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**STATUS AND RIGHTS OF
WOMEN IN ISLAM**

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FOREWORD

It is a distressing fact that most of the Muslims lack proper understanding about the universal relevance of the Qur'anic Message which was revealed to Prophet Muhammad (SAWS) for the guidance of all mankind. There is considerable misapprehension too about Islam and the Message of the Qur'an in the minds of Non-Muslims. The **Indian School of Excellence Network Trust (INDSET)** is making an humble endeavour through a series of monographs on Islam and Qur'an to project the image of Islam in its proper perspective and to explain the significance of the Qur'anic Message in a scientific and systematic way.

This Monograph on the Rights and Status of Women and Law of Inheritance in Islam presents a comprehensive, cohesive and lucid account of the systems of marriage and procedure for divorce in pre-Islamic tribal Arabia and the radical reforms introduced in the system based on the injunctions of the Qur'an and Traditions of the Prophet (SAWS). These reforms raised the status of women from slavery to that of respectable member of the family with a voice of their own totally independent to express views freely and frankly, and fully empowered them with full proprietary rights. The author has rightly stressed the progressive nature of these reforms which raised the status of women on par with men except biologically. All those interested to understand the reality with regard to the rights and status of women according to Qur'anic injunctions and *Sunnah* of the Prophet (SAWS) will find this monograph exciting and strikingly illuminating.

The Monograph stresses the point that scholars of Islam swear by the *Sunnah* of the Prophet (SAWS) but hardly any one refers to his *Sunnah* as regards his family life. He was the most loving and caring father and extraordinarily benevolent and impartial towards his wives. He gave them full freedom to express their views, respected them and even sometimes acted upon their advice. There was perfect peace and harmony in his family life which allowed him to perform his mission with total dedication and without any domestic worries.

The Trust expresses its profound gratitude to Dr. Mrs. Zeenat Shaukat Ali for her scholarly contribution in highlighting clearly and candidly the remarkable role of the Qur'an and the *Sunnah* of the Prophet (SAWS) in raising significantly the status of women in the family and the society, long before any other civilized society could even conceive of it.

We conclude with a prayer to Allah (SWT) to graciously bless our efforts with success (*Aameen*).

وَأَخِرُ دَعْوَاهُمْ أَنِ الْحَمْدُ لِلَّهِ رَبِّ الْعَالَمِينَ

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INTRODUCTION

The proclamations of the Holy Qur'an in the early 7th century A.D. on the rights of humankind and particularly of women antedated the Declarations of the United Nations on Human Rights and Discrimination, against women by more than 1400 years. The Qur'an, by Divine command, in one stroke, did away with all such tribal customs and practices, which demeaned the personality of women and adversely affected their honour and dignity. It raised the status of women in a primitive tribal Arab society from a docile and servile member of the society under total male dominance to a respectable member of the family with voice of her own. A revolutionary change was brought about in her status from being a property of man to that of owner of property in her own right as a mother, daughter, sister and wife with full authority to dispose of her property without the intervention of husbands/parents. The unjust systems of divorce such as *Zihar* (husband will cease conjugal relations with wife by declaring that she was like the back of his mother) or *Ila* (when the husband would stop all contacts with his wife for months without divorcing). Such unfair and inhuman treatment of the women when they could be literally thrown on the street with their children with no one to support them were abolished instantly. Similarly the evil practice of owning a widow with her property on the death of her husband by the late husband's brother or stepson was stopped forthwith. These measures were initiated and completed to protect women from the repugnant tribal customs and to progressively improve their status, prestige and position in the family and the society.

These significant reforms in the status of women were implemented, without any reservation by the same members of the tribal society who diligently practiced these evil customs before their conversion to Islam. The same people who considered the birth of a daughter a disgrace and in many cases mercilessly buried them alive accepted their birth, on conversion to Islam, as the gift of God and brought them up with tender love and affection. This bloodless social revolution relating to the status of women and treatment towards them was effected by the divine command to enhance social harmony in the Islamic society. This was elegantly practiced by the Prophet (SAWS¹). His love for his daughters was exemplary and his graceful and impartial, and perfectly equal treatment of all his wives are worthy of emulation by every Muslim.

The Divine Laws are extremely watchful and protective of social harmony of the family and of the society. Any breach in social harmony of the family can be disastrous for the society as a whole. It is in this context that we have to understand the status and rights of women as outlined in the Qur'an and the Traditions of the Prophet (SAWS). Islam is not prepared to compromise on the modesty, chastity and honour and dignity of women which are closely interlinked. The protection of modesty and chastity are crucial factors in the life of a woman that lend her dignity and honour and protect her from male dominance, exploitation, scandals and character assassination. Hence the Qur'anic commands with regard to the rights and responsibilities of women have to be viewed in this backdrop. Further the Qur'an does not separate rights from responsibilities because rights entail responsibilities. There is nothing like unbridled rights in

¹ SAWS stands for '*Sallallahu Alaihi wo Sallam*', meaning 'Blessings of Allah and peace be upon him.'

