. However, such methods that would lead to riots and unrest should be avoided, lest they cause harm to the state.

The question that remains is the one concerning details over consensus in this regard. I have quoted the works of Sa'aduddin Taftazani, Allama ibn Abideen, Qazi Shawkani and others to arrive at a conclusion that the leadership of a woman is unlawful. I have also quoted Imam Ibn Hazm as saying that there is a consensus over this issue. In another article, I have provided references of Shah Abdul Haq Muhaddis Dehlvi, Shah Waliullah, Ibn Arbi Maliki and Ibn Qudamah Hanbali.<sup>1</sup>

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<sup>1</sup> Please refer monthly Zindagi Nau, April 1989

These scholars belong to various juristic schools of thought. No further detail seems necessary after this. Moreover, there is no valid argument against it as well.

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## The Prerequisite of a *Wali* (Guardian) during Marriage and His Authority

### Query:

Allow me to ask a few questions regarding the condition of a guardian in marriages and his authority. Please provide me with the answers....

1. Can the guardian of a mentally able and adult (*aquila* and *baaligha*) woman marry her off to a man whom she dislikes? Is the guardian authorized to force such a woman to marry someone against her will?
2. Is it permissible for a mentally able and adult woman to marry the man of her choice irrespective of the consent of her guardian? What is the ruling regarding the marriage that is conducted against the permission of the father or guardian?
3. Is the guardian of a pre-pubertal girl authorized to solemnize her marriage before she becomes an adult? What is the *sharayi* (legal) status of such a marriage? Is it necessary for the girl to continue with the marriage after she reaches adulthood?
4. What is the legal status of a guardian?

This is a very crucial social issue. Please elaborate upon the Islamic guidelines in this regard.

**Reply:**

Please find the answers to the questions you have put up in the discussion below:

1. A narration of Abu Hurairah (May Allah be pleased with him) finds mention in books of Hadith compiled by Bukhari, Muslim and others that the Prophet ﷺ has said,

لا تنكح الأيم حتى تستأمر ولا تنكح البكر حتى تستأذن قالوا يا رسول الله كيف اذنها قال ان تسكت.

*“The marriage of an Ayyam (widow or divorcee) cannot take place until and unless she is consulted, and the marriage of a damsel (young unmarried woman) would take place only after her consent has been obtained. It was asked ‘How will the damsel give her consent?’ He was answered, ‘She should maintain silence’. (this would be considered an implicit consent by the damsel)”<sup>1</sup>*

The Hadith has the word ‘ayyam’ which refers to a woman who does not have a husband, irrespective of whether she is a virgin or not. This word is also used for a man who does not have a wife.<sup>2</sup>

Here, it has been used for a non-virgin because in another Hadith the word ‘Thayyab’ has been used in its stead.

Abdullah ibn Abbas (May Allah be pleased with him) narrates from the Prophet ﷺ that-

الطيب احق بنفسها من وليها والبكر تستأمر واذنها سكوتها.

*“A ‘thayyab’ holds more rights with regards to her marriage than her guardian. A ‘bakira’ would be consulted and her silence would be interpreted as her approval.”<sup>3</sup>*

<sup>1</sup> Bukhari, Kitaab alNikah; Muslim, Kitaab alNikah

<sup>2</sup> Allama Mujaduddin Ferozabadi in AlQamoos alMuheet

<sup>3</sup> Muslim, Kitaab alNikah, baab Istaizan alThayyab fi alNikah....

The words *ayyam* and *thayyab* have been used in these ahadith to refer to a non-virgin, whereas the word *bakira* refers to a damsel and a virgin. These ahadith clarify that a *thayyab* and non-virgin woman has more right to decide upon her marriage as compared to her guardian. Her guardian can solemnize her marriage with someone only upon receiving her express consent.

Scholars are unanimous that the marriage of a *thayyab* or a non-virgin would be conducted as per her wish; the guardian cannot compel her. As for the virgin damsel, Imam Shafi'i, Imam Ahmad and others opine that while it is desirable to obtain the consent of the bride, the father or grandfather of the prospective bride are entitled to marry her off without obtaining her consent owing to their close relation of love and affection with her.

In the opinion of Imam Abu Haneefa, Imam Awzai and certain other jurists, the marriage of an adult female - whether a *thayyab* or a virgin- can be solemnized only after obtaining her consent for the same. An adult virgin female, just like a *thayyab*, cannot be forced into marriage. It has been written in Hidayah that:

ولا يجوز للولي اجبار البكر البالغة على النكاح

*"It is not permissible for the guardian of an adult virgin woman to compel her to marry someone."*<sup>1</sup>

On the basis of the Hadith quoted above and certain other ahadith of similar import, the jurists have unanimously concluded that the guardian of a *thayyab* can solemnize her marriage only after obtaining the clear and express consent of the woman. Allama Nauwi avers:

<sup>1</sup> Hidayah ma'a Fath alQadeer: 3/251

و اما الثيب فلا بد فيها من النطق بلا خلاف سواء كان الولي ابا او غيره

*"As far as the thayyab is concerned, it is required that she expresses her consent in clear words (her silence would not be taken as an implicit consent) - irrespective of whether the guardian is her father or someone else."*<sup>1</sup>

There is no contradiction on this view.

A virgin damsel might not be bold enough to express her consent out of bashfulness or reticence. Hence, it is said in the Hadith that 'if she remains silent, it would be interpreted as an implicit consent'. One opinion is that it should be clearly known that the silence is indeed a sign of approval. However, the jurists have averred that it can be easily deciphered from body language and other signs whether the silence can be interpreted as consent or not. If she smiles or accepts a gift, then it would be considered a sign of approval. Instead, if she starts wailing upon being asked for her consent or expresses disapproval by facial gestures, it should be understood that she is not ready for the marriage. In any case, she cannot be forced into the marriage if she is not willing to get married or flatly refuses the proposal. This opinion gains support from a narration of Abu Hurairah (May Allah be pleased with him) wherein he quotes the Prophet ﷺ as saying that:

اليتيمة تستأمر في نفسها فان صمتت فهو اذنها وان ابت فلا جواز عليها

*"An orphan girl (who has attained adulthood) would be consulted on her marriage. If she remains silent,*

<sup>1</sup> Nauwi, Sharah Muslim, Vol 5, Section 9, Pg. 175

*this would be taken as her consent. If she refuses, then no one has any authority over her.*"<sup>1</sup>

In the original text of the above Hadith, *yateemah* refers to an orphan girl who has attained adulthood. This is because we have separate rulings for pre-pubertal girls. There is no need to obtain her permission.<sup>2</sup>

It is necessary to provide her with the relevant details of the prospective groom like his religious, moral, social and financial status while obtaining her consent so that she can make an informed choice.

