

## Impacts of Lawlessness on our Society: A Case Study of Karachi City

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### ABSTRACT

*The first ever form of society began upon start of life from Hazrat Adam (AS) on earth. At the ancient ages men started living near water resources like rivers. Creation of human beings is the "Climax" of creator of this large universe. The society revolves around human being and depends upon their cooperation. In legal terms the society is all about the duties and obligations of its members. To flourish and prosper the healthier society respect and adhering of rights & obligations are very necessary. Another phenomena of any civilized society is a fair justice system. Obedience is the key factor as Allah orders human being and all his creations to obey their creator for peace and harmony.*

*Indeed Allah is the supreme power to govern all the systems of universe, however He empowered human beings on His behalf. To govern any society a set of rules & regulations are mandatory under an implementing authority whether it is divine or selected. Provision of quality education & fair justice system are the solution of our social problems.*

**Keywords:** Creation of Human, Society, Rules and Regulations, Lawlessness, Social Problems

### INTRODUCTION

We can observe that Lawlessness goes all around in our society. The robberies, kidnappings and riots are the extreme fringes of it, but people even do not much obey the very common like traffic, environmental, civic, and tax laws. The mankind is the Climax of Creation of God on this universe. Allah says in Quran:

*"O mankind, indeed we have created you from male and female and made you people 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" (49:13)<sup>1</sup>.* Definitely the supreme power is Almighty Allah to govern this universe, however he empowered human being to govern the society. As in Quran :

*"O Allah, owner of sovereignty, you give sovereignty to whom you will and you take sovereignty away from whom you will. You honour whom you will and you humble whom you will. In your hand is (all) good. Indeed, you are overall things competent" (3:26)<sup>2</sup>.* The Allah created all the creations at this large universe with his special blessings to give their benefits to the mankind. Allah says in Quraan:

*"Indeed, in the creation of the heavens and earth and the alternation of the night and the day, and the (great) ships which sail through the sea with that benefits people, and what Allah has sent down from the heavens of rain, giving life thereby to the earth after its lifelessness and*