Islam, whether for men and women. They are circumscribed by a code of conduct and a value system as ordained in the Qur'an.

Islam has laid down firm ethical norms to govern the conduct of both men and women. It is within the parameters of these norms that the rights of men and women are defined. While adhering to these norms women can own, administer and dispose of their property without the interference of their parents or husbands. They can carry on independently any trade and business or any decent activity where there is no risk to their chastity and honour. There is no point in joining an activity or service where their chastity is compromised and dignity is damaged. Bearing this in mind women can pursue their education, any vocation of their choice and develop any skill to contribute fully to the progress and prosperity of the society they live in. There is such a strong emphasis on modesty in the Qur'an that not only women but even men have been asked to guard their modesty: *"Say to the believing men that they should lower their gaze and guard their modesty; that will make for greater purity for them and Allah is well acquainted with all that they do. And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof;..."* (An-Nur; 24:30-31). In this verse while both men and women have been addressed but the latter have been particularly asked to be far more careful because the exposure of their physical charms may invite lustful looks of other men and eventually become a source of trouble for women and disturb domestic peace. The Qur'an categorically commands both men and women that they should fear Allah (SWT²), adhere to the moral

² SWT stands for 'Subhanuhu wo Ta'la, meaning 'Pure and Exalted.'

codes prescribed in the Qur'an because on the Day of Reckoning they would be accountable to Allah (SWT) for their earthly deeds. The idea of the Day of Reckoning and of accountability to Allah (SWT) are valid in other religions as well but are far more stressed in the Qur'an.

The Qur'an provides the Divine guidelines for the righteous deeds and those who abide by these divine directions will be rewarded bountifully by Allah (SWT) on the Day of Reckoning when the entire humankind will be brought back to life to account for its earthly deeds. Those who defy the commands of Allah (SWT) and deviate away from the path of righteousness will be punished on the Day of Reckoning.

The Qur'an recognises biological differences between men and women and assigns clear cut division of responsibilities between them in certain respects. A man has to be the breadwinner of the family and the woman has to manage the house and bring up the children. Barring this differentiation the Qur'an does not discriminate between them for their rewards and punishments for their earthly deeds are strikingly similar which is clear from the following two verses.

"He that works evil will not be requited but by the life thereof: and he that works righteous deed - whether man or women - and is a Believer - such will enter the Garden (of Bliss)..." (Ghafir; 40:40).

"... Never will I suffer to be lost the work of any of you, be he male or female: you are members, one of another;..." (Al-e-Imran; 3:195).

It may further be pointed that in Islam rights and responsibilities are interlinked. A person enjoys certain

rights so long as he or she carries out his/her responsibilities as prescribed in the Qur'an. The rights get automatically cancelled if the responsibilities are not performed. Further the additional restrictions that have been put on women is not to curb their operational freedom but to protect their chastity, dignity and honour, save them from molestation and guard them from scandals and character assassination. It seems that through Divine design Allah (SWT) is most protective of women's honour and chastity so that she may enjoy a respectable position in the family and society. A woman thus enjoys a most privileged position in the Divine scheme of things for if she loses her chastity and honour, her status in the family and society falls precipitously. The women deserve to lead a decent life with immaculate character, dignity and honour in the society. The Qur'an provides the divine guidance to accomplish this objective. It is in this background that the status of a woman in an Islamic society has to be conceptualized.

CHAPTER – 1

A SYNOPSIS OF THE OVERVIEW OF THE STATUS OF WOMEN IN ISLAM

WOMEN IN ISLAM : SPIRIT AND PROGRESS

The United Nations Declaration of Human Rights and the United Nations Declaration on the Elimination of Discrimination against women (General/Assembly Resolution, adopted on 7th November, 1967), condemned at the highest level of the world forum, the past traditional status quo of women, and stated the need for its thorough transformation. After laudable rethinking and re-evaluation of established norms it deplores, in its very first article, discrimination against women as an offence against human dignity. Women's right to participate in the social, economic, educational, cultural and political fields of endeavour was granted equal recognition with the right of men. Hence the equal right for women and men to acquire, administer, dispose of, and inherit property, and the legal exercise thereof; equal freedom to choose or refuse a spouse, to consent or not to enter into marital status; equal rights for women and men during the subsistence of a marriage as well as during its dissolution. The Declaration bars child marriage, it grants the right to equal conditions in the matter of education, of free choice of revised vocational training, of employment, of remuneration and of treatment in respect of work of equal value.

The above resolution was found necessary inspite of the United Nations Declaration on Fundamental Human Rights in order to ensure the dignity and worth of the Human person, and the rights of women.

