



# MUSLIM WOMEN

## THE FAMILY AND THE SOCIETY

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*Equal...*

### *From Their Origin*

Women are as essential as men for the continuation of human life and development of society. Any discrimination based on gender is a grave offense. Islam considers it a sin against the Creator and Lawgiver who made men and women equal participants in the human species.

The first verse of a lengthy surah (chapter) of the Quran called "The Women" reads:

***"O people Be conscious of your Lord, who has created you out of one living entity, and out of it created its mate, and out of the two spread abroad a multitude of men and women. And remain conscious of God, in whose name you demand (your rights) from one another, and these ties of kinship. Verily, God is ever watchful over you."*(4:1)**

### *Love and Tenderness*

The Quran emphasizes the relationship between husband and wife as a source of happiness built upon mutual love, kindness and justice:

***"And among His wonders is that He creates for you mates out of your own kind, so that you might incline toward them, and He engenders love and tenderness between you: in this, behold, there are messages for people who think."*(30:21)**

Before Islam, it was a prevalent belief that Eve was responsible for tempting Adam to eat from the forbidden tree. The Quran assigns equal responsibility to both of them, clarifying that the temptation came solely from the devil:

*“But Satan caused them both to stumble therein, and thus caused the loss of their erstwhile state.”(2:36), “and thus be (Satan) led them (both) with deluding thoughts.”(7:22)*

Both realized their sin and offered their repentance to God:

*“The two replied: O our Lord! We have sinned against ourselves, and unless You grant us forgiveness and bestow Your mercy upon us we shall most certainly be lost.” (7:23)*

Islam holds both man and women equally responsible for the first human sin and states that God accepted their repentance and forgave them. (2:36-38)

*Both . . .*

### *Equally Responsible*

The Quran explicitly addresses men and women without discrimination:

*“Verily, for all men and women who have submitted themselves to God, and all believing men and believing women, and all truly devout men and truly devout women who are patient in adversity, and all men and women who humble themselves (before God), and all men and women who give in charity, and all self-denying men and women who are mindful of their chastity, and all men and women who remember God unceasingly: for all of them has God readied forgiveness of sins and a mighty reward.” (33:35)*

Islam does not consider women a mere shadow or an extension of a man, always following him. She has her full individual freedom and responsibility to the belief in the message of God and in practicing its obligations:

*“Now whenever God and his Apostle have decided a matter, it is not for a believing man or a believing woman except to obey in so far they themselves are concerned.” (33:36)*

*“And thus does their Lord answer their prayer: I shall not lose sight of the work of any of you who works (in My way) be it man or women: You are members, one of another.” (3:195)*

### *In the Family*

The family is the first and essential area in which women’s rights have to be secured. Marriage and parenthood are among the basic objectives of the Islamic legal system (maqasid al-shari’a). Jurists consider marriage and formation of a family closer to the essence of religion which is “worshipping God” (Ibada), than to a human worldly dealing (muamala).

Nowadays, some individualists and permissive people view the family institution as a restriction on individual freedom. The family institution binds both partners with certain mutual obligations restricting the absolute freedom. The family saves individuals from the loss which they suffer as a consequence of sexual or other forms of absolute freedom. One does not only need a temporary and physical partner in bed, but also a full and permanent partner in the whole life.

An attempt to avoid children, or to deal with them as a burden, represents a severe restriction on natural instincts and motivation. The enjoyment of a full partnership cannot be built only on physical pleasure or on temporary and changing inclinations. The Quran considers marriage “a most solemn and serious pledge”

(4:21), and teaches that it should be based on justice and maintained through “love and tenderness.” (30:21) This shows the importance of religious teaching and education in this matter. These teachings go beyond what any state law can do toward securing women’s rights.

## *The Little Girl*

Islam secures the right of women from the moment the baby girl is born. She should be received with happiness and pleasure, in contrast with the Arab tribal and combatant society that used to determine individuals' place in the society on the basis of their ability to fight.

“And whenever any of them is given the glad tiding of (the birth of) a girl, his face darkens, and he is filled with suppressed anger. He is avoiding all people because of (the alleged) evil of the glad tiding that he has received, (and debating with himself): Shall he keep this (child) despite the contempt (which he feels for her), or shall he bury her in the dust? Oh, evil indeed is whatever they decide.”(16:59)

God accepted Mary, mother of Jesus, for a sacred mission; differently from her people's thinking that only a man should be chosen for it:

“And God was All Hearing, All Knowing when a women of (the House of) Imran prayed: O my Lord! Behold, unto you do I vow (the child) that is in my womb, to be devoted to your service. Accept it, then for me: Verily, you alone are all-hearing, all-knowing.

But when she had given birth to the child, she said: O my Lord! Behold, I have given birth to a female- the while God had been fully aware of what she would give birth to...And thereupon her Lord accepted the girl-child with goodly acceptance, and caused her to grow up in goodly growth, and placed her in the care of Zachariah. Whenever Zachariah visited her in the sanctuary, he found her provided with food....” (3:34-3:37)

The female child's family and the society as well are responsible for securing the physical and educational growth of the girl according to her abilities and talents. She has the right to work and enjoy full economic rights and independent legal

personality. However, the husband is legally responsible for what the whole family (his wife and their children) needs, even through the wife can always share freely in family expenses if she so chooses.