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Date of Receipt: 19-02-2017

28. [40][43] [60]Glatzer, B. (2002). The Pashtun Tribal System“, in Pfeffer, G. and Behera, D. K. (eds.), 2002, „Concept of Tribal Society“, Concept Publishers, New Delhi, pp. 265-282
29. [33] Olesen, A. (1995). *Islam and Politics in Afghanistan* (Surrey: Curzon Press, 1995), 33.
32. [57]Ahmad, S.A. (1983). *Pathan Society*, Area Study Centre, University of Peshawar; Winter.
34. Singh, G. (1959). *Ahmad Shah Durrani: Father of Modern Afghanistan*. Bombay: Asia Publishing House.
36. [55] [62]Hussain, I. (2005). Some Major Pukhtoon Tribes Along with the Pak-Afghan Border. Area Study Center University, Peshawar.p.v.
37. Ahmed, S. A. (1976). Millennium and Charisma among Pathans. A Critical Essay in Social Anthropology. London: Routledge and Kegan Paul. p. 76.
41. Roy (1998). *Indigenous Rights at Risk: A survey of the indigenous peoples of South Asia*, in BK Roy Burman., and Berghese, BG, eds, Aspiring to Be: The Tribal/Indigenous Condition (Delhi): Konark Publishers.
42. [50] Spain. W. J. (1963). *The Pathan Border Line*. Mouton, The Hague. p.69.
45. Ahmed, S. A. (1975). *Millennium and Charisma among Pathans. A Critical Essay in Social Anthropology*. London:Routledge and Kegan Paul.p. 76.
47. Knabe, E. (1974). Afghan Women: Does Their Role Change?“ in Louis Dupree and Linette Albert (eds.), *Afghanistan in the 1970s* (New York: Praeger), 147.
48. Ismati, M. M. (1987). *The Position and Role of Afghan Women in Afghanistan*. Kabul: Center of Social Science DRA.
51. Lelwellyn, S. S. (2006). *Devolution of Forest Management: A Cautionary Case of Pakhtun Jirga in Disputes Settlement*. Human Ecology 34 (5):637-653.
53. Ritzer, G. (2000). *Sociological Theory* (5<sup>th</sup>, ed). McGraw Hill. p.475.
54. Sypnowich, C. (2001 ed). Law and Ideology,” in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, published on the Web:
61. [65] Malinowski, B. (1922). Argonauts of the Western pacific. New York. E.P. Dutton.
64. [67] Durkheim, E. (1912). The Elementary Form of Religious Life. New York: Free Press. P.10-25.
66. Parsons, T. (1951)). Towards a General Theory of Action. Cambridge, Mass: Harvard University Press. p. 215-230.
69. Kitson, G. C. and Rashke, H. J. (1983). *Divorce Research: What We Know, What we need to know*. Journal of Divorce 3 (spring):1-37. p.168.
70. *The Holy Qur'an* English Translation of the Meanings and Commentary. Revised and edited by the Presidency of Islamic Researches, IFTA, call and guidance. King Fahd Holy Qur'an Printing Complex.
71. *Sunan Ibn Majah*. (1952). Dar Ihya al Kutub al Arabiyah, Cairo: 1952.
72. Wilson, J. (1978). *Religion in American Society*. The Effective Presence. Englewood, N.J.: Prentice Hall. p. 238.
74. [88] Skolnick, A. (1978). *The Intimate Environment* (2<sup>nd</sup> ed). Boston: Little, Brown. p.238.
75. Bailey, K. D. (1978). *Methods of Social Research*. Collier Macmillan. London. p.26.
76. Browne, K. (2002). Biology at work. Rutgers, NJ7 Rutgers University Press.
77. Jami' At-Tirmidhi. (2007, Tran). Abu Khaliyl. . Dar-us-Salam Publication Inc. USA. ISBN: 9960-9967-38 (9960996738).
78. [83]Gustave, L. B. (1984). Arab Civilization. La Civilisation des Arabes. Paris, Firmin-Didot & Cie.
79. [80]Levinger, G. (1976). *A Social Psychological Perspective on Marital Dissolution*. Journal of Social Issues 35:50-78.p.22.
81. Musnad Ahmad Ibn Hanbal, Ibn Hanbal (compiler), Dar Ihya' al Kutub al Arabiyah, Cairo Egypt, 1950 and 1955.
82. *Sahih al-Bukhari*. (1959, Tran). Muhammad Muhsin Khan. [Egyptian Press](#) of Mustafa Al-Babi Al-Halabi and Al Saadawi Publications and Dar-us-Salam.
84. Sahih Muslim. (2010, Tran). Translation of Sahih Muslim. Los Angeles: Center for Muslim-Jewish Engagement, USC.
85. Sunan Abu Dawood. (2008, Tran). Abu Ammar Yasir Qadhi. Dar-us-Salam Publication Inc. USA. ISBN: 9960-500-11-9 (9960500119)
86. Nock, S. L. (1992). *Sociology of the family* (2<sup>nd</sup> ed). Prentice Hall Englewood Cliffs, New Jersey. pp.33, 74.
87. Eshleman, J. R. (1997). The Family (8<sup>th</sup> ed). Allyn and Bacon.p.08.
88. Nichols, R. (2001). *Setting the Frontier: Land, Law, and Society in the Peshawar Valley, 1500-1900*. Karachi: Oxford Press. p.5.

components. Egalitarianism or equality in power relations, decision-making and in religious practices is an uphill task where most of these aspects are masculine in their formation and application. Male members have relatively more prestige because of access and control over education, politics, economic activities and religious affairs. Male members decide issues in family, neighborhood, mosque, *Hujra* and in formal and informal justice system (*Jirga* and courts) where such tasks are prohibited for females. Further, the study reveals that both the ideal systems; i.e. *Pakhtunwali* and Islam are prevalent since very long and the society seems to be ideally Islamic but in practical utility, the role of *Pakhtunwali* is more dominant, where its principles and codes are practiced and followed with high zeal. In addition, the religion is perceived and interpreted more culturally and traditionally than its real essence, which not only brings disharmony among the roles played by both the sexes but also brings a vast segregation between them. The fact is undeniable that people hold religion in great esteem but it is a miscalculation to place it at the forefront in male domination as the data collected during the study indicates that it is not religion but the centuries old traditions or *Pakhtun* codes, which are hindering the way of women's rights provision.