United Nations Organization, being an international institution, reflects the thoughts and will of its member nations both government and non-governmental organizations. It may be of interest to go into the causes prompting adoption of such a resolution as late as 1967, more than two decades after its formation. UNO charter itself is hailed as a landmark document. Question must be asked as to what went wrong within two decades that a separate resolution was felt necessary? More interesting will be to know what mechanism it evolved in pursuance of the resolution to achieve the desired result?

Humankind is one of the most complex of Allah's (SWT) creations in the universe. It is bestowed with the faculties of intelligence articulation, reading and writing and the capacity to choose between good and bad.

Allah (SWT) has created all that is known and even that which is unknown and subjected it to a way: *"Who has created, and further, given order and proportion; Who has measured and granted guidance."* (Al-'Ala; 87:2-3). Each and every creation has thus been put under divine guidance to perform its designated role. All species, except humankind, are rigidly bound by the respective natural laws. Any deviation will cause disturbance in the fine balance set by Creator. Thus they are incapable of deviation: *"...no change will you find in the practice of Allah."* (Al-Fath; 48:23). As for as humankind is concerned Allah (SWT) says: *"We have indeed created mankind in the best of moulds."* (At-Tin; 95:4). Besides being created in the best of moulds human beings are also distinguished to be created as the Vice-Gerent of Allah (SWT) on earth: *"...I will create a vicegerent on earth..."* (Al-Baqarah; 2:30).

Having declared the unique feature of humankind it is said: *"Verily We take upon Us to guide."* (Al-Lail; 92:12).

It is for human beings to choose the right path or act sinfully.

Careful consideration of the above verses will lead us to believe that humankind is a very special species and thus has a very special role to play. Therefore the laws and codes for its guidance too have to be very special. No other species is spoken of returning to the Creator to give account except the humankind: *"For to Us will be their return; then it will be for Us to call them to account."* (Al-Ghashiya; 88:25-26).

This being the case only the Holy Qur'an, being the word of guidance from the Creator, becomes the basis of determining the status, role, right and responsibilities of humankind males as well as females. No other document, be it national or international will hold good in the discussion concerning Muslim men and women. It should also be remembered, while discussing the practices of Muslim men and women in past and present, that the code of conduct, as laid down in the Holy Qur'an and demonstrated practically by Prophet Muhammad (SAWS) and his Companions (RA³), is for *Muttaqeen* [who fear Allah (SWT)] and who: *"...have the assurance of the Hereafter."* (Al-Baqarah; 2:4).

Belief in Allah (SWT) and Hereafter (*Aakhirah*) is an absolute pre-requisite for understanding, accepting and adhering to the codes and laws laid down by the Creator. There is just no room for personal, tribal, national, international, human likes and dislikes in practical applications. Any deviation, distortion; whether knowingly or un-knowingly, for selfish ends or misplaced

³ RA stands for 'Razi Allahu 'anhu/'Anhum'Anha/'Anhuma', meaning 'Pleasure of Allah upon him/them/her/both.'

sense of benevolence, is completely ruled out. Otherwise, there will be no end to 'humane', 'fair', 'equitable' suggestions.

It will now be appropriate to examine what the Holy Qur'an has to say on the status and rights of women in Islam.

The recognition the Holy Qur'an grants to women's material and spiritual condition are the same as those granted to men. *"For Muslim men and women, for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast for men and women who guard their chastity, and for men and women who engage much in Allah's remembrance, for them has Allah prepared forgiveness and great reward."* (Al-Ahzab; 33:35)

From a financial point of view women enjoy the same benefits as men, and they may, if they so feel, follow any respectable profession: *"...to men is allotted what they earn, and to women what they earn..."* (An-Nisa; 4:32) Women can inherit property as men can: *"From what is left by parents and those nearest related there is a share for men and a share for women..."* (An-Nisa; 4:7)

Similarly the institution for marriage does not in any way undermine a women's right as an individual member of society. Nor is her individuality merged into that of her husband's: *"...And women shall have rights similar to the rights against them, according to what is equitable..."* (Al-Baqarah; 2:228)

A cordial relationship between husband and wife is strongly recommended: *"And among His Signs is this, that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between your (hearts)..."* (Ar-Rum; 30:21). *"It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love)..."* (Al-A'raf; 7:189). Though the form of a Muslim marriage is contractual and non-ritual, marriage itself as a concept is not merely a contract. The sacredness of its character can be seen from: *"...and they have taken from you a solemn covenant."* (An-Nisa; 4:21).

Women's participation in various activities, as *Hadith* or the Traditions of Prophet Muhammad (SAWS) point out, was never discouraged. Women took part in national activities, acted as advisers, and while they were efficient managers of the household, nonetheless joined in congregational prayers in the mosque. They were in the battlefield, carried provision therein, helped carry the wounded and slain from the battlefields and even participated in fighting, when necessary (Bukhari).

