

of his having done so and shall supply a copy thereof to the wife.

- (2) Whoever contravenes the provisions of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to one year or with fine which may extend to Rs.5000j- or with both.
- (3) Save as provided in sub-section (2) a Talaq unless revoked, earlier, expressly or otherwise shall not be effective until the expiration of 90 days from the day on which notice under sub-section (1) is delivered to the Chairman.
- (4) Within 30 days of the receipt of notice under Sub-section (1) the Chairman shall constitute an Arbitration Council, for the purpose of bringing about a reconciliation between the parties and the Arbitration Council shall take all steps necessary to bring about such reconciliation.

خوشخبری

مفتی محمد رفیق الحسنی صاحب کی

ایک اور خوبصورت کتاب شائع ہو گئی

رفیق الغافلین

موت اور موت کے بعد کے واقعات و مسائل

پر مشتمل عمدہ انتخاب

ناشر: جامعہ اسلامیہ مدینۃ العلوم

گلستانِ جوہر بلاک 15 کراچی

be submitted to the Chairman, in the prescribed manner, together with the prescribed fee, and shall state the reason for the proposed marriage and that whether the consent of the existing wife or wives, has been obtained thereto.

- (c) On receipt of the application under sub-section (2) the Chairman shall ask the applicant and his existing wife or wives, each to nominate a representative and the Arbitration Council so constituted may, if satisfied that the proposed marriage is necessary and just, grant, subject to such conditions, if any, as may be deemed fit, the permission applied for.
- (d) In deciding the application, the Arbitration Council shall record its reasons for the decision and any party, may, in the prescribed manner, within the prescribed period and on payment of the prescribed fee prefer an application for revision to the Collector concerned and his decision shall be final and shall not be called in question in any court.
- (e) Any man who contracts another marriage without the permission of the Arbitration Council shall:
- i) pay immediately the entire amount of the dower, whether prompt or deferred, due to the existing wife, or wives which amount if not so paid, shall be recoverable as arrears of land revenue, and
 - ii) on conviction upon complaint, be punishable with simple imprisonment, which may extend to one year or with fine which may extend to 5000/- (Five thousand) rupees or with both.

The Family Ordinance has also made certain special provisions relating to divorce or separation between husbands and wives. Sec. 7 lays down that :

- (i) Any man who wishes to divorce his wife, shall as soon as may be, after the pronouncement of 'Talaq' in any form, whatsoever, give the Chairman, notice in writing,

and the Sunnah make it obligatory for women and men to acquire knowledge.

This Hadis, for once and for all, enjoins on women to compete rather excel men in education because ILM is a virtue and exceling each other in Hasant is the intent of the Islam Shariah.

Rights & Safeguards for Women And Family Laws Ordinance:

For the safeguard of Muslim married couple section 5 of the Family Laws Ordinance provides for registration of Muslim marriages, it says that:

- (1) Every marriage solemnized under the provision of this Ordinance shall be registered, and
- (2) For the purpose of registration of such marriages the Union council shall grant licences to one or more persons to be called NIKAH Registrars, but in no case shall more than one Nikah Registrar be licenced for one Ward.
- (3) It provides further that every marriage, not solemnized by the Nikah Registrar, shall, for the purpose of registration, under this Ordinance, be reported to him by the person who has solemnized such marriage.
- (4) Whoever contravenes the provisions of sub-section (3) above shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees or with both.

The following are the further provision of this Ordinance :

- (a) Section 6(1) prescribes that no man, during the subsistence of an existing marriage, shall (except with the previous permission in writing of the Arbitration Council), contract another marriage, nor shall any such marriage, contracted without such permission be registered under this Ordinance.
- (b) An application for permission under sub-section (1) shall

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who lack vigour or children who know naught of women's nakedness.¹

The manner of speech too is not left to ones wild imagination. Rather in a precise way, the Quran says:

“Be moderate in your bearing, and subdue your voice.”

It deserves to be noted that these enjoinderment in the Quran are not for women alone. Transcending a sexist language. The Quran addresses itself to human beings in general and to the believers women in particular.

Political Opinion Making :

Shura (counselling and consultation) Istihsan (preference) and Ijma (consensus) are institutions which ensure people's participation in processes of decision making in relation to all strategic and crucial issues.

This participatory process 'is not confined to men. One very obvious example from our early history is the election of the third rightly guided Khalifah in which the nomination and election committee, appointed by the outgoing Khalifah Umar-al-Khattab, sought opinion of men as well as housewives regarding their preference for the Khalifah. Umar-al-Khattab is reported to have referred several matters for expert and legal opinion to the Shabiyat and Ummahtul Mominin.