In our society, it is not the practice to consider the opinion of women in general and damsels in particular in matters related to her marriage. Her guardians usually select a suitable match for her. However, this is a faulted practice; it goes against the Hadith. It is an absolute injustice to deprive women their right to marriage when Islam has been quite explicit in granting it to her!

2. Moving on to the second question....

It has been narrated by Abu Musa Ashari (May Allah be pleased with him) that the Prophet ﷺ said,

لا نكاح الا بولي

*"No marriage except through a guardian"*<sup>3</sup>

In light of this Hadith, Imam Shafi'i and Imam Ahmad have deduced that a woman cannot get married without a guardian. Imam Malik suggests that while a woman from the lower class can marry on her own or can appoint someone as her attorney, a guardian would

<sup>1</sup> Mishkaat alMasabeeh, Kitab alNikah from Tirmizi, Abu Dawood and Nasai

<sup>2</sup> Mullah Ali Qari, Mirqatah alMafateeh: 6/298

<sup>3</sup> Mishkaat alMusabeeh, Kitab alNikah from Ahmad, Tirmizi, Abu Dawood, Ibn Majah and Darmi

nevertheless be required to intervene in the marriage of a respectable lady. Hanafi jurists opine that a mentally able and adult woman can directly marry someone and can even get someone else married. This is so because the right to guardianship stands absolved after adulthood.<sup>1</sup>

The Hanafi jurists argue that when an adult woman can, of her own free will, engage in financial activities like sale and purchase, charity, *hiba* and inheritance, then she can also decide who to marry, what should be the amount of *mahr* and what would be the clauses of provision and maintenance. There should be no apparent hurdle in this matter.

In the Hanafi jurisdiction, we have a principle regarding this, which says that the person who can decide on his wealth management is also entitled to decide upon matters related to his or her life.<sup>2</sup>

This opinion seems to be in sync with the freedom that Islam has given women. In their view, the clause, 'No marriage except through a guardian' does not mean that the presence of a guardian is an absolute prerequisite in marriage. Rather, a desirable approach has been conveyed here- that 'conduct the marriage through a guardian'. It is considered unsuitable for a woman to marry someone on her own, but this does not invalidate the right of an adult woman to marriage; a marriage stands solemnized even without a guardian. It also serves to provide common grounds for both types of Hadith.

3. We find evidence of the marriage of pre-pubertal girls in the Qur'an and Hadith. In the Qur'an, the waiting period of a divorcee has

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<sup>1</sup> Radd alMuhtar ala' Darul Mukhtar: 4/159

<sup>2</sup> alDaar alMukhtar ma'a Radd alMuhtar: 4/155



been mentioned as three menstrual cycles [Surah alBaqarah: 227]. Elsewhere it is written that the waiting period of those women who have crossed menopause as well as those whose menses have not yet started is three months [Surah alTalaq: 4].

Menstruation is a sign of puberty and adulthood. This ayat suggests that a girl can be married off before her puberty. If it would have been otherwise, there would have been no need to discuss her divorce and waiting period.

The books of Hadith have most authentic narrations that suggest that Abu Bakr had given Ayesha (May Allah be pleased with them) in marriage to Prophet Muhammad ﷺ while she was still immature. She was six years old at that time, while she was sent to stay with the Prophet when she was nine.<sup>1</sup>

While commenting on this Hadith, Allama Ibn Hammam writes, 'This Hadith is almost as good as an uninterrupted report (*tawaatir*).<sup>2</sup>

Scholars are unanimous over the ruling that if it becomes expedient under certain circumstances, the father (guardian) of a boy or girl who has not attained puberty can still compel either of them into marriage. Only Ibn Shabarmah, Abu Bakr alAsim and Usman Batti have expressed their dissent. According to them, the marriage of pre-pubertal boys and girls is unlawful.<sup>3</sup>

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<sup>1</sup> Bukhari, Manaqib alAnsar, baab Tazweej alNabi Ayesha; Muslim, Kitab alNikah, baab Tazweej alAbalBakr alSagheerih

<sup>2</sup> Fath alQadeer: 3/265

<sup>3</sup> Ibn Rushd, Bidayah al Mujtahid: 4/210. For the arguments put forward by Ibn Shabarmah and like-minded scholars please refer the footnote on Radd alMuhtar 4/170

The right to marry an immature girl has been given to her guardian because there do arise certain situations where the guardian considers it necessary to marry her off. For instance, a very good proposal may be lost or the guardian is severely ill or financially deprived. It is expected of a guardian that because of his close relation, love and attachment to the girl, he would always think about the welfare of the girl before taking any step.

Imam Malik says that only the father of the girl is entitled to solemnize her marriage in the capacity of her guardian while she is still immature.

Imam Shafi'i has included the grandfather along with the father. He opines that except the father and grandfather, no other guardian has the right to go ahead with the marriage of a pre-pubertal girl. Moreover, Imam Shafi'i has said that it is desirable for the father or grandfather of the girl to marry her off only when she crosses puberty after taking her consent, so that she is not forced to bear with the relationship against her wishes.<sup>1</sup>

According to Imam Shafi'i, Imam Malik and certain other jurists, she would not have the right to dissolve that marriage upon crossing puberty. Imam Abu Hanifah opines that if the pre-pubertal girl and boy are married by the father or grandfather, the couple would have no authority after puberty. This is because the parents' wisdom, kindness and love are beyond doubt and misgiving. This is just like they marrying after puberty with their permission. However, if another close relative who is their guardian solemnizes their marriage, they would retain the right to accept or deny it after attaining puberty.

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<sup>1</sup> Nauwi, *Sharah Muslim*, Vol 5, Pg.167

One more opinion is that if the pre-pubertal girl is old enough to comprehend matters and is well-aware of the conditions, and if she offers her consent, she would not be entitled to dissolve the marriage after her puberty. In case the contrary is true, she would remain entitled. In the present age, the only thing that seems appropriate is that the authority to solemnize the marriage of a pre-pubertal girl should rest with her father or grandfather in accordance with Imam Shafi's views. Imam Malik also concurs with the same opinion restricting this right to the father alone. It is said that since the word 'guardian' is a non-specific word, every guardian would be entitled to this right and if the steps taken by them harm the boy and girl, the *Qazi* (Judge) would dissolve it. While this is true in principle, it is a long and procrastinated procedure. After attaining puberty, it is not always possible for the boy or girl to prove that the guardian has taken misjudged steps.