Husband and wife should help each other and cooperate in order to ensure domestic peace and tranquility, which is greatly stressed in Islam. The Holy Qur'an exhorts the faithful: *"...Nor should you treat them with harshness,..."* (An-Nisa; 4:19). *"Let the man of means spend according to his means and the man whose resources are restricted, let him spend according to what Allah has given him...."* (At-Talaq; 65:7).

Decency and dignity are the hallmark of Islamic dress code. Any laxity in public appearance is not tolerated in Islam. The spirit behind this is concern for protection of women themselves: *"O Prophet! Tell your*

wives and daughters, and the believing women, that they should cast their outer garments over their persons when abroad, that is most convenient, that they should be known as such and not molested...." (Al-Ahzab; 33:59).

It should be noted that modesty is enjoined upon both men and women in the Holy Qur'an: *"Say to the believing men that they should lower their gaze and guard their modesty; that will make for greater purity for them... And say to the believing women that they should lower their gaze and guard their modesty..." (An-Nur; 24:30-31)*

Women are particularly vulnerable because of their natural charm. Their un-restricted exposure to all kinds of people in public places is likely to create problems to themselves. That is the reason why un-restricted and un-necessary intermixing of males and females is not approved. *"And stay quietly in your houses, and make not a dazzling display, like that of the former times of ignorance..." (Al-Ahzab; 33:33).*

These wise and beneficent injunctions had for their object, the promotion of decency among women, the improvement of their dress and demeanour, and their protection from insult.

Yet Islam does not suppress or oppress women. They have full freedom to express their views and participate in all essential activities and express themselves freely and forcefully. The Holy Qur'an testifies to this in *Surah Mujadalah* (58). Khawlah bint Thalbah (RA) strongly protested before the Prophet (SAWS) in the Mosque about the unfair pre-Islamic tribal system of divorcing women through *Zihar* (you are like the back of my mother and hence our conjugal relationship will cease). The Holy Qur'an condemns it and abolished it

straight away. Similarly, Prophet's (SAWS) daughter Zainab (RA) informed her father in the Mosque that she had given protection to her pagan husband Abul 'As. He conceded her right to give protection but firmly asked her not to have conjugal relations with her pagan husband (Bukhari).

In a nation where the birth of a daughter was considered a calamity, Islam gave to women a new status which upset the established order of that society. A cursory glance at the Muslim codes relating to women would perhaps bring this factor to light.

As long as a woman is unmarried she remains under the parental roof and guidance. As soon as she is of age, the law vests in her all the rights which belong to her as an independent human being. She is entitled to share in her parent's property though the proportion differs. The distinction is founded on the relative responsibilities of the brother and sister.

On her marriage she does not lose her individuality. A *Mahr* or ante-nuptial gift by the husband in favour of the wife is a necessary condition, and on his failure to make a settlement, the law presumes one, in accordance with a certain set rule.

A Muslim marriage needs no priest and requiring no rites. It validates stipulations or legal conditions, which either party deems necessary as fundamental for governing future relations. The contract of marriage gives a man no rights over a woman's person, beyond what the law defines, and none whatever over her goods or property. Her rights as a mother do not depend for their recognition on the idiosyncrasy of individual judges. Her earnings acquired by her own exertions cannot be wasted by her

prodigal husband, nor can she be ill-treated by one who is brutal. She acts in all matters which relate to herself in her own individual rights, without the intervention of her father or her husband.

A word on polygamy in Islam is essential. We must understand that Islam did not introduce polygamy into its legal system. Polygamy was a common feature not only among the Arabs but others as well. Islam restrained polygamy by limiting to four and insisting on 'Adl (justice) not only in form of physical requisites and domestic comforts but also in matters of respect and love, thereby projecting a completely new outlook. The verse from the Holy Qur'an reads: *"If you fear that you shall not be able to deal justly with the orphans, marry 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..."* (An-Nisa; 4:3) This is a strictly restrictive ordinance rather than a permissive one since there was no restriction previously, and a man could marry any number of women. It should be noted that Prophet (SAWS) married, at the age of 25 years, Khadejah (RA), who was 40 years, adhering strictly to the ideal of monogamy in a totally polygamous society at that time.

Another contention that a Muslim woman has no right to divorce under the laws of Islam, requires some fresh understanding. There is no suggestion in the Holy Qur'an to distinguish or set apart the rights of either party to divorce, be it man or woman, for the verse of the Holy Qur'an says: *"If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best;..."* (An-Nisa; 4:128). According to this verse, in case of disputes between husband and wife, conciliators (*Hakams*) have to be appointed to effect reconciliation. These

'*Hakams*' would then intervene and if no reconciliation is possible and the couple has decided to part, then dissolution is affected.

Status and rights of women in Islam are intimately connected to the laws governing marriage, divorce and inheritance. Therefore these are dealt with in greater detail in separate chapters.