Some persons infer that since women are permitted to participate in Jihad and do make Haj in a non-segregated manner, Islamic society is a permissive secular society in which free mixing of sexes and even in the name of culture of the land artistically unveiling their beauty to crowds who have paid the price of any entry is allowed. This degradation of womanhood and commercial exploitation of sex has nothing to do with Islam.

Education :

Besides political opinion making, Islam emphasizes popular education of men as well as women. It is so crucial, that the Quran

1. The Quran 24: 30:31.

Moral & Legal Equality:

In terms of legal obligation it would be redundant and illogical to seek an equality, obligations must be equitable and reasonable. However, in terms of moral or legal violations, misconduct or inequity being human law must not discriminate between them. Here again Islam has taken a lead over its Western contenders by being just to men and women. The Quran is explicit about the equity in rewards and punishments in this world as well in the life hereafter.¹

The universal and uniform principles of Taqwa, Adl, Maruf and Munkir, determine the fate of men as well as of women. Unlike Judaism or Christianity, Islam does not discriminate against women in view of her essential structural weakness.

Equity in Dealings:

While dealing with transaction and matters of legal value, Islam takes a positive, constructive and definite approach that:

- (1) first obligations must be met,
- (2) second moral, ethical behaviour and attitude must be maintained, and
- (3) third in case of an oversight or error, necessary evidence must be procured by the claimant.

'Haya' the corner stone of Islamic personality require from each sex to be no less than honest to oneself in observing ones obligations. Therefore, not only physical appearance but even gaze, voice, gestures and vision must be Islamized. So the Quran declares:

“Tell the believing men to lower their gaze and be modest. That is truer for them.”

“Allah is aware of what they do. And tell the believing women to lower their gaze and the modest and to display of their adornment only that which is apparent, i.e., only face and hands and draw their veils over their bosoms and not to reveal their adornment save to their own husbands or husbands' fathers or their sons or their brothers or the brothers' sons or sisters' sons or their women or the slaves or male attendants

1. Ibid., 71,24,72,12,47,19,45,5,57.

She was regarded in the light of an evil, indispensable for the ordering of a household and procreation of children. An Athenian was allowed to have any number of wives, and Damosthenes gloried in possession by his people of three classes of women, two of which furnished the legal and semi-legal wives.

WOMEN'S RIGHTS

Women in their own rights and not as a favour, own what belong to them, through inheritance, gift from their parents, husband, children, or other blood relations.¹ However the Westernized, Secularized or in many situations paganized persons, who follow Tabarujat al Jahiliyyah do observe a variance towards women.

Islam rejects it and dissociates itself from this injustice and zulm. It makes it abundantly clear that even after marriage, husband, does not automatically (or per force) becomes owner of his wife's belongings; the famous Badis attempts to correct male psychology by saying:

“People marry a woman due to four qualities Wealth, Beauty, Linage or Din and then it asserts, Educates and instructs that best is one who seeks Din or Taqwa.”²

This introduces a change in attitude, behaviour, outlook, and sets the direction of moral, ethical and social evolution of an Islamic Society. The fact that the Quran, individually and specifically, enjoins Zakat on believing women and men, reconfirms that whether married or bachelor, widowed or divorced, the economic independence of women requires individual obligation to pay Zakat.³

Her economic independence and personal monetary status does not affect the (male) head of the family's obligation to take care of household, as well as to provide for her, health, care housing and other necessities.⁴

1. The Qur'an., 4:7.

2. Ibid., 2371.

3. The Qur'an., 23:4.

4. Ibid., 12, 4:34.

temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.

Until the expiration of a period of 10 years from the commencing day or the holding of the second general election to the National Assembly whichever occurs later, ten seats in addition to the number of seats referred to in Clause (1) shall be reserved for women. Until the expiration of a period of ten years from the commencing day or the holding of the second general election to the Assembly of a Province, whichever occurs later, there shall be in the assembly a number of additional seats reserved for women equal to five per cent of the number of members of that Assembly.,

**BEFORE PROCEEDING FURTHER STATUS OF
WOMEN IN PRE-ISLAMIC SOCIETY AND
THE POSITION, CONTRIBUTION OF WOMEN IN
IMPROVEMENT OF THEIR LIFE**

In various stages of social advancement, polygamy, i.e., the union or one 'man with several women, has been an unavoidable circumstances, which in our advanced stages of civilization is justly regarded as durable evil.

Among the Hindus, polygamy, prevailed from the earliest times and there was apparently, no restriction as to the number of wives a man might have. A high caste Brahman, even in modern times, is privileged to marry as many wives as he chooses.

Polygamy existed among the Israelites, before the time of Moses, who continued the institution without imposing any limit on the number of marriages which a Hebrew husband might contract.