## *Marriage*

Marriage is a consenting contract based on the mutual agreement of the two spouses. It does not require special formalities in Shari'a. But it has its religious importance as a fulfillment of the human nature as created by God (30:21), which comes out in a unique physical, psychological and legal relation that the Quran describes as a "most solemn pledge or covenant" (4:21)

According to the Prophet's hadith, the woman's agreement is essential for the marriage, and her parents or others cannot impose on her to marry anyone whom she does not like to marry. Besides, unlike other religious practices or legal systems, it is the husband's obligation in Islam to pay a dowry to the wife:

***"...And unto those with whom you (believing men) desire to enjoy marriage, you shall give the dowry due to them; but you are allowed after (having agreed upon) this lawful due, to freely agree with one another upon anything else: behold God is indeed all knowing, all-wise."*(4:24, see also 4:4)**

This dowry becomes the full possession of the wife, and her husband cannot claim it back in case of divorce:

***"But if you desire to give up a wife and to take another in her stead, do not take away anything of what you have given the first one, however much it may have been. Would you, perchance, take it away after you have given yourselves to one another, and she has received the most solemn and serious pledge from you!"*(4:20-21)**

However, if the divorce occurs before any sexual relation, the wife still enjoys the right on half of the dowry that the husband previously agreed upon unless she forgoes her right on the half, or the ex-husband forgoes his right on the other half and decides to leave for her the dowry in full (2:237).

For a divorce before fixing any dowry, a provision should be offered for the divorced women by her ex-husband:

***“(In such a case) make provision for them- the affluent according to his means, and the straitened according to his means-a provision in an equitable manner this is a duty upon all who would do good.” (2:236)***

In the Islamic law, a prerequisite for marriage is the husband’s ability to provide what is needed for a decent and comfortable life. However, because marriage is a human necessity and a religious duty, Shari’a hold the Islamic state responsible for facilitating marriage. Besides securing work with fair wages and conditions for everyone, the state should offer material assistance to the married couple (e.g. financing, housing, etc.) when this is deemed necessary.

While Islamic law protects family relations between husband and wife and maintains clearly the rights and obligations of each partner, Islamic teachings nurture this relationship with love and tenderness, as previously mentioned (31:21). Islam teaches that a bite of food that a husband may put in his wife’s mouth in a happy moment or when she is too busy to care about eating is a good deed that is urged and rewarded by God. The couple should always keep in mind that each has to show the other one’s best physically and morally. Marriage has to fulfill nature relationship between man and woman in all its dimensions, and both have to care about one’s physical appearance and appeal to one another, as well as the psychological compliment of another. The material and moral harmony in the family life is stressed in the Quran in concentrated impressive words such as “*consorting one another in a goodly manner*” (4:19), or in this simple and

touching allegory: “ *they (the wise) are garment for you (husbands), and you are garments for them.*” (2:187)

In spite of the full equality of men and women as individuals and as spouses, it is fair to make the man primarily responsible for sustaining his wife during the pregnancy and subsequent natal care. It is a responsibility and a duty, and not superiority or a privilege:

***“Men shall take care of women with what God has bestowed on the former and with what they have to spend of their possessions.” (4:34)***

Equal rights and mutual responsibilities of husband and wife should be practiced in an acceptable way and without bitterness. In this regard the husband has more responsibilities that he should fulfill with kindness and generosity,:

***“And the rights of the wives (with regard to their husbands) are equal to the obligations that they have (toward their husbands), but men have a precedence (in responsibilities).” (2:228)***

### ***Motherhood***

Children should realize how dedicated their mothers were in bearing and raising them in their childhood:

***“And God says: We have enjoined upon a human being goodness toward his/her parents; one’s mother bore him/her by bearing strain upon strain, and the child’s utter dependence on her lasted two years: (hence, O people), be grateful toward Me and toward your parents, (and remember that) with me all journey ends.”(31:14)***

The slightest offense to the parent by any word or gesture is against the teaching of the Quran (17:23-34). The Prophet put the mother before the father in relation to kindness that children should show toward each of them. Even when the parents

are not believers, and try to persuade believing children to follow them, the children must stick to their faith without hurting their parents' feelings or degrading them:

***“Yet should they (the parents) endeavor to make you ascribe divinity side by side with Me to any that your mind cannot accept (as divine, obey them not: but even then) bear them company this world’s life with kindness.” (31:15***

### ***Emerging Differences***

Divorce should not be the first resort when any difference between a couple emerges. Different attitudes and views are natural, and any group - including the family- should learn how to settle its differences peacefully. Islam teaches that marriage should be maintained as long as the essential requirement of a peaceful family life and mutual care and respect are there, even if emotions and romance may not be as strong as they were before:

***“And consort with your wives in a goodly manner; for if you may have a feeling of dislike toward them, it may be that they have such a feeling toward someone whom God might yet make a source of abundant good...And if then they respect you (and the family relation), do not seek any way (to proceed) against them. Behold, God is indeed the Most High; Great (above you all).” (4:19,34)***

If differences and difficulties continue, the couple or their families have to seek others' mediation:

***“And if you have reason to fear that a breach might occur between a (married) couple, appoint an arbiter from among his people and an arbiter from among her people; if both want to set things right, God will cause their reconciliation. Behold, God is indeed All-knowing, Aware.” (4:35)***

When the situation deteriorates and no solution can be reached by arbitration, divorce should follow a fair procedure. Shari'a says that women should not be divorced during a momentary anger, nor during her menstruation when the physical sensitivity may cause tension. A husband can initiate a divorce, since his initiative implies his full responsibility for bearing the legal and financial consequences of sustaining the divorced women and their children. Nevertheless, the court may be necessary to settle differences between the two parties about specifying these obligations.