4. The Qur'an and Hadith have instructed the guardians of those people who are unmarried to marry them off and to not restrict those women who want to marry from doing so. This proves the responsibility and authority of the guardian. On the other hand, we also have that women are self-authorized and can marry as per their wish. Hence, jurists and scholars have had their differences in this regard, with the same ayat or Hadith being interpreted in both contrasting ways. Allama Ibn Rushd puts forth both arguments and at the same time cautions that they do not conclusively prove any one aspect.<sup>1</sup>

We have discussed certain relevant ahadith above, as well as the rulings that have been deduced by

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<sup>1</sup> For details, please refer Ibn Rushd. *Bidayah al Mujahid*: 4/214-223

jurists. According to Imam Shafi'i and Imam Malik, a guardian is a compulsory prerequisite to conduct a marriage, without whom the marriage cannot take place. However, the guardian cannot compel a *thayyab* or a non-virgin female; her express consent is mandatory for her marriage. Imam Shafi'i says that *thayyab* is that woman whose virginity has been violated, irrespective of whether that has been done by means of a valid marriage, an invalid marriage, someone has had intercourse with her on the basis of some uncertainty or she has been raped. He also includes in this category those women whose hymen had been ruptured due to natural or unnatural methods—say because of sports, an unnatural act or due to old age. Imam Nauwi has termed this as the most authentic view of the Shafi'i school of jurisprudence. However, it does not seem very plausible to include all those women in the category of *thayyab* whose hymens have been ruptured by any means—lawful or unlawful, natural or unnatural, and to then claim that her modesty is not the same as that of a virgin and that she is hence required to offer her consent to marriage in express and clear terms.

Imam Nauwi says: The clause used in the Hadith suggests that the guardian exercises his authority in the marriage of a *thayyab* as well. However, she has more right to decide about herself than her guardian has over her. It is for this reason that her guardian cannot force her to marry someone against her will. On the other hand, if she wishes to marry a person of her *kufu* (compatible social standing) and the guardian is not ready for it, he would be compelled to accept the proposal; and if the guardian remains adamant upon

his attitude, the *Qazi* would solemnize the marriage instead.<sup>1</sup>

As far as the virgin girl is concerned, the guardian would try to know her will, but as discussed earlier, he would not be duty-bound to abide by it.

The way in which virginity has been given fundamental importance in the Shafi school of jurisprudence has been disputed by the Hanafi jurists. According to the Hanafi school of jurisprudence, a woman would still be considered a virgin if her hymen were to rupture because of sports activities, excessive menstrual bleeding, injury, remaining unmarried for several years, or the couple separate immediately after marriage before consummating it, or she inadvertently commits an immoral sexual act. However, if she is known to be a promiscuous woman and has been convicted for it, or a person has had intercourse with her in an invalid marriage or because of some uncertainty, she would be termed a *thayyab*.<sup>2</sup>

This is a view that confirms to logic. According to Hanafi jurists, a woman receives authority over her marriage, not on the basis of her virginity, but on the basis of her adulthood. Any adult woman is authorized to marry as per her wish- whether she is a virgin or not, the requirement of a guardian not being an absolute prerequisite.

The Hanafi jurists have two views regarding the Hadith, 'No marriage without a guardian'. One is that this Hadith is quite weak as compared to those narrations that establish a woman's right to marriage. Second, the Hadith does not mean that it is compulsory to have a guardian for marriage or that a marriage

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<sup>1</sup> Nauwi, *Sharah Muslim*, Vol 5, Section 9, Pg. 174, 175

<sup>2</sup> Raddul Muhtar ma'a Darul Mukhtar: 4/166,167

cannot be conducted without a guardian. This is not a legal edict, rather a hint towards a desirable conduct. It has been disliked and considered disgraceful for a woman to marry someone on her own, but at the same time this does not invalidate the adult woman's right to marriage.

Even if this Hadith is accepted as a principle and law, it would be considered to be in reference to a pre-pubertal boy or girl in light of the other narrations available with us where the guardian has been duly authorized. The marriage of such boys and girls cannot take place without the intervention of a guardian.

According to Hanafi and certain other jurists, the guardian of an adult woman is authorized to oppose her marriage if she chooses to marry a person of a dissimilar *kufu* (compatibility in social / economic / cultural status). This is because this would have an effect on the entire family. Of course, the marriage would be valid if the guardian has no objection to it. If the guardian is opposed to it, the marriage would not be valid and the *Qazi* would dissolve it. The guardian would be entitled to oppose the marriage only as long as the woman does not give birth to a child or her pregnancy does not become obvious. After this, this right of his would stand abolished because now the question of the child gains prominence.<sup>1</sup>

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<sup>1</sup> Many more details about this have been discussed in books of jurisprudence. Please refer *Hidayah ma'a Fath alQadeer*: 3/248,249. Also, *Raddul Muhtar ma'a Darul Mukhtar*: 4/156,157

## Marriage arranged by Guardian

### Query:

I have been asked a few questions. Since the questions were new to me I told him that I would consult a scholar and revert back. I seek their answers from your kind self....

1. The questioner's mother and son have been residing in America since the past two years as new citizens.
2. The questioner's mother came to India to arrange the engagement of her brother's daughter with her son, and returned to America soon after.
3. Right now, the boy is in America. The mother-son duo would like to fly down to India once again for the marriage and take the bride along with them to America. This is because it would take a year or more to sponsor the bride, only after which would she receive her visa. In other words, after marriage the groom would have to go back to America to sponsor his wife, upon which the visa can be obtained which would nevertheless take a long time.
4. In order to shorten this period, if the groom marries her via telephone and obtains the marriage certificate, he is willing to perform the marriage as per Islamic tradition all over again after taking the bride to America. Is it permissible for the marriage to be conducted via telephone or not? If not, is it then

permissible to conduct such a marriage formally on paper and then marry her again in America following Islamic traditions?

**Reply:**

A very simple solution to your problem is that the bride's guardian should obtain the consent of the girl and write a letter to the boy saying that 'I have given my girl's hand to you in marriage in lieu of an  $x$  amount of *mahr*'. The boy should read out this letter to a group of people and declare that 'I have accepted this girl in my marriage and I agree to pay the *mahr* amount mentioned in this letter'. The marriage would thus be conducted. It is necessary to conduct these proceedings in front of a group of people so that they may stand witness to it. Two men or a man and two women would also suffice. After this, they may proceed with the legalities that you have mentioned.

*And Allah knows best.*

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## The Issue of Status Compatibility

### Query:

The issue of *kufu* (status compatibility) has always been raised during marriages. It seems that our jurists have been very particular about it. Nowadays people are questioning its authenticity vis-à-vis Islamic teachings. Kindly elaborate upon the exact stand taken by our jurists in this regard. We would also like to know your personal views on this topic.

### Reply:

I have tried to discuss the issue of *kafa'at* very briefly here:

The issue of status compatibility is raised in reference to the woman, for it is well established that a man can very well marry a woman of relatively inferior status. Most jurists aver that the woman should be married to a man of equal or higher status than her, lest she feels humiliated and it threatens their married life.

According to the Hanafi school of jurisprudence, status compatibility would be determined on five grounds. These are: descent, freedom, piety, wealth and profession.