To the Persian's religion offered a premium on the plurality of wives. Among the Thracians, Lydians, and the Pelasgian race settled in various parts of Europe and Western Asia, the custom of plurality of marriages prevailed to a great extent.

Among the Athenians, who are said to be the most civilised and cultured of all the old nations of antiquity. The wife was mere chattel marketable and transferable to others, and a subject of testamentary disposition.

Therefore, towards making a good home life, and for the welfare of family, both husband and wife have to play important roles. Islam has thus given detailed instructions for the welfare and benefit of the family. It guides man not only in his relations to Allah, but also in his social relations. The scope of religion of Islam, therefore, is very wide and covers the whole field of the relations of man to man and Allah.

**THE CONSTITUTION OF PAKISTAN ALSO IN OUR
FORM, OR THE OTHER SAFEGUARDS THE RIGHTS
OF WOMAN AGAINST DISCRIMINATION
IN SERVICES PROTECTION
AGAINST FAMILY - PROTECTION OF SOCIAL AND
· ECONOMIC WELL-BEINGS.**

All citizens are equal before law and are entitled to equal protection of law.¹ There shall be no discrimination on the basis of sex alone.² No citizen, otherwise qualified for appointment in the service of Pakistan, shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth.³

The State shall protect the marriage, the family, the mother and the child.⁴ Article 38 provides that the State shall secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living.

The State shall provide for all citizens, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure. The State shall provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means.

The state shall provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all citizens, irrespective of sex, caste, creed or race, as are permanently or

1. Pakistan Constitution 1973, Article 25(1)
2. Ibid :Art .25(2)
3. Ibid :Art .27.
4. Ibid :Art .35.

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Therefore, if the duty of maintenance of the family, has been entrusted to the man, the duty of bringing up the children and managing the household has fallen on the woman. The Holy Prophet (PBUH) describes her position in the home as that of Raiyah (watcher or guardian).

Every one of you is a guardian (and responsible for those under him) and every one, shall be questioned about his subjects. The Amir (the head of state) is a guardian, and the man is the guardian of the people of his house and the woman is the guardian of the house of her husband, and his children. So every one of you is a watcher (and guardian) and everyone shall be questioned about his subjects (the people under him).

The division of work, described above, is only a general rule. It does not exclude women from other activities. A study of Hadis literature shows that notwithstanding her rightful position in the home, women also took part in the activities pertaining her community.

Another very important duty of a wife is to guard conjugal rights of the husband through abstaining from doing any thing that may, in the least measure, violate her chastity.

The Holy Quran allows a husband to pay attention, and to adopt a somewhat of stern attitude towards his wife, if he has sufficient proof, that her moral conduct is not good.

The Holy Quran further allows such measures in the case of rebellious and refractory conduct on the part of the woman and includes resisting her husband and hating and deserting him.

The Holy Quran says:

“As to those (wives), on whose part you fear rebellion and desertion, admonish them (first). In case that does not reform their conduct, banish them to beds apart. Lastly, if they still prove to be incorrigible you are permitted to chastise them - so if they obey you, seek not a way against them.

Surely Allah is very Exalted and Great.

At the same time Kuf could be considered in some respects like education and social status - The marriage of a well educated boy and vice versa will not be very successful.

Similarly, if a girl brought up in a decent, educated and cultured atmosphere be married to a boy given to unhealthy habits then the marriage may be utter failure.

Mutual Relations of Husband and Wife:

The Holy Quran puts a great emphasis on the mutual relations of husband and wife, and describes them as one of a single soul in two bodies. It says:

“He created mates for you, from yourselves _ that you might find comfort in them: and He put between you love and compassion.”

In another beautiful way the Holy Quran describes the mutual relation of husband and wife as follows :

“They (your wives) are an apparel for you an apparel for them.”

Thus, the relations between husband and wife, have been conceived as based upon mutual co-operation, love and compassion. There, the family concern must be kept going by husband and wife in mutual co-operation.

Normally, a husband is mainly required to earn for the maintenance of the family, while she (the wife) has to play a key role in the management of the household, and the bringing up of the children. The rights and duties of each against the other are therefore, centred around these two points.

Mutual Division of Work:

There is a natural division of work to be carried out for the progress of humanity between man and women. If man is suited to face the hard struggle of life. Due to his stronger physique and built, woman excels the man in the qualities of love and affection which are most suited to her household responsibilities.

علم و فن میں حضرت امام احمد بن حنبل رحمہ اللہ علیہ کا کوئی ثانی نہیں : (محمد ابو زرعہ)

jurisprudence technically calls the mutual consent as affirmation, or declaration (Ijab) and acceptance or consent (Qubul).