When a woman wants to initiate the divorce, the husband's responsibility has to be judged, since he may have nothing to be blamed for in causing the divorce, and accordingly it is fair to let the court decide the due alimony that the ex-husband has to pay and his other financial obligations and the children's custody in such a case. He does not initiate the divorce, therefore, his admission of full responsibility and obligations cannot be implied and has to be discussed and assessed by the court. In this way, deciding on a divorce on the husband's initiative without going to the court is not a privilege, but an admission of full financial obligations by the husband in general, though he may have to go to court in order to argue for the specifics if he cannot agree on them with his wife. However, any contemporary state can make it mandatory in its procedural legislation that divorce should be formalized only in court according to the request of either spouse, so that it may be known and become effective for everybody, while all the subsequent issues of custody and alimony may be decided in the same time without a further delay.

A divorced woman must wait for a specified time before she can remarry, as the broken marriage may have a chance of survival when every party thinks quietly during the waiting period after the first or second divorce from the same spouse. Besides, the ex-wife may be pregnant, and this may have its effect on the feeling

and thinking of the ex-husband as well as a new possible marriage. Meanwhile, the ex-husband is urged to restore the marriage during this waiting period.

***“And the divorced women shall undergo, without remarrying, a waiting period of three monthly courses, and it is not lawful for them to conceal what God may have created in their wombs if they believe in God and the Last Day. During this period, their husbands are entitled to take them back if they desire reconciliation....” (2:228)***

Even after the waiting period, the marriage can be restored for a second or third time, if the woman is still unmarried and is willing to try again with the same husband. A third divorce after having three periods of marriage experience means that marriage is unlikely to survive. Therefore, no resumption of the marriage between the same partners is allowed, unless the ex-wife tries a new marriage with another husband, through which she may realize—as well as her ex-husband—that what gathers the ex-spouses is stronger than all their differences. After a new marriage with another husband for the woman who was divorced three times from her ex-husband, another marriage between the previous spouses can take place again. In any case, maintaining the marriage or resuming it should be a fair decision by mutual agreement, not something imposed on the woman by any pressure or injustice:

***“A divorce may be (revoked) twice, upon which the marriage must either be resumed in fairness or dissolved in good manner,”***

***“And so, when you divorce women and they are about to reach the end of the waiting-term, then either retain them in a fair manner or let them go in a fair manner. But do not retain them against their will to hurt them: for he who does so sins indeed against himself...And when you divorce women, and they have come to the end of their waiting-term, hinder them not from marrying other men***

*if they have agreed with each other in a fair manner. This is an admonition unto every one of you who believe in God and the Last Day...” (2:229,231-232)*

### *Rights of Divorced Women*

Islam secures the rights of a divorced woman and her children in a decent life, and the ex-husband is responsible for sustaining them for a reasonable period:

*“(Hence) let the women (who are undergoing a waiting period) live in the same manner as you live yourselves, in accordance with your means; and do not harass them so as to make their lives a misery. And if they to bear a child, spend on them until they deliver their burden; and if they nurse you off-spring (after the divorce has become final), give them their (due) recompense; and take counsel with one another fairly (about the child’s future). And if both of you find it difficult (that the mother should nurse the child), let another woman nurse it. (In all these respects), let him who has ample means spend according to his amplitude, and let him whose means of subsistence are scantily spend by what God has given him: God does not burden any human being more than He as given him....”*

*“And the divorced) mothers may nurse their children for two whole years as a maximum for the period for nursing: and it is obligatory upon him who has begotten the child to provide fairly for their sustenance and clothing. No human being shall be burdened with more than he can bear, neither shall a mother be made to suffer because of her child, nor because of his child he who has begotten it. And the same duty rests upon the (father’s) heir.” (65:6-7, 2:233)*

*“and if both (parents) decide, by mutual consent, and counsel upon a weaning of the child, they are allowed to do so, and if you decide to entrust you children to foster-mother, you incur no sin, provided you hand over the agreed upon (wages*

*of fostering the child) fairly, and remain conscious of God, and know that God sees all that you do” (2:233)*

Thus, to secure a suitable weaning of the child without a rush as a result as the mother’s wish to increase her alimony, nor a delay on the father’s side as he may wish to reduce his obligation to a minimum, the Quran requires from both divorced people for the benefit of the child a joint decision with mutual ‘counsel’ and ‘consent,’ in order to prevent the abuse of an apparent yielding without having a real discussion, or a superficial discussion without reaching a consensual conclusion. According to the interpretation of Abu Muslim quoted by al-Razi, the required mutual counsel and consent are stated for the separation of the child from his mother in order to join his father, not for merely the weaning.

This example illustrates the importance of counsel and consent in family life. If these are required by Islamic law for deciding the proper weaning time for a child, how essential would such requirements be for all areas of family life?

## A Widow

As a widow, a woman’s rights are secured by Islamic law. She can have a new marriage through her full consent legal following a certain reasonable period after the death of her husband:

*“And if you die and leave wives behind, they shall undergo without remarrying a waiting period of four months and ten days: where upon when they have reached the end of their waiting-term, there shall be no sin in whatever they may do with their persons legally. And God is aware of all that you do.” (2:234)*

No male related to the husband’s family can force a widow to marry him- treating her as an object that may be inherited, nor can he deprive her from her rights of inheritance or otherwise:

***“It is not lawful for you to (try to) inherit women against their will; nor should you treat them with harshness that you may take part of the dowry you have given them.” (4:19)***

When the waiting period comes to an end, a man can express his desire to marry directly or indirectly, but the marriage should be decided in full agreement of both partners and should be celebrated openly:

***“But you will incur no sin if you give a hint of (an intended) marriage- offer to (any of) these (windowed) women, or if you conceal such an intention within yourselves: (for) God knows that you intend to ask them in marriage. Do not however, engage them in secret, but speak only in a decent manner; and do not proceed with tying marriage-knot until the ordained (waiting term) has come to its end. And know that God knows what is in your minds, and therefore remain conscious of Him...” (2:235)***