At this point, it may be both interesting and useful to quote statistics comparing, the rights for women in Islamic countries and women in the United States in the 1850's as it discloses her powerful position in certain areas as compared to the United States. This chart is drawn from information given in Handbook on International Data on Muslim Women.

Islamic State 632 A.D.

1. Women control their own property even after marriage.
2. A woman's income, whether from her own work or inheritance, was solely hers even after married.
3. A wife could invest her funds in whatever way she chose.
4. The husband was held responsible for household debts, including his wife's.
5. At the husband's

United States 1850 A.D.

1. A wife's property was controlled by her husband.
2. A husband had the right to collect his wife's wages.
3. A wife had to have her husband's signature to open a saving account.
4. The husband was held responsible for household debts, included his wife's.
5. At the husband's death the wife received a share of the estate -

- death, the wife received a share of the estate.
6. Daughters inherited half the share of the sons in an estate.
7. Women retained their own name after marriage so property was listed in their own name.
8. The children after infancy were in the custody of the father.
9. Women with property were expected to pay taxes and contribute to charity.
10. Women could not vote, nor could any males in Muslim countries until the twentieth century.
- usually half to one third.
6. Daughters received equal inheritance with sons if father died without a will.
7. Women took the name of their husband at marriage and property would be listed in the husband's name.
8. The children went to the custody of the father upon divorce.
9. Single women property owner's did pay taxes, married women's property was controlled by her husband.
10. Women could not vote while males over age 21 could vote.⁴

Thus there are no instances in the Holy Qur'an and the Traditions where women's right to express their views freely and publicly have been curtailed or suppressed. Islam evolved a progressive status for women, which can be deciphered from the instances cited above. The cry, therefore, against Islam as a system of oppression of woman would be a misguided attack.

4. Women in Islam – The Ancient Middle-East to modern time; Martorie wall, USA, 1980, p.36.

Having established conclusively that Islam grants to women which no law or charter has done now or before, it must also be clearly understood that role of women is different and complimentary to that of men. Difference in physical, biological and psychological make of women is suited for the role they have been created. Any attempt to disturb this natural assignment will only result in upsetting the delicate balance and create disharmony in society.

Notwithstanding exceptions, men are made to shoulder the responsibility of earning provision of life, protection and welfare of the entire family including, old parents. Accordingly he is, as in all cases of males species, built stronger and more robust than females, who are more suited for domestic functions. A closer examination of role and responsibilities of both genders will bring out females to be more important, especially in bearing children, feeding them, bringing them up and in managing household activities. If she has to fulfill these key functions, she has to be left completely free of other functions particularly involving physical and psychological strain. Otherwise it will be great injustice to her. Islam has done great justice to women by making men solely responsible for her food shelter and clothing. This does not in any way puts any restriction on her right to education and learning. Circumstances permitting she can even take up suitable jobs, engage in social work, pursue higher education and so on, provided limits of decency and dignity are not breached and family is not neglected.

CHAPTER – 2

GENDER EQUATIONS

The Holy Qur'an is the primary source of Islamic values and Islamic law. It unfolds the vision of Divine Attributes as one of *Rabubiyat* or Providence, *Rahmat* or Mercy and *'Adalat* or Justice. It further emphasises that the *'Muttaqeen'*, those who abstain and are virtuous, the *'Saleheen'*, those who put things right, the *'Musleheen'*, those who reform and improve the conditions of society, the *'Muqsitheen'*, those who practice equity and admit to the right of others, are on the right path. The Holy Qur'an also reflects a dynamic and progressive outlook since it consistently ordains the welfare of mankind through high moral values, equality of human beings through equity and justice and improvement in the status of women through compassion.

In its ideal, it instills a spirit of humanism directly linking *Iman* or faith to *'Amal* or deed. This is summed up in the oft-repeated directive *'Believe and act righteously'*. In the same vein, the Holy Qur'an elaborates the creation of humankind is *'in the best of moulds'*. The composite connection of being conscious of the Creator and conscientiousness towards His creation is seen in *'Haqooq-Allah'* [obligation to Allah (SWT)] and *'Haqooq un Nas'* or *'Haqooq-ul-'Ibad'* (obligations to fellow human beings). In the realm of obligations to fellow human beings no obligation is ever imposed without a corresponding right. Thus the Holy Qur'an says: *"...women shall have rights similar to the rights against them, according to what is equitable;..."* (Al-Baqarah; 2:228).

Scholars of Islam, both men and women, hence went on to examine the role of the Holy Qur'an and

authentic traditions of the Prophet (SAWS), regarding the rights of women. Their findings showed that the Qur'anic regulations on the rights and obligations of women were just and reformative. For example, they prohibit pre-Islamic patriarchal customs regarding female infanticide, rule out women's status as chattel, emphasize the contractual nature of marriage, require that the wife, not her father, directly receive the dower (*Mahr*); assert that women retain control and use of her property and maiden name after marriage; endorse her right to maintenance by her husband.