Regarding descent, it is said that Quraish and non-Quraish, Arab and non-Arab are not equal. Hence, a non-Quraishi man cannot be compatible for a Quraishi woman. Similarly, a non-Arab man is incompatible for an Arab woman.

One more differentiating point pertains to veteran Muslims and new Muslims. On this basis, a new Muslim has not been given the same status that is given to those who are Muslims by descent.

On the issue of slavery, the scholars are unanimous that a slave-woman who obtains her freedom has the right to terminate her marriage with her husband if he is still a slave.<sup>1</sup>

This is because a slave is not of the same status as a free woman.

As per Hanafi jurisprudence, a person who has been (or whose father has been) granted freedom is not of the same status as a person who belongs to a family having an ancestry of free men.

There is a unanimous view that as far as piety is concerned, an irreligious sinner cannot be held compatible for a woman belonging to a religious family.

Wealth-wise, it is said that a poor man is not of the same status as a rich woman.

Society has always considered some professions as superior and some others as inferior. On this basis, those individuals and families that adopted or have been practicing a superior profession were considered superior, making them incompatible with those practicing an inferior profession. A detailed elaboration can be found on which professions are superior to which others, which ones are compatible with each other and which ones are incompatible.<sup>2</sup>

There is another aspect that needs to be considered while discussing this entire issue:

<sup>1</sup> Mullah Ali Qari, *Mirqat al Mafateeh*: 6/252

<sup>2</sup> For details, please refer *Fath alQadeer*: 3/295-296

Islam has presented the concept of Unity of Man. It contends that the sole purpose of having different families and tribes is to identify each other. The only distinguishing factor among men is their level of piety. [Surah alHujurat ayat 13]

The Prophet ﷺ has declared in his renowned speech during his Hajj that neither is an Arab superior to a non-Arab, nor is a non-Arab superior to an Arab; neither is a fair person superior to a dark skinned person, nor is a dark person superior to a person of fair complexion. The basis of superiority among people can be their level of piety alone.<sup>1</sup>

It can be said that this is related to the Hereafter. There, the judgment would be passed on the basis of a man's piety, irrespective of his descent and race, and that it does not pertain to worldly affairs. However, the Hadith does not support this view. It is apparently valid for both- this world as well as the Hereafter. The standard of virtue remains piety- in this world as well as the next. It supersedes everything else.

The issue of status is raised during marriages. The Prophet ﷺ has said,

تُنكح المرأة لاربع ممالها ولحسبها وجمالها ولدينها فاظفر بذات الدين تربت يداك.

*"A woman is married for four things, for her wealth, for her lineage, for her beauty or for her piety. Select the pious, that you may become successful, lest you incur a loss."*<sup>2</sup>

<sup>1</sup> I have tried to compile the relevant Islamic guidelines in my book, 'Islam aur Wahdate Bani Adam' (Islam and the Unity of Mankind). It has been translated into English, Hindi and certain other languages and published by Markazi Maktaba Islami Publishers, New Delhi- 110025

<sup>2</sup> Bukhari, Kitaab alNikah; Muslim, Kitaab alRaza'a

Two things can be deduced from this Hadith. The first thing is that although most other men seek wealth and money, lineage and descent, beauty and good looks, a believer should concentrate on the girl's piety and religiosity. He should prefer piety over all other factors, wherein lies his success. Secondly, while this has indeed been told about the desirable preference of men, but can it not be deduced that the same applies to a woman as well- that she should prefer a pious man over a wealthy, handsome man of noble lineage?

Now let us ponder over the opinion of jurists. The points that have been discussed above belong to the Hanafi school of thought, not all of which are agreed upon by other jurists. There are certain fundamental differences among them. The jurists have issued certain edicts to suit the needs of their particular times. The same cannot be applied as-it-is in our age. Hence, it is required that they be analyzed in some detail.

According to Imam Malik and some other jurists, status and compatibility would be considered only in matters of religiosity, the rest being unimportant. Hence, in their view, a freed slave can be married to an Arab lady. They have derived this rule from the 13<sup>th</sup> Ayat of Surah alHujurah mentioned above.<sup>1</sup>

Imam Karkhi, a jurist from the Hanafi school of thought also concurs with this view.<sup>2</sup>

Allama Abu Bakr Jassas and other Hanafi jurists from Iraq have also adopted this view. Hence, it is assumed that they may be in possession of some narration by Imam Abu Hanifah in its support.<sup>3</sup>

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<sup>1</sup> Bidayaht al Mujtahad: 4/228

<sup>2</sup> Fath alQadeer: 3/283

<sup>3</sup> Radd alMuhtaar: 3/209

The Hanafi school of jurisprudence has apparently given priority to lineage in the matter of status, but the importance of religion and moral values has also been fully recognized. Hence, it has been said that the compatible pair of a woman belonging to a religious and pious family cannot be a characterless scoundrel. This is because a pious woman would resent an immoral person more than she would resent a man of lower descent.

It is also accepted that a person of inferior descent can attain a high status on the basis of his knowledge and virtue and prove compatible for a woman of noble descent. It has been written that,

العائم العجى كفو للجاهل العربى والعلوية

*"A non-Arab scholar is compatible for an illiterate Arab woman of high lineage."*

This has been justified by saying that the importance of knowledge is much more than that of descent and other factors.<sup>1</sup>

Whatever has been said about 'profession' seems irrelevant today. Today, it is seen that a man belonging to a family practicing an inferior profession attains higher education and succeeds in life. He and his children no longer remain affiliated to their ancestral profession. It is quite possible that several generations might turn out to be unrelated to that inferior ancestral profession. In this case, is it right to undermine their status relying upon their ancestral profession? Apparently, this should not be the case. Then why is it that he should not be considered compatible with a woman from the Syed or Quraish family? If knowledge is indeed as important as it is made out to be, then he should definitely be considered compatible.

<sup>1</sup> Fath alQadeer: 3/289

These days, the forms of profession have also got transformed. It is seen that people of high descent are now engaged in those professions that were once looked down upon. People belonging to the Syed family are running laundries. Nobody calls them *dhobi* (washer men). Similarly, those who have ventured into the garments and suiting business are not labeled as *darzi* (tailor). Likewise, a person of high descent who establishes a mill or deals with garments on a large scale basis is not considered a *bazaz* (cloth seller). Even the early jurists have noted that a person who employs craftsmen and stitches clothes would not be called a *darzi*. This has become quite common these days.