## Inheritance

The Woman has the right of inheritance:

***“And your windows shall have one-quarter of what you leave behind, provided you have no child; but if you have left a child, then they shall have one eighth of what you leave behind....”***

***“And as for parents (of the deceased) each shall have one sixth of what he leaves behind, if he has a child...”***

***“Men shall have a share in what parents and kinsfolk leave behind, and women shall have a share in what parents and kinsfolk leave behind, whether it be little or much -a share ordained (by God).” (4:12,11, 7)***

Women have been given a half of the share of a man who stands at the same level of kinship to the deceased, on the grounds that there is always a man who is held

legally responsible for sustaining the women according to Shari'a, be he a father, a brother, a husband or a son. However, there is a place for giving a woman an additional share through a donation during the legator's life, or through a special legal will "wasiyya", bequest that would be effective after his death and excluded with any debts from the legacy of the deceased before its distribution. (4:11-12)

In this way, the Islamic law secures an unmatched level of justice for a woman in the family, be she a daughter, a fiancée, a wife, a mother or a widow. What is decided by Shari'a from women stands beyond the achievements of state laws in several countries, and the unique merit of Shari'a is to build the legal rules on the religious faith and morality. Muslims are always persuaded to offer voluntarily out of their religious concerns more than the basic rights that are determined by the legal provisions:

***"And to forgo what is due to you is more in accord with God-consciousness. And forget not (that you are to act with) grace toward one another: Verily, God sees all that you do."* (2:237)**

### ***Monogamy Not Polygamy***

What goes with nature and fulfills the "solemn pledge" of marriage is the general rule of marriage in Islam (4:21). A normal man cannot split his own self into parts, each for a different woman and for his children. However, Islam allowed - not ordered or recommended - that a man may have another wife exceptionally in cases of necessity. A wife may be seriously and incurably ill for all her remaining life, and her husband may be committed sincerely to take care of her, but he, the child and the ill wife may need badly woman to take care of the family. It is up to the suggested co-wife to accept to reject freely, and no one can impose on her a marriage against her will, according to the Islamic law, whether she is the only wife or a co-wife. She should know that she would be a co-wife because of legal

marriage cannot be based on fraud and deception. It is required to register in such a marriage that the new wife know about the previous marriage and has no objection. Besides, the previous wife has to know and to agree to be a co-wife.

Islam did not establish polygamy in Arabia nor in the world. Polygamy- the marriage of a man to more than one woman - still exists “in every part of the world, but it is not frequent among African peoples” according to the Academic American Encyclopedia. It is known that the Bible permitted Jews to have more than one wife, and polygamy prevailed in the patriarchal age, and was permitted in principle under the Mosaic law, and continued to later times - according to Smith’s Bible Dictionary. According to the Bible, David and Solomon had many wives. From the Qur’anic texts, the permission of marrying more than one wife has several restrictions, as it reads: Accordingly:

***“And if you fear that you may cause the orphans injustice, then marry women of your choice, two, or three, or four, But if you fear that you can not deal justly with them, then only one... That is more likely to keep you from committing an injustice.” (4:3)***

- A ceiling was put to polygamy, restricting the maximum number of legitimate co-wives to four.
- It is related to an injustice suffered by the orphans, which may refer to after-war circumstances, when many women became widows who have to take care of their orphaned children, including girls in the age of marriage.
- Fairness in treating the co-wives is a pre-condition; otherwise one wife is the general rule and normal situation “to keep you from committing an injustice.”

Another Qur’anic verse shows how impossible it is to maintain such an equal fairness among co-wives, and how difficult it is to be even close to such equal

fairness (4:129). Injustice would be suffered not only by the co-wives but also by their children who have to live as half brothers and sisters. The required “love and tenderness” (30:21) would certainly be underlines in such a “partnership.”

Prophet Muhammad emphasized clearly the general rule and normal situation of monogamy, when he heard that his cousin Ali was to take another wife beside the Prophet’s daughter Fatima, underlining the rights of the wife and her family to know about he other marriage and to reject it. From a practical viewpoint, a women would never accept to share a man with another women, unless women outnumber men in certain circumstances, and it may be better to accept the reality temporarily until the balance is restored, rather than to have them suffer psychologically and socially. If the family has to be a model for the whole society in its harmonious relations and fulfillment of all responsibilities (25:74), one man and one women only can establish such a strong and balanced nucleus that can represent such a model in the mutual relations within the family and with the whole society. Polygamy was permitted with restrictions, exceptionally and temporarily, while men and women were educated and persuaded to develop a monogamous society, which is prevalent now in many Muslim communities. In some Muslim countries, there are laws that restrict having more than one wife.

The teachings of Islam about the religious and social importance of marriage and the necessity of justice within the family, have developed an attitude on monogamy among the Muslims, similar to what occurred among the early Jews, (who may not be aware today that polygamy was in their Scriptures and practiced by their ancestors for a long time). According to Solomon Grayzel in A History of Jews: “The family was considered a sacred Jewish institution. The ties between husband and wife, parents and child, were highly treasured... That is one reason why the Jews practiced monogamy, in spite of the fact that the Bible permits a man to have more than one wife... As time went on, the Jews adopted monogamy as their rule,

although - since the law and the subject had not been changed - there was a Jew now and then who married more than one woman... At the Synod, Rabbenu Gershon introduced a *takhanah*, (a decision made by authorized religious rabbis about an emerging issue) by which anyone who married more than one wife was to be ex-communicated... It should have expired among 1850, but good sense has kept it alive among the Jews of the German tradition. Sephardi Jews and others have never considered themselves bound by it. To this day, cases of polygamy occur among the Yemenite Jews and the Sephardi Jews of the near East” (pp 213, 286-287).