Wife's Right to Dower and Maintenance :

As a matter of fact the payment of Mahr on the part of the husband to the wife, is a clear admission of the independence of the wife, for she becomes the owner of property immediately on her marriage.

No marriage therefore, is lawful without the payment of Mahr to the woman. If the amount of the Dower (Mahr) is not fixed before hand, the wife can demand it according to her status. Although Islam gives complete freedom to man and women to fix the Mahr, the practice of the Holy Prophet (PBUH) and his companion was to fix a moderate amount of Mahr.

Kuf in Marriage :

'Kuf' which means an equal (or one alike) has been required by a number of jurists in four things; Religion, Freedom, Descent and Profession. Imam Malik in this respect differs from others saying that Kafah (equality) is brought about by religion, that is to say, all Muslims are alike or equal.

Imam Shafai does not declare a marriage outside the Akfa to be illegal (Haram). As far as Particular race or tribe is concerned, it should not stand in the way of marriage, under the umbrella of Kuf, because the Holy Quran declares:

"The believers are brethren.

It also says:

"The believers men and women are friends (Awliya) to each others."

And another place, it says:

"O; Mankind surely we have created you from a male and a female and made you tribes and families, that you may know each other. Surely the longest of you in the sight of Allah is the most righteous of You."

حضرت امام شافعی رحمہ اللہ علیہ فرمایا کرتے کہ : امام مالک اور سفیان بن عیینہ نہ ہوتے تو حجاز سے علم رخصت ہو جاتا

The benefactor of mankind repeatedly said, "Your women, your women".

Perhaps, the uniqueness of Islam lies in the fact that it liberated mankind, for the first time, from the alleged sin which had put the blame of man's descent on woman. In the following pages we are going to touch upon some general principles that deal with the status of woman in Islamic Social Frame-work.

The Quran conclusively rejects the myth of women being the cause of man's descent on the earth. Indeed Adam and Eve both lapsed. But when they sought Allah's forgiveness Allah forgave them and they regained a state of purity.

To end sex variance and discrimination as the basis, the Quran declares the common goal of mankind as realization of Adl, - Taqwa - Establishment - of Maruf (virtue) and - Eradication of all kinds of oppression (legal or moral) - Elimination of Zulm, Injustice, Deprivation, Maltreatment, Tyranny, Vitiating, polytheism, Immorality, Pollution and Social contamination and Negation of 'Faitnah-wa-Al-Fasad'.

A woman is the guardian of her home and she is responsible for the comfort of her husband and children and it is her responsibility to keep the house in order. She should spend wisely and ensure that an atmosphere of piety prevails at home to help the moral growth and upbringing of her children. She should also see that no other man enters her home in the absence of her husband and she should also guard her chastity.

The Holy Prophet Muhammad (PBUH) used to go to his wives to relax his mind. This was not the only way but certainly it was one of such ways. A wife is thus expected to contribute to the success and peacefulness of marriage and consequently, the family.

Essentials in Islamic Marriage :

In the Holy Quran the marriage is also called a covenant (Mithaq) between the husband and the wife. The marriage contract is entered into by mutual consent, expressed by the two parties the husband and wife in the presence of witnesses with the mention of 'Mahr' (Dower) to be given by the husband to the wife. Islamic

☆ قال الشافعي رحمه الله تعالى : الفقهاء كلهم عيال ابي حنيفة في الفقه ☆

STATUS OF WOMEN IN ISLAM

By: Dr. Nazeer Akhtar
L.L.M. Ph.D

Before we respond briefly to this important question, it might be appropriate to say that Islam approaches this issue not from a sexist point of view, but from an ethico-psychological perspective. The guidance on this subject were exemplified in the life and practice of our Holy Prophet Mohammad (PBUH).

Allah has created man and woman to play the most important, but distinct, roles in human society. The biological development of a woman and the very organism of her structure denotes that she is born with maternal instincts.

During marital life, good character, kind treatment, mutual counselling and support --- helping with the work at home --- mutual respect and avoidance of physical punishment --- whenever, possible, stability, when facing difficulties loyalty and a continuous struggle together as a team.

Throughout the family life of our Holy Prophet (PBUH) we notice that certain things were missing. There was no shouting no beating and no divorcing. The differences existing between man and woman are of more fundamental nature than is usually realised and those differences are caused by the very structure of the tissues and by the impregnation of the entire organisation.

THE ISLAMIC APPROACH TO SEX ROLES

Extraordinary importance is given to sex roles is evident in the charter given to humanity by our Holy Prophet (PBUH) in his last sermon:

That obligation and not rights, will be the frame of reference about roles was said once, and for all.

Reminding humanity, of the tremendous obligations, it has, towards women an obligation to respect honour and recognize them in their own rights.

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