The Holy Qur'an does not support the notion of female inferiority, nor can women be judged as less rational, more emotional, or less competent than men on the basis of divine law. It is clear from many authentic traditions that the Prophet (SAWS) consulted women and weighed their opinions seriously. It was on the advice of Umme Salmah (RA), one of his wives, that the Prophet (SAWS) initiated the sacrifice of camel after the Treaty of Hudaibiyah, which resolved the crisis created by apparently unfavourable terms of this Treaty which left Muslims sulking and un-willing to call off the mission. The Muslims were sorely disappointed that they would be returning to Madinah without performing the pilgrimage, the basic object of their march from Madinah towards Makkah. Historical evidence shows that women contributed significantly to the reading and writing of the Holy Qur'an and were entrusted with vital secrets, affecting the Muslim community. It was a woman, Khadija (RA), who was first to learn about the revelation. The official text of the Holy Qur'an was kept in the custody of Hafsa (RA), one of the wives of the Prophet (SAWS), after the death of *Khalifa* 'Umar (RA).

Canonical records demonstrate the important and respected role of women in Muslim society, as reflected in the incident of a woman who corrected the authoritative ruling (*fatwa*) of *Khalifa 'Umar (RA)* on the dower (*Mahr*). The fact that women prayed in mosques and were involved in the transmission of *Ahaadiths* proves the status of women was in no way inferior. Women were known to give sanctuary (*jiwar*) to men and their involvement and interaction in public matters are expressed in history and Traditions. They owned and disposed of property and engaged in commerce. Like their male counterparts, they were encouraged to seek knowledge, which they pursued in the Prophet's (SAWS) own home, and women were both instructors and pupils in the early Islamic period. Of the Prophet's (SAWS) wives, 'Aisha (RA) and Umme Salmah (RA) were reputed for their scholarship and were among the great exegetes of the Holy Qur'an.

In the political arena, the Holy Qur'an refers to women, who independently of their male relatives, pledged the oath of allegiance (*bay'ah*) to the Prophet (SAWS) (Al-Mumtahinah; 60:12). Well known examples of women making such pledges to the Prophet (SAWS) occurred at *al-'Aqabah*, *al-Ridwan* and *al-Sharjarah*. In a number of cases distinguished women became Muslims before their men did, again contradicting the traditional patriarchal view that women were incapable of independent action. Khadijah (RA) was the first woman to embrace Islam. Hanbali jurisprudence upholds the qualifications of women to serve as judges.

Granting that biologically women and men are not the same, yet these differences do not mean that they are not of equal value. In the eyes of Allah (SWT), women and men are equal participants in both spiritual and material aspects of life. Hence they share equal rights and

responsibilities in their spiritual existence having equal rewards and punishment for their actions. This status of equality is recognized in the highest form of life, spiritual life as well as in the temporal domain.

For instance, the Holy Qur'an extols the leadership of Queen of Saba as *"...A woman ruling over them and provided with every requisite..."* (An-Namal; 27:23). Her qualities of leadership are not measured by her gender but by her capacity to fulfill the requirements of office. There is no Qur'anic injunction, which prohibits the woman from doing the same because of gender, if and when circumstances so demand. At the same time natural role and primary obligations cannot be forgotten and subordinated to envious desires: *"And in no wise covet those things in which Allah has bestowed His gifts more freely on some of you than on others: to men is allotted what they earn, and to women what they earn: but ask Allah of His bounty. For Allah has full knowledge of all things."* (An-Nisa; 4:32). Commenting on this Abdullah Yusuf Ali writes: *"Men and women have gifts from Allah - some greater than others. They seem unequal, but we are assured that Providence has allotted them by a scheme by which people receive what they earn. If this does not appear clear in our sight, let us remember that we have no full knowledge but Allah has. We must not be jealous if other people have more than we have - in wealth or position or strength or honour or talent or happiness. Probably things are equalized in the aggregate or in the long run, or equated to needs and merits on a scale, which we cannot appraise. If we want more, instead of being jealous or covetous, we should pray to Allah and place before Him our needs. Though He knows all, and has no need of our prayer, our prayer may reveal to ourselves our shortcomings and enable us to deserve more of Allah's bounty or make ourselves fit for it."* (Note 542).

Men and women are like two sides of the same coin. One serves no purpose without the other. They are equal but not identical. Together they form mankind as night and day make a *Yom* (full day). There is a distinct division of responsibility. While the women manage the household, bear and bring-up the children (procreation); the men are the main bread-winner and protector of the honour and dignity of family. *“Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband’s) absence what Allah would have them guard....”* (An-Nisa; 4:34)

Thus women have been assigned more intrinsic role in the social life. Their status is secure and highly respected. The Holy Qur’an recognizes this and exhorts: *“And We have enjoined on man (to be good) to his parents: in travail upon travail did his mother bear him. And in years twain was his weaning: (hear the command), “Show gratitude to Me and to your parents: to Me is (your final) Goal.”* (Luqman; 31:14). The Holy Prophet (SAWS) declared that mother has three times greater right over father (Bukhari). He also emphasised the greatness of mothers by declaring that the Heaven is under the feet of mother. This is the true status of women in Islamic society.