### *In the Society*

The family represents the model relationship in society between men and women and between parents and children:

***“and (those true servants of the Most Gracious) who pray: O, Our Lord! Grant that our spouses and our offspring to be a joy to our eyes, and cause us to be foremost among (model for) those who are conscious of You.” (25:74)***

The precedence of a man’s responsibility cannot give him any justification for a general claim of social prominence and leadership everywhere, and does not establish a rule for every social institution:

“Men shall take care of (and full responsibility for) women with what God has bestowed on the former, and with what they spend out of their possessions (on women whom they are responsible for). (4:34)

There are people who try to find a support for restricting woman’s activities to only the family in Qur’anic Verse that addresses the Prophet’s wives, “*And abide quietly in your home*” (33:33). But those should not ignore that it was a special rule for the Prophet’s wives because of their special situation, as suggested clearly

in the previous verse: “ *O wives of the Prophet! You are not like any of the (other) women.*” (33:32). Accordingly, the prophet’s wives could not marry after the Prophet, and they had to observe special restrictions that are not applied to others (e.g. 33:28-30, 50-53).

## *Equal Social Responsibilities*

Men and women have equal and mutual responsibilities in the society:

***“And as for the believers: both men and women are in chare (or protectors) of one another, they (all) enjoin the doing of what is right and forbid the doing of what is wrong, and keep up prayers and render the purifying dues, and pay heed unto God and His apostle. It is they upon whom God will bestow His grace....”***  
***(9:71)***

The Arabic word “awliya” that is used in the Quran to show the mutual rights and obligations of women in the society, underlines both the ‘responsibility’ and the ‘authority’ that men and women should equally share as inseparable members of the society in which all individuals and groups whatever the differences among them may be, have collective responsibility toward the society as a whole. Enjoining the doing of what is right and forbidding the doing of what is wrong “al-amr bilma’ruf wal-naby’an al’ munkar” cover all the social and political activities which are acknowledged now as human rights, and should be secured for both men and women equally in the society. During the rule of Caliph Umar ibn al-Khattab (634-644), a Muslim woman expressed publicly her opposition to the Caliph’s suggestion of restricting the amount that a woman can ask for as a dowry, and the Caliph had to withdraw his suggestions.

## *Education And Work*

Islam secures women's rights in education and work. The Prophet responded positively and instantly to woman asking him to appoint a certain time to teach the Islam regularly. Some women reported the Prophet's traditions (rawiyat al'hadith). The historian Ibn Sa'd (d.835) compiled the biographies of more than 700 women who reported the Prophet's traditions. The male colleagues of these female scholars accepted and respected them as al-Dhahabi (d. 1347) pointed out in his distinguished work on hadith reporting.

The well-known scholar of Prophet's traditions (hadith) and Muslim history Ibn 'Asakir (d. 1177) had more than 80 women among his teachers. The contemporary Maghribi scholar Abdel-Aziz bin Abdillah has provided a long list of women reporters of hadith in Maghrib only in one of his research papers.

Muslim women also made their contributions in various fields, such as: literature, arts and artistic crafts (e.g. fashion, decorated textiles and rugs, cuisine, perfumes, hair-dress, etc.), and sufism (e.g. famous poet Al-Khansa in early Islam, famous sufi Rabi'a d. 801). As early as the time of the Prophet, they accompanied men in the battlefield, where they treated the wounded, and participated sometimes in fighting the enemy when this became necessary. In Muslim Spain "Andalus", several women were famous as physicians in various specializations, including optometry and surgery.

The prominent commentator on the Quran, historian and jurist: al-Tabari (d. 923), as well as the outstanding jurist of al-Andalus Ibn-Hazm (d. 1064) stated that a women can be a judge if she is qualified for the position, and the Muslim history witnessed many women who were influential and/or occupied leading positions.

The Prophet's wife 'Aysha, expressed her critical views about Caliph Uthman's policies, and made a stand against Caliph Ali. She was know for her wide

knowledge in the Prophet's tradition, Islamic Law, poetry and medicine. Women played an important role in Ali's Army and among the rebels against him "*al-Khawarij*" as well.

A woman may not be interested in mining , working in the desert and isolated areas, or standing on scaffoldings in construction. This is a matter of convenience that has to be decided freely by women themselves, and their wishes have to be considered in planning educational programs and offering work opportunities.

A mutual understanding and cooperation between men and women can help outline the responsibilities of each in the family and the society. Arbitrary assumptions that support men's authoritarianism on the grounds of nature or religion are not convincing, and such views reflected often changeable cultural circumstances in given times and places, and could not provide a permanent and general rule based on the Islamic divine sources.

### ***Modesty Not Segregation***

The social role of women requires mixing with men. Islam does not permit any discrimination between men and women, nor does it advocate a segregation between them as it may be widely understood because of cultural practices or views. What Islam forbids actually is that a man and a woman cannot stay together in seclusion and privacy (*khalwa*), if they are not married to each other and a sexual relation between them is possible. But men and women as individual and groups can meet in public.