## REFERENCES

1. Babbie, E. (2005). *The Practice of Social Research* (Third ed). Thomson Wadsworth, USA. P. 413.
2. [3] [7][8] [35] [38] Babar, S. (2005). Strains of Romanticism in Abdul Ghani Khan and John Keats, Poetry: A Comparative Study. Pashto Academy University of Peshawar, Pakistan. P. 11.
4. [10] Naz A. (2011) *Socio-economic and Political Constraints in Gender Development: Unpublished PhD Thesis*. Department of Anthropology Quaid-i-Azam University Islamabad, Pakistan.
5. [6] [12][30] . Naz, A., Khan, W., Rehman, H., Daraz, U., and Hussain, M. (2012). The relational analyses of *Pakhtun* social organization (*Pakhtunwali*) and women's Islamic rights relegation in Malakand division, KPK Pakistan. *International Journal of Sociology and Anthropology*. Vol. 4 (3). March, 2012. pp. 63-73. DOI: 10.5897/IJSA11.025
9. [31][39] Kakar, P. (2007). Tribal Law of Pashtunwali and Women's Legislative Authority. [www.law.harvard.edu/programs/ilsp/research/kakar.pdf](http://www.law.harvard.edu/programs/ilsp/research/kakar.pdf) retrieved on April, 14 2011.
11. [52][68] Khan, W., and Naz, A. (2012). The Ignominy of Evenness among *Pakhtuns* of Pakistan: *Pakhtun* social organization and gendered decision making process in Malakand division, Khyber *Pakhtunkhwa* Pakistan. Lambert academic publishing, Germany.
13. [26] [27] Glatzer, B. (1998). Being Pashtun – Being Muslim: Concepts of Person and War in Afghanistan" in Glatzer, B., 1998, „Essays on South Asian Society: Culture and Politics II“, Berlin: Das Arabische Buch, pp.83-94. [http://www.wardak.de/tribes/being\\_pashtun.pdf](http://www.wardak.de/tribes/being_pashtun.pdf)
14. [56] Atayee, I. (1979). *A Dictionary of the Terminology of the Pashtun Tribal Customary Law and Usages*, Kabul: The Academy of Sciences of Afghanistan.
15. [58] Brezeznski, Z. (1998). Les Revelations d'un Ancien Conseiller de Carter, in *Le Nouvel Observateur*, January Issue 15 – 21, Paris. (The Interview was translated into English by David).
16. [21] Caroe, O. (1977). *Review of Ahamd. In Asian Affair*. Vol.VII (October), PP. 352-3.
17. Pashto Descriptive Dictionary. (1978). Kabul: The Academy of Sciences of Afghanistan.
18. [49] Rubin, R. B. (1995). *Fragmentation of Afghanistan: State Formation and Collapse in the International System* (New Haven: University of Yale Press), 24.
19. Lindholm, C. (1996). *Frontier Perspective: Essay in Comparative Anthropology*. Karachi: Oxford University Press. p.196
20. Ahmad, S. A. (1975). *Mataloona: Pukhto Proverbs*. Oxford University Press, Karachi. p.57.
22. Dupree, L. (1978). *Afghanistan*. Princeton: Princeton University Press.
23. [44] [59]Barth. F. (1965) *Political Leadership Among Swat Pathans*. London: Athlone Press.
24. [73] Tiazi, S.Z. (1998). *Jirgahs – the Afghan tradition* (977 AD to 1992 AD); PP: i-iii.
25. [46] Ahmad, S. A (1980). *Pukhtun Economy And Society. Traditional Structure And Economic Development In A Tribal Society*. London: Routledge and Kegan Paul. p.90.



ethnographic structure reflects the importance of *Zar* (gold), *Zan* (women) and *Zamin* (land) as the core values of *Pakhtunwali*, which further shape the local ideology where the inheritance and property rights go in favor of males.

Similarly, the collected information expound that there are no such defined traditions for re-marriages of widows in the area and are treated differently; however, traditionally she is sympathized by the co-members. Ideally, a marriage is a divine institution and the most traditional social norm with the ideal type construct that views marriage as a sacred phenomenon, that is to say, the family and marriage are divine and holy institutions, created and maintained by God<sup>[87]</sup>. While,<sup>[88]</sup> comments that marriage has always a dual aspect that has puzzled students of marriage as well as ordinary folk: Marriage is a relationship between two people, but more than a relationship — it is an institution. Marriage is an intensely private affair but it is public as well. "Marriage" seems to lead its own separate existence, quite apart from particular married couples. Indeed, many people today experience "marriage" as a *lien* presence, an unwelcome third party, intruding itself into what may be an otherwise delightful relationship. The research reflects that tradition of re-marriage of widows in the area remains a controversial issue that is mostly discouraged by *Pakhtun* code of life. A widow among local people is considered as an ominous (*Badnaseeba*) and the title, i.e. *Speera* (ill-starred) becomes part of her life. Those who approve widow's remarriage in the area do not allow it outside their kin and close relatives. Their first choice is brother of the deceased husband (*lyver*) and then another member of the same family. However, female's consent in re-marriage is only important during the *Nikah* and it is believed that she would not reject the proposal in this regard.