Wealth is also considered important in jurisprudence. It has been said that:

ان الناس يتفاخرون بالغنى ويتعبرون بالفقر

*"People pride themselves upon wealth and possessions, and feel ashamed of poverty and deprivation."*<sup>1</sup>

It is on this very basis that rich and poor are considered mutually incompatible. However, what we see in contemporary society is that financial resources are no longer the absolute privilege of the elite class. We are now having professors, doctors, engineers and scientists from those families that were hitherto considered inferior in class and stature. They are now attaining high positions. It is no longer surprising today for such a person to hold the post of a manager in a company or own an industry. In this age, even women prefer wealth over descent. She would give a wealthier man of lower descent precedence over a man

<sup>1</sup> Hidayah ma'a Fath alQadeer: 3/291

belonging to the Quraish or Hashim family. In these cases, the guardian ought not to have any reservations.

One argument that is put forth to justify the system of *kafa'at* (status compatibility) is that the absence of it poses a threat to the stability of the marriage. This is no doubt important and it should always be considered where there is a danger of such issues cropping up, but it is related to circumstances. If a girl belonging to a noble family turns down a proposal from a boy belonging to a relatively inferior family despite his educational qualification and financial status, she has every right to do so. This is a social issue and needs to be considered such. It should not be seen as an absolute law.

All said and done, the principal factors in status compatibility are- nonetheless- religiosity, piety, knowledge and virtue. As for wealth and profession, they have a secondary status; people's attitude in their regard changing as per circumstances. If a man is pious and possesses knowledge and virtue, he can become compatible for a much higher placed family. The details obtained from works of jurisprudence do not go against this at all.

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## Prohibition of marrying a non-Muslim woman

### Query:

A young man accepted Islam by his own free will. His father has passed away and the mother is alive. His mother has fixed his marriage with a Hindu girl belonging to their community. The boy does not want to marry a non-Muslim girl. However, his mother is adamant that he should marry none other than a Hindu girl, leaving it to him to convert her to Islam after marriage. In this case it is quite possible that the boy might face pressure from the girl and her parents which would further complicate matters. On the other hand, it is also probable that the boy might later invite the girl and her parents to Islam and they might accept it. Nevertheless, future situations cannot be foretold. Please elaborate upon the Islamic rulings in this regard. Along with it, kindly write to us the answers to the following related questions:

1. The blessed Companions of the Prophet ﷺ must also have faced similar situations. What was the status of their relationships then?
2. Can a newly reverted Muslim boy establish marital bonds with a Hindu girl with the intention of making her revert to Islam after marriage? In the meanwhile, what would be the status of the child born to them?



**Reply:**

I received your letter. A very concise reply to your queries is that during the early days of Islam marital bonds used to be established between Muslims and non-Muslims. However, after reaching Madinah such marriages were forbidden in Surah Baqarah ayat 221 and Surah Mumtahanah ayat 10. It was explicitly conveyed that it is unlawful for Muslim men to marry non-Muslim women and for Muslim women to be given in marriage to non-Muslim men. Accordingly, those Companions who still had non-Muslim wives readily divorced them.

Thus, it is no longer permissible for any newly reverted Muslim to marry a non-Muslim woman. Marrying a non-Muslim woman also poses the threat of irreparable marital discord if both of them continue to practice their own respective faiths. It is also possible that the newly reverted boy develops such an immense emotional attachment with his non-Muslim bride that it becomes difficult for him to remain firm on Islam. In any case, there is no scope for such a marriage in light of the clear guidelines that Islam provides us with. For further details, please read the author's book '*Gair Muslimon se Ta'aluqaat aur un ke Huqooq*' (Relations with Non-Muslims and their Rights).

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## Journey of Hajj without a *mahram*

### Question:

I am a 39 year old sister associated with the Islamic movement and, *Alhamdulillah*, associated with Jamaat-e-Islami Hind since the past five years. I have planned to perform Hajj this year. But I don't have a *mahram* [husband or a male relative with whom marriage is prohibited... Tr] to accompany me. My younger brother has already performed Hajj last year. Two other brothers are not financially sound at this moment. This year, my brother's brother in-law, his wife and brother's aged mother in-law are going for Hajj. I have also planned my Hajj in their company. I have the required money as well. My brother enquired with the local Mufti about this issue. The respectable Mufti, who is a follower of the Hanafi school of jurisprudence, ruled that a woman is not required to perform Hajj if she does not have a *mahram* to accompany her. He also said that if a woman were to perform Hajj without a mahram, her Hajj would be considered valid, but she would have committed a sin.

Sir, I would like to know if other jurists have offered any concession in this regard. Kindly offer a clarification on this issue in light of the Qur'an and Hadith. May Allah reward you abundantly.

**Reply:**

May Allah put blessings in your intention for Hajj. The desire and enthusiasm you have for Hajj is quite natural and a sign of faith.

You have asked whether a woman is required to be accompanied by a *mahram* or is there any concession in this regard. You would also like to know the opinions jurists have on this issue.

The jurists have differing views on this issue. According to Imam Abu Hanifah and Imam Ahmad it is compulsory for a woman to be accompanied by her *mahram* for Hajj. Imam Malik, Imam Awzai and Imam Shafi'i have not stipulated it as a condition for a woman to travel with her *mahram*. Imam Malik avers that if a group of women is travelling for Hajj, a woman may accompany her. Imam Shafi'i rules that a woman can accompany even a single woman for Hajj if she is trustworthy. At one place, even Imam Ahmad has been quoted as saying that a woman is not required to accompany a *mahram* for her first (obligatory) Hajj. However, she should not perform a supererogatory Hajj without the company of a *mahram*. Despite this, the established ruling emanating from the Hanbali school of jurisprudence makes it mandatory for a woman to be accompanied by a *mahram* during Hajj.<sup>1</sup>

It is clear from this discussion that having a *mahram* is not a prerequisite for a woman to undertake the journey of Hajj in the opinion of certain jurists. However, this opinion seems quite weak. Apparently, it is the opinion of Imam Abu Hanifah and his likeminded jurists that is correct. This is because the condition of being accompanied by a *mahram* is

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<sup>1</sup> For the opinion of jurists, please refer: alMughni Li ibn Qudamah, Vol 5, Pg 30-31, Cairo 1992

evident from authentic Hadith. Abdullah ibn Abbas (May Allah be pleased with him) narrates that the Prophet ﷺ said;

لا يخلون رجل بامرأة ولا تسافرن امرأة الا ومعها محرم فقال رجل يا رسول الله! اكتبيت في غزوة كذا وكذا وخرجت امراتي حاجة- فقال اذهب فحج مع امرأتك-

*"A man should never be in privacy with a woman, and no woman should ever travel unless she is accompanied by a mahram. On hearing this, a man asked, 'O Messenger of Allah ﷺ, I have been recruited in a battle while my wife has left for Hajj (has planned her journey)'. The Prophet replied, 'Go and perform Hajj with your wife'."*<sup>1</sup>

My humble opinion is that you should not undertake the journey of Hajj without a mahram.

When you get a chance to avail of a mahram (to accompany you) only then will Hajj become obligatory on you.