Modesty is required in the outdoor dress of both Muslim women and men. However, there is no specific uniformed dress recommended for a Muslim woman. *Purda*, *chadoura*, 'abaya, *quftan* or *hayek* are local fashions preferred by women in different places and may be changed in any time according the change of taste,

these designs or fashions should not violate the basic and permanent requirements of an Islamic dress. The Quran underlines such requirements for a woman's dress in the following verse:

***“O Prophet! Tell your wives and your daughters as well as also all (other) believing women that they should draw over themselves some of their outer garments (when in public): this will be more conducive to being recognized (as decent women) and not annoyed.” (333:59)***

Islam allows any dress that fulfills the required modesty for a decent woman, and the creativity of fashion designers has to combine elegance and modesty in a woman's dresses since one does not negate the other. The attractiveness and respectability of a woman - the same as of a man- are due to one's personality as a whole, with all intellectual and psychological dimensions, and not to what is exposed of one's body. It is against the human dignity and equality to focus on the physical attraction of a woman in her social performance with men. In an open society, a fair assessment of the merits of an individual (male or female) should consider the whole personality and one's commitment to and fulfillment of the moral and social responsibilities toward one another and toward the society as a whole, as men and women all are “*alwilya*” of each other in enjoying the doing of what is right and forbidding the doing of what is wrong (9:71)

## ***An Independent Legal Personality With Full Equal Rights***

Islamic law gives women full independent legal personality. She can maintain her maiden name after marriage, and she can enjoy an independent in relation to earning money and spending it:

***“Men shall have a benefit from what they earn, and women shall have a benefit from what they earn.: (4:32)***

So, the Quran explains the women’s rights of inheritance as independent individuals, as it has been mentioned previously.

A testimony of a woman is equal to that of a man in principle, and each has to be evaluated according to one’s intellectual and moral merits in a given case. Considering two women equal to one man as legal witness for a credit provides a special case not a general rule - as the prominent jurist, Ibn al-Qayyim (d. 1356), rightfully pointed out. The Qur’an is clear on the rule and gives strong reason for that special case:

***“O You who have attained to faith! Whenever you give or take credit for a stated term, set it down in writing... And call upon two of your men to act as witnesses; and if two men are not available, then a man and two women from among those who are acceptable to you as witnesses can be called upon. So that if one of them should make a mistake the other could remind her....” (2:282)***

This provision does not imply any inferiority of a woman physically or morally. It refers to a general observation that some women may not be interested to keep in their memories such financial details, or be familiar with the legal aspects that should be accurately noticed since they might be reported.

The situation may be different in case of an educated woman who enjoys a good memory or who works as a lawyer or an accountant. Jurists and judges in courts have to consider the changing circumstances. Sometimes a woman may be the only reliable witness, or her testimony may outweigh that of a man or several men according to the judge’s discretion. If our juristic heritage allows a woman to be a judge when she is qualified for the position, how can her testimony be under-evaluated if she knows what she is testifying about?

## *Different Interpretations*

Some people may argue that there are interpretations of the Quran and Sunna that could be provided to support and opposite view about women's rights. It is the responsibility of jurists to research through the different views and to find out how the difference evolved and how it can be resolved.

An interpretation of a Qur'anic text requires knowledge of the Quran, Sunna, linguistics and history, especially the Muslim cultural and social history. The words in any text do not exist in a vacuum, and the interpreters and jurist are human beings who are an outcome of their social and cultural circumstances, even if they are dealing with the permanent message of God.

Diverse interpretations of the same text should be considered in the light of other verses related to the same or similar topic in the Quran, the sayings and practices of the Prophet and his Companions, and the influence of later cultural and social developments on the authors.

Any author might have a "personal view," that was developed by personal or social circumstances, but such a view has to be figured out, and its reasons have to be analyzed and assessed, to evaluate the differences and find out the outweighing interpretation. Tolerating different views does not mean necessarily that they are equally valid or convincing. It is the responsibility of and the challenge for the human intellect, in any time and place, to figure out the Qur'anic idea, according to the intellectual merits and capability on one side, and to the existing cultural and social circumstances on the other, since an interpretation of a Qur'anic text is not merely a linguistic or formal exercise. The Quran is a living guidance that continuously reveals new angles of interpretation according to the development of individual intelligence and social experience. It cannot be ambiguous or contradictory if its ideas interact with the divine gift of the human mind:

*“...and We have bestowed from on high upon you, gradually, this divine writ, to make everything clear (Tibyanan likul shay’), and to provide guidance and grace and a glad tiding unto all who have submitted themselves to God.” (16:89), “Will they not, then, try to understand this Quran? Had it been issued from any but God they would surely have found in it many an inner contradiction!” (4:82)*

The Sunna of the Prophet is the earliest conceptual and practical interpretation of the divine message:

*“and upon you have We bestowed from on high this reminder, so that you might make clear unto people all that has ever been thus bestowed upon them, and that they might take thought.” (16:44)*

*“And upon you have We bestowed from on high this divine writ for no other reason than that you might make clear unto them all (questions) on which they have come to hold divergent views, and (thus offer) guidance and grace unto people who believe.” (16:64)*

Prominent commentators on the Quran and the Sunna, and prominent theologians and jurists as well might have different interpretations, but each presented his argument for his view against others.