Besides, the inheritance and remarriage of the widow; the most common and controversial practice among *Pakhtun* is 'polygyny'. Instead of the Islamic conception (discussed earlier), in *Pakhtunwali*; the practice of *polygamy* (particularly *polygyny*) is used for taking revenge and such revenge may arise because of conflict with family of the bride or any member thereof. After second marriage, it is a common practice that the first wife becomes socially isolated and no justice is done to her. The trend of *polygyny* is an outcome of cultural traditions in the area where they follow traditions of *polygamy* as a part of *Pakhtunwali* because it has been done by their ancestors. In religious context, the local people exploit the exercise of *polygyny* because it is religion, which gives men the right of more than one wife at a time.

## CONCLUSION

The secondary sources utilized in the form of Qur'an, *Hadeeth*, anthropological literature, Weberian model in the form of Ideal Type, the theoretical framework and ethnographic details along-with discussion conclude and reflects a transparent gap between the religious ideals and cultural practices of the local people in shape of their relative gender roles. The study elucidates that social, cultural and religious atmosphere of *Pakhtun* society is male dominated and patriarchic in most of its

like the case of *Al-Khansa bint Khadam*, who had been previously married (and was now divorced or widowed), came complaining to the Messenger of Allah that her father had forced her to marry a person she despised. He disapproved and invalidated it (*Bukhari* #6546).

Relationally to the right of widows' remarriage in Islam, the debatable and controversial issue of polygyny has also been addressed under Islamic *Sharia'h* and codes. Marriage to more than one wife at the same time – polygyny- is a practice as old as the history of man, and is allowed in Islamic law where many of the prophets of Allah (before Muhammad-SAWS) remained in plural marriages. In this regard, Allah, the Most Beneficent, said: "And if you fear that you shall not be able to deal justly with the orphan-girls, then marry (other) women of your choice, two or three, or four but if you fear that you shall not be able to deal justly (with them), then only one or (the captives and the slaves) that your right hands possess. That is nearer to prevent you from doing injustice (Qur'an, 4:3). Further, The Messenger of Allah warned against favoritism saying: "He who has two wives and is not just between them, he will come on the Day of Resurrection with one of his sides fallen"<sup>[84][85]</sup>.

Besides, Allah, the Most Beneficent, said: "You will never be able to do perfect justice between wives even if it is your ardent desire (i.e. emotions of the heart), so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever Oft Forgiving, Most Merciful (Qur'an, 4:129). In addition, Hazrat Aishah, the mother of the believers and the wife of the Prophet narrated: "The Prophet of Allah would distribute everything justly amongst his wives, then say: O Allah! This is my division for what I possess, O Allah! Do not blame me for what You alone possess while I do not (i.e. emotions of the heart) (*Abu Da'wood, Tirmidhi*).

Islam has always been found in connection with *Pakhtunwali* as the history is witness that *Pakhtuns* in the every age had been the strong followers of Islam<sup>[86]</sup>. Due to such strict adherence to Islam, there has been the conception of conflict between Islam and *Pakhtunwali*. There are some aspects in one's social life where the individual face contradiction in both the Islamic values and *Pakhtunwali*. In relation to the mentioned aspects such as rights to inheritance, widows' remarriage and Polygyny, the ethnographic details of the area and empirical information reveals that provision of inheritance and property rights is relative among *Pakhtuns* and to, religious injunctions often had little influence on specific customs such as inheritance exclusively by male heirs where in most of the cultures the property is usually owned by males. Application of the Nichols perspective can be rightly employed on *Pakhtuns* because the concept of property, family and private ownership, which provide superiority to male in terms of inheritance that gives birth to patriarchy is not the outcome of religion rather the cultural setup. The

shares of all the relatives in respect to their relationship to the deceased. As He the Most Wise said: There is a share for men and a share for women from what is left by parents and those nearest related, whether the property is small or large, an obligatory share (Qur'an, 4:7).