<sup>1</sup> Bukhari, Kitaab alJihaad; Muslim, Kitaab alHajj

## The right to custody of child

### Query:

As you are well aware, I have been married to the widow of my late friend. I am satisfied with this decision. The question is that the deceased is survived by a daughter who used to stay with her mother all this while. Now, the child's paternal relatives want to take her with them, causing her mother much agony. She is naturally distressed. Even I want the child to stay with her mother. What should I do? What guidelines does the *Shariyah* provide?

### Reply:

Before we begin, please accept my best wishes for your marriage. Your marriage has indeed made me very happy. At a time when the practice of widow remarriages has drastically come down and many young widows are sitting at home, it is the need of the hour to work towards its promotion. We would thus be able to solve a lot of our social issues. May God keep you both happy and make you both a pillar of strength and support for each other in matters of religion.

The ruling of *Shariyah* on the matter you have asked is that until the mother's remarriage is not conducted, she would have the first right over her children. After marriage, she would lose her right. However, her right would remain intact if she marries someone who is a *mahram* to her child. After the mother, this right is transferred to the maternal grandmother (then great grandmother and so on). Next

in the list of rightful guardians are the child's sister, maternal aunt etc.

In your case, the mother has no legal custodial right over her daughter. However, the maternal grandmother has this right and she can demand this right of hers. If you make some concerted attempts, you might be able to convince the child's paternal grandparents to hand over her custody to her maternal grandmother.

If there is a case of negligence regarding the upbringing of the child, it would be decided by an Islamic court as to who should be given the custody of the child as per Islamic guidelines, according to the circumstances present at that time.

As far as the agony of the mother is concerned, we should be content at believing that there are innumerable aspects of wisdom behind God's commands. We should uphold His commands under all circumstances.

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## Job during *Iddat*

### Query:

I would like to obtain your ruling regarding an issue in the light of the Qur'an, Hadith and contemporary circumstances:

I am a widow. My husband met with his death while travelling to his workplace. I have two children— one is 16 years old and the other is a 9 year old daughter. After my second delivery I had to undergo hysterectomy (*a surgical operation to remove all or part of the womb*) because of some medical complications. This was eight years back and I have never been pregnant since then.

I have a contract job, being appointed only for three-three months at a time. I am the sole earning member of my family. There is nobody in my or my husband's family who can shoulder the responsibilities of my children, nor do I possess any movable or immovable asset that I can utilize to meet our expenses. I have only my salary to support us; and I would not be able to retain my job if I skip work. In such circumstances, how should I pass my *iddat* [waiting period of 4 months and 10 days after the death of the husband... Tr]? I reiterate that I'm employed on a contract basis. If I don't report to work, I would permanently lose my job.

### Reply:

In view of the circumstances you have declared, it is permissible for you to continue with your job during

the waiting period. However, you should restrict your travel to your workplace and compulsorily spend the night in your house, not at any friend's or relative's place.<sup>1</sup> May Allah strengthen you with patience and fortitude and relieve you of your difficulties.

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<sup>1</sup> For details, please refer alDur al Mukhtar ma'a Radd al Muhtar, Vol.2, Pg 854



## Reconciliation during *Iddat*

### Query:

A person pronounced divorce (only once) to his wife. He then reconciled with her seventeen days before the completion of the three month waiting period, upon which he instructed another person who was involved in the matter to inform the same to the wife.

The question is:

1. Would the reconciliation be valid as per Islamic law if the wife is informed about it before the completion of the waiting period?
2. Would the reconciliation be held valid if that person does not inform the wife in time and she gets to know about it after the lapse of the waiting period?

### Reply:

1. If the wife is informed about the reconciliation within the waiting period, the reconciliation would be valid.
2. If the wife is informed after the lapse of the waiting period and she accepts it, the reconciliation would be held valid. But if she does not accept it, it would not be considered valid.<sup>1</sup>

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<sup>1</sup> This is mentioned in the renowned book of Hanfi jurisprudence, 'Mukhtasar alQadoori', Hidayah Vol 2

## Forms of paying *mahr*.

### Query:

I would like to ask you five questions on Islamic law. I hope you answer them:

1. Zaid has been married since several years, but he is yet to pay his wife her *mahr* (the payment a groom makes to his bride in cash or kind upon marriage). The *mahr* was *Muwajjal* (deferred) in nature. Now is he required to pay the entire amount at one go or can he pay it in monthly installments because of some necessity? His wife is not demanding the *mahr*. He only wants to fulfil an Islamic requirement.
2. Would Zaid be guilty of sin if his wife does not demand her *mahr* all her life?
3. Can the wife be made to forego the *mahr*? It is known that she would have to be paid whenever she demands it due to Islamic requirements and a sense of morality.
4. Can *mahr* be given in the form of gold jewelry?
5. If gold can be given in *mahr*, can the gold jewelry that Zaid had given his wife as *bari* during the wedding be counted as *mahr*? The value of the ornaments is the same as the *mahr* decided.
6. Can *mahr* be given in a form other than cash, like property?

### Reply:

The answers to your questions are as follows:

- 1.. If the *mahr* was deferred, Zaid can pay it up whenever he wishes. If the wife is comfortable

- with it, the *mahr* can be paid in installments; it is not necessary to pay it up in one go.
2. Why would the husband be considered guilty of sin if the wife does not demand her *mahr* all her life? But it should be clearly understood that it is obligatory upon the husband to pay the *mahr*. He does not stand absolved if the wife does not demand it. It is the duty of the husband to pay it up, whether or not the wife demands it.
  3. The wife can be made to forego the *mahr*. She cannot demand it after once having forgiven it. However, she should not be compelled to forego the *mahr*.
  4. There is absolutely no harm in giving gold as *mahr*.
  5. While giving the jewelry to his wife, if Zaid had made it clear that this is being given in place of the *mahr* amount or if that jewelry is normally considered to be given in place of *mahr*, then the *mahr* would have been paid. If neither of these is true, then that jewelry would be considered to be a gift and the *mahr* would have to be paid separately.
  6. Apart from cash, anything that holds value can be paid as *mahr*. Hence, paying it in the form of property is also allowed.
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## Partnership of Child in Business

### Query:

1. Can Zaid make one of his adult children his business partner offering him half or quarter of the share?
2. If the child has thus been made a partner, can the child claim ownership of the decided share?
3. If the decided share is taken by the father or a child, in part or whole, would they be guilty of infringing upon *huqooqul ibad* (the rights of God's creation)?
4. Would the household expenses be managed by one of the two partners or from the joint income?
5. If something has been bought from the joint profit, would both the partners be entitled to it or only one of them?

### Reply:

The answers to your questions are as follows:

1. Zaid can make his adult child a partner in his business. There's nothing wrong with it.
2. Every child would be the owner of the business in proportion to his/her share.
3. Nobody else can take the share of the child.
4. Every person is responsible for the provisions of his wife and children. Hence, he would shoulder the responsibility. If the children are

well-to-do, they would shoulder the responsibility of their respective wives and children.