To sum up, Islam treats men and women on par assigning complimentary roles for pious and prosperous family life during this life and success in the Hereafter. This is clearly stated in *Surah An-Nisa*, verse 32 as quoted earlier.

The Prophet (SAWS) in his landmark Farewell Sermon on the occasion of *Hajja-tul-wida’* proclaimed thus on men – women equation:

“O People! verily you have got certain rights over your women and they have certain rights over you. It is your right upon them that they shall not allow anyone to tread your bed and they shall not allow any one you dislike to enter your house, and they shall not commit indecent acts. If they do you are authorised by Allah to separate them from your beds and chastise them, but lightly, and if they refrain, then clothe and feed them properly and treat them decently.”

“Behold! It is not permissible for a woman to give anything from the wealth of her husband to anyone without his consent.”

“Treat the women kindly since they are your helpers and are not in a position to do anything for themselves since you exercise control over them. Fear Allah concerning women, for verily you have taken them on the security of Allah and have made them lawful for you by the word of Allah.”

It is obvious that Islamic view of equality is distinct and certainly different from that held by modernist who are bent upon equality means identity. Otherwise how one can explain women joining armed forces? It will be interesting to see which country will have an ‘all-women’ security force to defend its territorial integrity or even a police force for maintaining law and order.

There is yet another dimension to the concept of equality. It is an established fact that resources are never enough to match the demands, and jobs do not match the candidates. It is worth pondering over seriously as to who should get the vacancy if there are two candidates – a man

and woman? Man is responsible for his entire family, both by law and convention (religious/socio-economic), whereas woman is responsible not even to herself for maintenance. Suppose the vacancy is filled by the woman on merit leaving the man jobless. Consider the social impact on society! So the concept of equality has to be understood objectively and not subjectively.

CHAPTER – 3

MARRIAGE IN ISLAM

MARRIAGE PRIOR TO THE ADVENT OF ISLAM

Before the advent of Islam in Arabia, loose unions, promiscuity, polygamy and the uninhibited law of divorce were the order of the day with males, and marriage by purchase, concubinage with slave women were common practices. Women were inherited against their will by heirs, had no right of *Mahr* (nuptial gift) since the father regarded the daughter as his personal property, while the guardian exercised unlimited right over minor girls and could take them for himself without price or could, if he wished, sell her to another. The wish of the women concerned had no place in marriage. Rather, it was the father, brother or male guardian who could force her into any union. The status of legitimacy of the children depended upon the form and type of marriage entered into.

Of the various forms of marriage accepted by the Arabs but later rejected by Islam, the *Muta'* (conditional marriage with a fixed period of time) was a popular form of marriage in pre-Islamic Arabia. The word *Muta'* means 'profiteering by' or 'enjoying a thing'. Such a marriage left the man not only free to enter into any number of such unions but also left him bereft of the responsibility of maintenance with regard to the woman concerned or paternal obligations towards the offspring.

Among the several kinds of sexual unions accepted in that society, a system of marriage, wherein the man was a master of several wives was popular. Divorce was frequently practiced and the marriage was dissolved

at the instance of the man for little or no reason. The responsibility of tending children descended on the woman's family who sometimes embraced several children by different fathers.

Again during wars between the tribes, marriage by capture was also a common feature. The procuring of captives was almost the main object of every expedition. Ibn Hisham mentions that these women became the wives or mistresses of their captors against their own will in keeping with an Arab tradition contending that 'the best and stoutest of sons are born of reluctant wives.'⁵ Such captured women had no right to dispose of their persons since they belonged to their captors. The right to divorce in pre-Islamic Arabia, therefore, rested with the husband since he was considered the owner of the women.

In addition to marriage by purchase and capture, marriage by contract also existed which, however, did not alleviate the position of women in any way. Such a marriage could be contracted by a guardian, with or without the consent of the woman since she had no right to dispose of her person. It was a man who would contract such a marriage with aliens, kinswomen, wards and daughters of paternal uncles. As regard the marriage of a guardian with a ward, 'he took the girl to himself without payment since he had the right to sell her to whom he chose.'

Various other forms and categories of sexual unions also existed where mutual attachment, respect, formation of a household, the complexity of domestic feeling had little or no recognition. Abdur Rahim

5. Kinship and Marriage in Early Arabia, W.R. Smith Cambridge, 1885, p:74.

examines the other forms of sexual unions in the *Khasful Ghumma* as follows.