Furthermore, Allah has stated three types of shares for a woman's inheritance as 'a woman's equal share as to man', 'a woman's equal share as to man, or a little or less', and 'a woman's half share as to man'. In the famous tradition; the companion Sa'ad ibn Abi Waqqas was ill and requested to bequest the majority of his wealth as charity, or a half of it since he was wealthy and only had one daughter. The Messenger of Allah forbade him and only allowed him to give a third and expressed that it was better to leave your heirs wealthy rather than needy and begging<sup>[81][82]</sup>. Besides,<sup>[83]</sup> in his book "*Arab Civilization*", mentions the principles of inheritance that are determined in Qur'an have a great deal of justice and fairness in terms of inheritance. Gustave has presented a comparison of British, French and Islamic Laws of inheritance and found that Islam grants the wives the right of inheritance, which the other systems lack while Westerners consider them to be ill-treated by the Muslim men."

Similarly, as discussed earlier, that Islam is a complete code of life that covers each and every aspect of social and communal life. The vulnerable and victimized masses have been specifically focused such as widows. In most of the cultures, the pattern of marriage and the choice depends upon the nature, environment and prevailing customs and traditions. Some cultures give such right to males to decide fate of female and vice versa. In contrast, Islam privileges women to select their spouses. Marriage is based on mutual agreement to promote peace, love, and compassion as stated in The Holy Qur'an "and among His signs is that He created for you mates from among yourselves that you may well in tranquility with them and He has put love and mercy between your (hearts); verily in that are signs for those who reflect (Qur'an, 30:21) ". Marriage is the foundation of family system; the major source of human generation as stated in the Holy Qur'an "(He is) the Creator of the heavens and the earth: He has made for you pairs from among yourselves and pairs among cattle: by this means does He multiply you: there is nothing whatever like unto Him and He is the One that hears and sees (all things) (Qur'an, 42:11). Islam imposes no restriction on re-marriage with a widow, which is quite evident from life of the Holy Prophet (P.B.U.H) because his first marriage was with a Widow Hazrat Khadija.

Islamic teachings and literature have embellished and enriched directives regarding the issues mentioned above. Continuing with the Islamic perspective on remarriages of widows the Prophet of Allah said "An 'ayyim' (a divorcee or a widow) must not be wedded unless she is asked, and gives her approval. And a virgin must not be wedded unless she is consulted." It was asked: "O messenger of Allah, How is her permission?" He said: "If she remains silent." (Bukhari #4843 & Muslim #1419). Different events exemplify the issues of remarriages

(righteousness) that you forgive, and do not forget to be graceful to one another. Surely, Allah is watchful of what you do” (Qur'an, 2:237).

In comparative and relative analyses of the mentioned Islamic values; *Pakhtunwali* has been taken into consideration to address the issue traditionally. In this regard, the traditional structure of the area generally prohibits frequent occurrence of divorce because it is against *Pakhtun* code of life. Divorce occurs mostly due to the imbalance in gender roles where<sup>[80]</sup> argue that when the rewards for maintaining a relationship are lower and the costs higher than those available in another relationship or by living alone then it results in divorce. Psychologists have their own views about divorce as noted by<sup>[80]</sup>, when intimate relations do break up, they already seem to have declined to a point where one or both partners see an alternative state that is more attractive. This is not necessarily with another lover: it may be going alone or living in groups other than nuclear family. Although Islam encourages a happy life and stresses upon both the genders to resolve familial and marital disputes within the private spheres and shall not be publicized yet the culture seems reluctant to some extent in this regard.

Keeping the two ideal systems i.e. Islam and *Pakhtunwali* and comparing them with the field data; culturally, divorce is considered as a social stigma in the area. Women in a traditional setup cannot initiate the process to take or decide about taking divorce. Such kind of initiative if taken by women is opposite to *Pakhtunwali* and cultural traditions. According to the local traditions as elucidated by the collected information that such initiative may lead to stigma of *Tor* or *Peghore* (satire) not only for female, but for whole of the family. Thus, women mostly do not opt for divorce as it deprives her from re-marriage and it stigmatizes her for the rest of life, which makes both the sexes reluctant about divorce. Repetition of the word *Talaqi* (divorced) is considered traditionally a sin and is synonymous with abuse (*Kanzal*). Even no one in family is allowed to repeat the same even in gossiping. Divorce as a rare phenomenon in the area, it is mostly preferred by male members and those among males who want to leave their wives are culturally prohibited and the term *Khaza Prekhe* (Those who left their wives) is labeled to such person.