Ibn Hazm (d. 1064) might provide a strong argument for a view that appeared different from many dominating others - Ibn Taymiyya (d. 1328) might abandon a dominant opinion in his school - the Hanabali - and adopt one of another school for stronger evidence. This is the responsibility of the interpreter of the divine message: who should not accept the different “possible” interpretations as equal, but has to use the various linguistic, logical and historical methods to figure out what represents the proper meaning of the valid text, and to provide the evidence for such a result, even if other views have been existing for a long time or even dominating. The ‘existence’ of a view, and even the ‘size’ of its followers, cannot

figure out the final word or the ultimate truth, but it is the ‘evidence’ that is the decisive factor in reaching the right interpretation, although other different views should be tolerated and discussed “in the most convincing and kindly manner” (16:125)

### *The Qur’an’s Emphasis Of Equality*

Since the creation of first man and woman, they were equal in their responsibilities. According to the Quran, Eve was as responsible as Adam in relation to the divine obligations, and had equal responsibility and free will as Adam in following Satan’s temptation, as it has been previously mentioned. The Quran strongly emphasizes this equal responsibility of men and women:

“Verily, for all men and women who have submitted themselves unto God, and all believing men and believing women, and all truly devout men and truly devout women, and all men and women who are true to their word,.....for (all of) them has God readied forgiveness of sins and a mighty reward. And whenever God and His Apostle have decided a matter, it is not for a believing man nor a believing woman to claim freedom of choice in this matter.” (33:35, 36)

The creator of men and women is not be biased in His reward to any of them for the fulfillment of one’s responsibility:

“So their Lord responded to them: I shall never waste the work of any worker among you, be it man or woman: each of you is equal to the other in origin and status.” (3:195)

## *Responsibility is Not Superiority*

The Qur'anic verse: "*Men shall take care of women with what God has bestowed on the former...*" (4:34) does not state a "superiority" of man over woman, rather it explains the "responsibility" of a man for sustaining the family. Since the woman is physically restricted from earning a living during the late stage of her pregnancy and the first year - or more- of her child's life, it is essential to show who is responsible for supporting the wife, mother and the children. The Quran says:

***"....and it is incumbent upon him who has begotten the child to provide fairly for their (mother and child) sustenance and clothing....(2:233)***

This is the "care" that is mentioned in that previous verse of the Quran (4:34). In Arabic, the verb (*qama*) with the preposition (*'ala*) means, "take care of". The man has to carry on his responsibility of providing the sustenance of his divorced wife during a certain waiting period (65:6-7), as it has been mentioned earlier. But, this responsibility of taking a care of "*qawama*," is within the family as the Qur'anic verse shows clearly, and cannot be extended to be a general rule in the whole society. Besides, the man's obligation to support the family does not contradict or restrict the woman's right to work if she likes to do so, and a coordinated timetable for both spouses can be reached after a constructive discussion that ends in mutual consent. When a man does not work and cannot secure for himself and his family a decent living for any reason, he cannot assume "*qawama*" just because he is related to the gender of men. However, his wife who works and earns money and secures for the whole family its needs should treat the non-workingman respectfully. Each believer- male or female- has to observe the divine teachings in mutual relations, whether one may be more or less powerful. This is the main difference between a God-conscious society and a jungle of selfish materialist.

A view that makes a man superior to a woman because he is physically ‘stronger’ lack the support of the Quran and authentic *Sunna*. The divine sources mention “care” and “responsibility” within the family, but not superiority. Muslim men and women are equal in their individual and social responsibilities. They have to support each other in maintaining human rights and attaining moral and material development of each and of the whole society, being in charge (protectors) of one another and of the whole society “*awaliya*”, and enjoining the doing of what is right and forbidding the doing of what is wrong.(9:71)

### *Oppressive Practices And Views*

In a climate of ignoring the divine rules of individual and social rights and obligations, one usually finds small despots beside the big ones, and despotism becomes the pattern of social relations at different levels. The standard concepts and practices of Muslims through centuries in their mutual relation, including husbands-wives and parents-children, cannot be separated from what is dominant in the cultural and social environment.

However, not all our intellectual heritage of social practices represented a deprived status of women. Al-Tabari and Ibn Hazm, as has been repeatedly mentioned, stated that a women can be a judge - a very distinguished position from the religious and social angles in those times. Women had their place in the history of Islamic civilization in various field, such as: religion, literature, medicine, art...etc. Although one may agree that Muslim history - the same as of any other people - does not include only glories and positives, many Muslims men and women both in the early history of Islam represented an admirable model in fulfilling the responsibilities of their faith however difficult it might be. They immigrated together to Abyssinia and later to Medina and afterward to several countries where

they lived together under geographic and cultural circumstances that were absolutely different from which they had been used to. Muslim women accompanied men in the battlefields and had their responsibilities there that did not exclude fighting when it was necessary. The Sunna and the early history of Islam revealed how Muslims- males and females- met together in the mosques, farms, markets or battlefields in a highly respectable manner.

Stories of some drinking wealthy men and female slave-singers, and anecdotes of some sexual misbehavior, could not represent the whole Muslim society in all times. Even in times of social deterioration, one can find positive examples. No one could claim - on grounds of the Qur'an and the authentic Sunna - that women are a liability in relation to religion and morality nor that they are the allies of the devil by nature! This has been the outcome of certain historical circumstances, under which the Muslim women were not the only oppressed women in the world, nor the only oppressed person in the society.

Islam can help people to develop their potential and resist deterioration when they observe its teachings. However, it does not provide a "privileged" community that is immune from the physical and social laws that are created by God to control this world, on the grounds of a claimed belief, while the practices of this community contradict God's message and common sense: ***"Verily, God does not change men's condition unless they change their inner selves" (13:11)***

## ***Gender Differences***

No one argues about "biological differences," or about the fact that "equality" should not mean necessarily "similarity." Some may believe in "differences of functions" between men and women, but such differences have not to be interpreted necessarily in terms of superiority and inferiority. When the Quran requires two women to substitute a man in witnessing a credit, this does not imply

any devaluation of the physical or moral abilities of a women but it just refers to the fact that women in many cases, may be less familiar with business procedures - especially the detailed specifics and legal aspects - than men, and therefore they may be more liable for errors in this respect. Accordingly, it may be wise to make sure that *“if one of them should make a mistake, the other could remind her.”* (2:282) This fact can still be noticed in many societies now, but it does not mean that a businesswoman, a female accountant or lawyer cannot equal a man as a witness.