5. Anything purchased from the joint profit would be owned by the partners in proportion to their share in the business. This applies to the children who are partners as well.

In such cases, it should be understood that the other children should not be adversely affected and no injustice should be meted out to them. If due care is not taken, he would be guilty of a major sin. May God keep us all protected.

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## Certain Social Issues

I had the opportunity to address a gathering of women during my Hyderabad trip. It was a pleasure to know that there is a marked increase in the religious leanings of educated women in Hyderabad, and along with the refinement in their knowledge and ideology, there is a transformation in their lives as well. I made a remark in my address that today everywhere there is a hue and cry that the rights of women are not protected in Islam, although only those people can claim such things who are ignorant of Islamic teachings. It is also said that Muslim women are very much oppressed today, being victims of all forms of injustice. This is also a hyperbolic statement. It cannot be denied that some Muslim women *are* subjected to atrocities and unkind treatment by their husbands. Similarly, mistakes and injustice are committed by women as well. However, these have nothing to do with Islam per se. Islam has united the husband and wife in bonds of love and has granted strength to the family system through them. Issues start building up only once this environment of love dies out. I also countered certain allegations that are usually hurled at the family system of Islam.

Then I asked them all to ponder upon the irony as to why are those people sympathizing with Muslim women who have otherwise no empathy for Islam and Muslims and who leave no stone unturned in opposing it. The obvious reason is that while Islam has been successfully driven out of various fields of life, it is

still quite strong and secure within the family. Its enemies wish to take down *this* fortress of Islam. To achieve this, they have planned to convince women to oppose the family system of Islam so that she may revolt against this system under the pretext of reclaiming her usurped rights, start seeing her husband and parents as her enemies, divert the children away from Islam and make them tread the path of apostasy. This is in fact a conspiracy to deflect the entire Muslim community away from Islam under the garb of sympathizing with its women. We should give a serious thought to this issue. At the same time, it is our responsibility to solve the doubts and dispel misunderstandings of people regarding Islam and help them in understanding Islam better.

After the lecture, the women came up with a series of questions that proved that our women ponder over wide ranging social issues and are eager to seek their solutions. The questions were asked in writing, to which replies were given orally. Later, they have been compiled by our dear brother, Dr. Raziul Islam Nadvi.

### **Question: Planning for practical revolution among the youth**

Intellectual revolution always precedes practical revolution. While we do observe an intellectual revolution in our youth, we hardly see any practical revolution on ground. What can be done to overcome this deficit?

### **Reply:**

If the mind of an individual or group has been transformed in the right manner, then there should necessarily be a reformation in his/their life. It is not at

all possible that a person's mind is revolutionized, but his practical life lacks any sign of revolution. Hence, we need to analyze whether the intellectual awakening that we so often claim is actually present or not. Is it just a topic of study, debates and arguments or has it actually penetrated the mind? If it has indeed penetrated the mind, then there should also be a transformation in his acts and deeds. Hence, the first and most important task should be to transform the minds of the youth. This would definitely be followed by a positive change in their lives.

**Question: Lack of cooperation between spouses in the field of propagation of Islam**

We are immensely grateful to God that you have expounded upon the relationship between a man and his wife in much detail in your lecture. It is often seen that while husband and wife work together with mutual cooperation and compatibility in all spheres of life, this is not their case with the propagation of Islam where their spirit of mutual support seems missing. Why is this so?

**Reply:**

This is an absolutely correct observation that husband and wife support each other in all matters of life, but when it comes to striving in the field of propagation of Islam, they either forsake their habit of mutual cooperation or do not show the expected level of cooperation. The fundamental reason for such an attitude is that religious matters are not given the amount of attention that worldly matters are graced with. If the importance of religious work dawns upon



them, they would surely show the same restlessness that they show for worldly affairs.

**Question: Pursuit of higher education by girls while abiding by Islamic limits**

In today's age can a girl not pursue higher education- while abiding by the limits set by God- or can she not take up professional courses like medicine?

**Reply:**

In our country, by and large, the facilities of higher education are not in the hands of Muslims. The limits of God are sparingly adhered to even in those institutions that have been established by Muslims. At the same time, it has become extremely important for women to gain expertise in professional fields like medicine in contemporary society. While it cannot be completely avoided, it is also beneficial for the community as a whole. Hence, in my personal opinion, girls should be allowed to take up such courses while abiding by the limits of God as much as possible. Muslims should also strive to see to it that there are adequate facilities available for Muslim girls to pursue higher education within Islamic limits.

**Question: Employment of women in foreign countries without a *mahram***

Is it acceptable for unmarried girls to go to foreign countries without a *mahram* to earn a few pieces of silver?

**Reply:**

It is not lawful for a young woman to embark upon a long journey or stay in a foreign country without a *mahram*- irrespective of whether she is married or not. Islam has not permitted it. Those girls or young women who are engaged in this activity are going against Islamic teachings.

**Question: Definition of *fahash* (immorality)**

Islam has forbidden '*fahash*'. Please explain what constitutes *fahash*.

**Reply:**

*Fahash* includes all those acts that are considered shameful and immoral by sound human nature and have been enlisted as shameful deeds by Islam.

**Question: Limits of a woman's dress (*satr*)**

Does the woman have to cover her toes as well?

**Reply:**

According to Hadith, the woman can keep her hands and face uncovered in the presence of unrelated men in certain situations. Islamic jurisprudence has also allowed the exposure of feet because it is quite cumbersome to keep the feet covered (say, by wearing socks) at all times.

**Question: A husband sponsoring his wife's Hajj**

If a man sponsors his wife's Hajj from his own money, would it be considered valid for the wife?

**Reply:**

Yes, it would be considered valid.

**Question: Restriction over voice**

Is there a restriction over a woman's voice or not?

**Reply:**

It is not desirable for a woman to speak casually with unrelated men. However, she is required to speak to them for a number of educational, religious and financial needs. In this regard, the Qur'an instructs women 'not to be soft and alluring while speaking to unrelated men, lest he in whose heart is a disease should be moved by evil desire' [Surah alAhzab ayat 32]. Instead, her tone should be somewhat firm and stern. She should speak only that which has some religious or worldly benefit. A woman can speak to strangers in accordance with these guidelines.

**Question: Going to a wedding hall during *iddat***

A woman's son is getting married while her waiting period is not yet over. Can she go to the wedding hall?

**Reply:**

During her waiting period, a woman can leave her house only for unavoidable reasons like medical treatment. Attending the wedding of her son is not included in the list of 'unavoidable reasons'. Hence, she should not attend the function.

**Question: Leader of women's congregational prayers**

Can a woman lead a congregation of women in prayer?