### **The Right to Inheritance, Widows' Remarriage and Polygyny**

Islam as a complete code of life refers and preserves each and every right of the individual. The Holy Qur'an and the *Hadeeth* have strong recommendations regarding the individuals' fundamental rights. Inheritance; among the strongly debated and highly exploited rights throughout the globe is a matter of concern in each society. In this connection, Allah, the Exalted, stated in the Glorious Qur'an: Allah commands you as regards to your children's (inheritance); to the male, a portion equal to that of two females. (Qur'an, 4:11). In addition, Almighty Allah offered a full and detailed method of women's inheritance in the Qur'an and *Sunnah*, and if an unbiased student of knowledge reflects on the details, he or she will discover the fault of this opinion. To begin with, Allah has determined all the

slap that does not even leave a mark on the body and stresses on the maximum harmony of the family life and does not favor any separation where the process of reconciliation is encouraged. A woman after divorce has to wait for three monthly cycles in her husband's house as Allah Says in the Holy Qur'an: "When you have divorced women, and they have reached (the end of) their waiting period, do not prevent them from marrying their husbands when they mutually agree with fairness. Thus the advice is given to everyone of you who believe in Allah and in the Hereafter. This is more pure and clean for you. Allah knows and you do not know (Qur'an, 2:232). Besides, if divorce occurs, still Islam provides the chances of reconciliation as The Holy Qur'an says: "Thereafter, if he divorces her, she shall no longer remain lawful for him unless she marries a man other than him. Should he too divorce her, then there is no sin on them in their returning to each other, if they think they would maintain the limits set by Allah. These are the limits set by Allah that He makes clear to a people who know (that Allah is alone capable of setting these limits)" (Qur'an, 2:230).

In the mentioned period, her husband will remain responsible for her welfare and maintenance e.g. food, cloth, medication etc. The husband has no right to take her away from house while woman is advised not to leave the house of the divorcing husband. The rationale is to enhance the chances of reconciliation between the couple and to protect her right during that period. The three-month period also provides maximum opportunity of reconciliation and other family members could help in this regard to improve better understanding. The Qur'an says: "And if you fear a breach between the two, then appoint a judge from his people and a judge from her people; if they both desire agreement, Allah will affect harmony between them, surely Allah is Knowing, Aware" (Qur'an 4:35).

In case of separation and marriage dissolution, Islam gives rights to both men and women. Various forms of marriage dissolution include mutual agreement in which the initiatives of both the husband and wife are equally allowed. If wife takes, the initiative then part of the marital gift shall be returned to husband that is called "khulla"<sup>1</sup> in Islam. A confrontation in the life of the Prophet (SAWS) exemplifies where a women exclaimed that her husband was a gentle person and she had smooth relations with him, yet she disliked her. The Holy Prophet directed the women and told her that she must return the husband a garden, which he had presented to her in dowry and then take divorce from him. In this regard, Allah Almighty says in Qur'an: "And if you fear that they may not be able to keep the limits of Allah, then there is no sin for either of them, if the woman redeems herself with that" (Qur'an, 2:229). Also, if the divorce occurs before marriage still then Islam favors women as stated in the Holy Qur'an: "If you divorce them before you have touched them, while you have already fixed for them an amount (of dower), then there is one half of what you have fixed, unless they (the women) forgive, or forgives the one in whose hand lies the marriage tie, and it is closer to *Taqwa*

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<sup>1</sup> Khulla is allowed in Islam, which is called Divestiture.



study shows that the rigid cultural traditions stress upon arranged marriages and it virtually discourages marriage of choice or the concept of love marriage.<sup>[76]</sup> Further, caste, class and tribal relations are pivotal to local people and religion is treated as secondary in this regard<sup>[77]</sup>. The analyses further disclose that spouse selection falls under the jurisdictions of elders among family members (mostly males). It is believed that such elders will choose a right person for female of the family. Marriage, which is allowed in every world's religion, is totally a private matter among *Pakhtuns* and many people believe that spouse selection is not a social process. Spouse selection is the right of both male and female that is a universally accepted phenomenon as noted by<sup>[78]</sup> that in no society people are permitted to marry whoever they wish. There are always methods of ensuring that certain individuals with certain others, which is known as mate selection in the cultural context. Mate selection as a process starts once we limit the fields of eligible spouses from a list of persons. Religion has strong influence upon the person who marries; religious teachings define the domain of marriage as to whom one is allowed to marry. Religion is dominant in human life and to quote<sup>[79]</sup>, though religion may be important in many areas of the person's life, religious rules governing marriage and family life are the most demanding parts of religious ethical system and some minor variations, the entire world's religions support marriage and family system.