Moreover, physical inconveniences through which women go through such as menstruation, pregnancy and childbirth, may not be considered always as crippling obstacles for their positive role in the society. Unless women are able physically, intellectually and morally to fulfill the comprehensive social responsibilities of enjoying what is right and forbidding what is wrong, the divine justice would not let them have such obligations. As it has been repeatedly mentioned before, early Muslim women were active with men side by side even in the battlefield, according to their abilities and to the community's needs.

Women played their social role throughout history without being restricted by their physical particulars. Going out of the house for work or for any social activity and being involved in other responsibilities beyond the family, may help the woman physically and psychologically to overcome these physical inconveniences, and it also widens and enriches her knowledge and experience.

Modern progress in science and technology, can allow the women better chances in carrying out her family and social responsibilities in difficult circumstances and overcoming physical inconveniences. However, the most painful of the menstrual period may often be one day or two, and such a short time should never justify a permanent ban on the social activities of women that are repeatedly emphasized by Islam.

In addition, one should not ignore the physical and psychological needs of women to practice their constructive role in the society, nor the positive effect of social experience on a woman even in her role as a wife and a mother. Physical activity is essentially needed for a pregnant woman before, during and after delivery. A paid delivery-vacation can be secured for a workingwoman by law, and she can have a leave of absence from her work for a certain time to take care of the baby if she wishes, while she maintains the right to resume work when she feels that she becomes able to do so. Crèches and nurseries-with qualified staff- can be available in the place of work or close to it. So as to allow a working mother to be with her baby whenever this is possible or necessary.

As for the housework and the childcare, this is not a permanent full-time work for a woman all her life. Many families may prefer to have a few children to fulfill for them the high ethical and educational standards required by the teaching of Islam. The mother care that the children need becomes less when they reach a certain age. Moreover, the man has to help his wife in the housework, as the Prophet and the Companions did. The housework and even nursing the baby are not legal obligations of the woman according to Shari' a, but voluntary contributions to the family that have to be practiced only by her consent. When children grow up, a mother would have more time and energy to study, work or practice social activities.

### *A Development of Awareness*

The distressing picture of men-woman relations in contemporary Muslim societies, which contradicts the teaching of Islam, is a concrete fact that cannot be denied. However, another positive fact that exists side by side, is that an awareness of the

essential and constructive role of women in the society to fulfill their Islamic responsibilities, is increasingly appreciated among Muslim men and women.

The divine guidance in the Quran and Sunna, and many positives in our intellectual and practical heritage, have increasingly inspired and generated new works that advocate the rights of Muslim women in the name of God and His message.

Day after day, Muslims are becoming more and more aware of the due distinction between the permanent teachings of the divine sources of Islam and the accumulated human ideas and practices that were influenced by the cultural and social circumstances in the Muslim societies, in the past and the present. Conceptual and behavioral progress is apparent now in

Muslim societies, which seems more keen to observe the divine teachings and abandon the human deviated customs in man-woman relations in the family and the society. Women's education and work in different fields have developed their personality, self-confidence and initiatives. An awareness of their Islamic rights and responsibilities has inspired many of them to be committed to the Islamic message of justice, peace and prosperity. These concrete developments have provided a support for the Muslim woman, stronger than any philosophical or legal argument. On the other hand, Muslim men have realized the social change and have become more inclined to deal with it. Muslims cannot reactivate their societies, secure a positive role in the contemporary world and get their message heard by all people, while a half of their population is suppressed or neglected. How can Muslims call universally for a divine justice, while they are missing or ignoring it among themselves, their homes and their communities?

Progress can be obviously noticed... and hopefully it will continue and accelerate, benefiting Muslims in the first place, and then representing the message of Islam to the whole world appealingly.

## **Professor Dr. Fathi Osman**

### **Resident Scholar of Omar Ibn Al Khattab Foundation**

- A renowned scholar of Islam in its sources, as well as of the Muslim intellectual development and the contemporary Muslim world.
- Received his M.A. in humanities and his law degree from Egypt. His Ph.D. in Islamic law and institutional History from Princeton University. He has been a professor of Islamic Studies at prominent institutions in Asia, Europe, the Middle East and the United States. He has been invited as a visiting professor at outstanding academic institutions throughout the world.
- Professor Osman has written more than 25 books in Arabic and English that represent new approaches in Islamic Studies. His works include “Islamic Thought and Change”, “Islamic History & Materialistic Interpretation”, “Human Rights”, “Women’s Rights”, “Pluralism”, etc. His “Reflections” in Arabia, the “Islamic World Review”, published in London, England (1981-1987), have been translated into several languages.
- On July 6, 1996 he was presented with an award at the University of London (UK) by prominent Islamic institutions and distinguished scholars from all over the world “In recognition of his contributions to the contemporary Islamic thought”.
- “Concepts of the Quran” his latest book, was published in 1997. In it, Dr. Osman offers a deep and thorough insight into the Qur’anic message in its totality with topical classifications. Being a native Arabic speaker, Qur’anic expression. While benefiting from the classical commentaries of Qur’an.
- Dr Osman completed a ten part series ‘Islam in Contemporary Times: Conversations with Professor Fathi Osman’ a series on Muslim Scholar produced by the Omar Ibn Al Khattab Foundation.

Professor Osman is currently involved in several projects related to his work at the Foundation. In addition, Prof. Osman travels to other parts of the U.S., the U.K. and Malaysia to lecture in Universities and Forums.