**Reply:**

As per the Hanafi school of jurisprudence, a woman cannot lead other women in prayer. But in my personal opinion, if the congregation consists only of women, she can lead them. A detailed discussion on this topic has been published in my book 'Aurat Islami Ma'ashre Mein (Woman in Islamic Society)'

**Question: Birth Control**

To what extent is birth control permissible? It is known that a shortened interval between two pregnancies leads to health problems for the mother and improper upbringing of the children. Hence, can this interval be prolonged using artificial techniques?

**Reply:**

The Qur'an has stated that the child should be breastfed for two years. In my opinion, it would not be impermissible to defer the pregnancy during this period using suitable techniques.

**Question: Avoiding feuds between mother-in-law and daughter-in-law**

These days, feuds between mother in-law and daughter in-law have taken a serious turn, in utter disregard for law and Islamic principles. What steps should be taken to avoid them?

**Reply:**

It is indeed an undeniable fact that the feuds between mother in-laws and daughter in-laws have become quite common. Perhaps there is hardly any house that is left untouched by its snare. The mother in-law feels that the son belongs to him and she alone is entitled to all his love and attention. Fights begin

when she notices that his bride is taking away a share of that love and attention. However, the mother in-law should understand that the bride has some rights over her husband that he is obliged to fulfil; he cannot ignore or neglect them. It is also against reason to presume that her young son would not love his wife or have love and affection for her. Hence, it should very well be accepted by the mother that she would no longer be the sole claimant of the love of his son after his marriage. She would definitely change her attitude if she has this at the back of her mind.

Along with this, the daughter in-law should also realize that just as she has her parents, the groom also has his parents; it is obligatory upon him to love them, serve them and to discharge his duties towards them. He cannot neglect them. Moreover, it is an essential part of her love for her husband that she should love his mother as her own mother and consider it virtuous to serve her. If she accepts this, it would be helpful in avoiding many a skirmish between them.

**Question: Is it mandatory for a daughter-in-law to serve her in-laws?**

After marriage, it is time and again emphasized by the bride's relatives that it is not mandatory for their girl to serve her in-laws. How true is that?

**Reply:**

Legally, the bride is not obliged to serve her in-laws (husband's sisters, brothers, parents etc.), contrary to what is traditionally accepted as a norm in our society. The bride is basically related to her husband. Hence, she is not legally required to serve them. However, she should take care of her husband's

relatives out of moral considerations. Likewise, the husband's relatives are also required to take care of his bride. They should adopt a kind and loving attitude towards her, not an atrocious one. It is by this that our society can be reformed.

**Question: Priority between domestic work and work for religious propagation**

Women have been given the responsibility of propagating Islam within certain parameters. However, there arise some situations where the woman is required to work for religious propagation and at the same time discharge her responsibilities towards her husband and children. In such cases, what should be our priority?

**Reply:**

In such situations, the rights of husband and children would be given priority. A woman should always participate in outdoor activities after having discharged her responsibilities at home. It is not right for her to engage in work for religious propagation while neglecting her domestic responsibilities. Moreover, this would eventually lead to hurdles in her Islamic propagation activities.

**Question: Staying and sharing meals with non-Muslim parents**

Can a non-Muslim woman, upon accepting Islam, continue to reside and share meals with her non-Muslim parents?

**Reply:**

After accepting Islam, as long as that woman does not have her own source of income, she can continue to reside and share meals with her non-Muslim parents. However, she should abstain from those foodstuffs on which the name of a deity other than Allah has been pronounced.

**Question: Will the female head of state be in charge of men?**

Islam has designated men as managers over women. However, if a woman becomes head of state in a particular country, would she become in-charge of the male populace?

**Reply:**

Islam has made man the manager in the family system. Also, it has made it clear that a woman cannot be burdened with the leadership of the state. Hence, this question does not arise that if a woman becomes head of state in a particular country, would she become in-charge of the male populace. I have elaborated upon this in my books, 'Aurat Islami Ma'ashre Mein' and 'Musalman Aurton Ke Huqooq'. You may refer those.

**Question: What etiquettes should a woman follow while going out of her house?**

There is no denying the fact that a woman is allowed to go out of her house while abiding by Islamic limits. However, we are currently facing a deluge of moral and social evils in contemporary society. In this condition, how should we benefit from this allowance? And what should be the role of Muslim women in this regard?

**Reply:**

There are a number of religious and worldly matters that require a woman to leave her house. She can do so by covering herself with a veil. She should try to protect herself from the evils you have mentioned.

**Question: Maintenance of divorced women**

You have explained in your address that, as per Islamic law, a woman is not left unsupported even after her divorce. Her responsibility rests with her parents and other close relatives. May I know the juristic provision for such a divorcee whose parents, children and other close relatives are not financially equipped to shoulder her responsibility?

**Reply:**

It is quite improbable that the lady would not find any relative who could shoulder her responsibility, or have relatives who are financially so deprived that they are unable to do so. If there indeed is such a case, it is the responsibility of the community to set up a "*bait al maal*" (community fund / treasury) that would look into the needs of such widowed or divorced women.

**Question: Investing in Fixed Deposit**

Can a widow use the returns gained from the money deposited in a Fixed Deposit to support herself? I ask this because it is not safe to engage her in business.



**Reply:**

This is obvious interest. Every Muslim should stay away from it. It would be advisable to engage her in a business that is safe for her.

**Question: It is mandatory to share profits and losses in a business**

These days, people only want to share in the profits that a business makes, in which they have invested. The partner wants to be paid his share of profits, irrespective of the losses incurred by the owner / entrepreneur of the business. Is this permissible? At times when the loss is severe, the owner is compelled to take loans to pay the partner. Do business partners not equally share in the Profit and Loss of the business concerned?

**Reply:**

It is mandatory for people who wish to participate in a business to share in its Profit and Loss. It is not compliant with Islamic law to only share in the profits and not in the losses. This, in fact, is a form of interest.

**Question: Gifting the meat of sacrifice to a non-Muslim**

Can the meat of sacrifice be distributed among non-Muslims or given to them as a gift?

**Reply:**

Yes, there is nothing wrong with it.

**Question: Regarding the usage of television**

Certain people declare television to be unlawful and prohibited, despite it being a part of media. Can we watch educational and reformation programs on

television? Kindly expound upon its positive and negative aspects. Is it permissible to watch images of men and women that are shown on television?

**Reply:**

Television is undoubtedly an instrument of media, but it is currently in the hands of those people who are not bound by moral and religious obligations. That is why most of the programs shown on television are against Islamic teachings and the rules and etiquettes it has established. On the other hand, it also telecasts some very informative and reformatory programs, which also have images of men and women. I believe that the latter types of programs can be viewed. However, it is always recommended to lower one's gaze when the image of an unrelated person of the opposite gender is shown.

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