The information further elucidate that *Pakhtuns* of the locality are living under the patriarchic system of family and many of the economic power relations are held by male. This not only influences the power relations but also give power to male to arrange the marriage of concerned female and to influence her for blind acceptance. During the *Nikah* process, female is asked for her choice and acceptance, but at the same time she forfeits this right to a male and even at this important junction of her life, she can not make any excuse as it would lead to utter defamation of family and honor of family would be destroyed.

### **Women's Rights in Family disputes, divorce, Islam and *Pakhtunwali***

Islam is the religion of prosperity and harmony and makes it compulsory for both the genders to resolve familial and marital disputes within the private spheres of life. Disputes of any nature are prohibited to be made public and male/female shall avoid extremism in such cases. Similarly, cruelty and threats of all kinds must be avoided and in case of no resolution and severity of the disputes, family mediation can be resorted to settle-down the matter with elegance and cooperation. Sometimes, the disputes exceeds to limits where divorce is deemed as the ultimate option, which is permissible but discouraging in Islam. The Holy Qur'an clearly says about the types and consequences of divorce as stated by Allah Almighty: "Divorce is twice; then either to retain in all fairness, or to release nicely. It is not lawful for you to take back anything from (Qur'an, 229).

The Holy Qur'an under no circumstances does allow family violence including physical abuse or cruelty. Maximum punishment in case of severity is just a gentle

girl said: "Actually I accept this marriage but I wanted to let women know that parents have no right to force a husband on them".<sup>[71]</sup>

Further, during familial life, Islam recognizes the rights and duties of both men and women and makes it compulsory for women to give milk to her baby for the two whole years. On men, it is then compulsory the bear all the expenses of her food, clothe and other necessities as stated in the Holy Qur'an "The mothers shall give suck to their offspring for two whole years if the father desires to complete the term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be treated unfairly on account of her child neither father on account of his child. Heir shall be chargeable in the same way if they both decide on weaning by mutual consent and after due consultation there is no blame on them. If you decide on a foster mother for your offspring there is no blame on you provided you pay (the mother) what you offered on equitable terms. But fear Allah and know that Allah sees well what you do" (Qur'an 2:233).

It is compulsory for the husband that remains kind and gentle to their wives. They did not treat women harshly with crudity, because, women have the same rights as with men. Even if a husband does not love her wife, in such condition, he shall obey these boundaries as the Holy Qur'an declares: "O you who believe! You are forbidden to inherit women against their will. Nor should you treat them with harshness that you may take away part of the marital gift you have given them except where they have been guilty of open lewdness; on the contrary live with them on a footing of kindness and equity. If you take a dislike to them it may be that you dislike a thing and Allah brings about though it a great deal of good. (Qur'an 4:19). It is also a fact that how nicely the Holy Prophet treated his wives and that is an example for the whole Muslim community. In this respect the Prophet Muhammad taught: "I command you to be kind to women ..." Moreover, "The best of you is the best to his family (wife) ..."

From the idealism of religion, spouse selection and familial relations are the rights of male and female as proved from the various verses of the Holy Qur'an and *Hadeeth*. However, the ethnographic details of the research area depict that the role of traditions is more powerful in relation to the selection of spouse and duties distributed among *Pakhtuns*<sup>[72]</sup>. The Holy Scripts (Holy Qur'an and Saying of the Prophet) clarifies the equality granted in spouse selection and familial relations and the same has been guaranteed for men and women in Islam. However, in most of the cultural practices in the community under study, both men and women are sometimes deprived of their natural and religious rights of spouse selection. Adherence to the cultural traditions is more in comparison to ideals of Islam<sup>[73]</sup>. Besides, asking a female about her choice in marriage is unnatural and its manifestation is depicted as negative among the local people<sup>[74]</sup>.

There is a "glass ceiling" to women's achievements as argued by<sup>[75]</sup> that is culturally relative instead of absolution. The information as obtained during field