The first of this form was known as *Nikah-ul-Istibada* where a man desiring the introduction of a more noble lineage for his descendant called upon his wife to cohabit with a man of his choice. The husband even remained aloof from her until her pregnancy was established after which he returned to her and resumed cohabitation. Another popular form was where a number of men, less than ten, would gather and cohabit with a woman, and when she conceived and gave birth to a child, she called upon all the men and made a pronouncement as to the paternity of the child; her decision was binding on the man she referred to, who could not then disclaim paternity. A further practice concerned prostitutes who had a number of visitors to their tents which had a flag fixed to it as a sign of their calling. When one of them bore a child, a man known as *Qaif* (literally one who recognizes) was invited and his decision, regarding paternity, based on the physiognomy of the issue, was final and binding on the man.⁶

The status of legitimacy of issues depended upon the form and type of marriage. The mode of paternity, which in later times came to be jealously preserved, had a different meaning in ancient Arabia. Fatherhood did not spring from procreation, and the family, of which the father was the head, was held together not by the principle of physical paternity but by the understanding that the husband was the father of all the children born on his bed. The very foundation of fatherhood which is procreation and the presumption of law that the husband is father of all his wife's children rests on a well-

6. Principles of Muhammadan Jurisprudence, Abdul Rahim, p:78.

established custom of conjugal fidelity, and on the certainty that the husband will object to have the children of another man pinned on to him. The idea did not exist in the mind of the Arab. Islam, later, introduced the notion of fatherhood along with the duties that went along with it.

Another popular custom was that the wife could be inherited by heirs of the deceased. Wahidi and Tabari related the instance of a widow called Kobaisha who came to the Prophet (SAWS) with the complaint that she had been 'taken as wife' against her will by the son of her deceased husband who would neither live with her as her husband nor set her free.

Regarding women being inherited. Tabari in his commentary says, "In the *Jahiliyya*, when man's father or brother or son died and left a widow, the dead man's heir, if he came at once and threw his garment over her, had the right to marry her under the dowry (*Mahr*) of (i.e. already paid by) her (deceased) lord (*Sahib*) or to give her in marriage and take her dowry. But if she anticipated him and went off to her own people, then the disposal of her belonged to herself."⁷

Institution Of Marriage In Islam

Nikah: The Arabic equivalent for marriage is *Nikah* as used in the Holy Qur'an. Originally the word *Nikah* springs from the word '*Aqd* or uniting. In its literal sense it means carnal connection and according to the *Radd-ul-Mukhtar*, '*Aqd* signifies both proposal and assent and the word means the contract of marriage as well as cohabitation. '*Aqd* conveys the same meaning as the term

7. Ibid p: 87.

obligation in Roman Law. In fact, *'Aqd*, is the completion of contract which commences with the proposal or demand in marriage and ends with consent.

The permanent or regular mode of marriage, fixing the mutual rights and obligations between the parties, determining the status of children, existing in pre-Islamic Arabia, was recognised by Islam. Islam, however, did change the overall system of marriage then existing.

It introduced into its framework substantial clauses, which transformed the laws of marriage, fostered equality, security and respect between the parties and gave woman a position of strength under the law. She was no longer considered to be a captive or slave of the husband, to be owned and discarded.

Inheritance by heirs was abolished as it was condemned in the strongest terms by the Holy Qur'an: "*O you who believe! You are forbidden to inherit women against their will...*" (An-Nisa; 4:19). On the other hand, the *Nikah* ensured that she became the owner of property on marriage since *Mahr* no longer constituted money given to her father in exchange for her person: "*And give the women (on marriage) their dower as an obligation....*" (An-Nisa; 4:4). She also becomes a co-inheritor in the property of her husband and her parents: "*From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large, - a determinate share.*" (An-Nisa; 4:7).

Marriage is an institution created for the protection of society in order that human beings remain chaste and unpolluted. The primary base of any civilized society is when two people of different sexes unite in a perfectly

awful way. In Islam marriage is *Mithaq-e-Ghaliz* (a solemn pact) which a man and woman enter into for life.

Sexual relation is sanctioned between two individuals of the opposite sex with a view to the procreation of the human species, restraining men from debauchery, encouraging chastity, promoting love, establishing lineage and fixing descent. A Muslim marriage, therefore, is both an act of *'Ibadat* [devotion of Allah (SWT)] and *Mu'amalat* (dealings among people). It is founded on contract in which the consent of both the parties is essential.

There is a popular conception that no religious significance is attached to a Muslim marriage and the contract entered into is purely civil in nature and not considered to be a sacrament. As a matter of fact it is only the form of a marriage itself that is contractual and non-ritualistic. The form of the contract is civil in the sense that it is based on mutual consent between the husband and the wife and can be dissolved at their option, while the relationship it forms is sacred because it guards them from un-chastity and is described by the Holy Qur'an as a 'solemn covenant' as mentioned earlier. Further, the Holy Qur'an describes a married person as a garment or protection unto his or her spouse thus screening the condition of the other from doing impure things. "...*They are your garments and you are their garments...*" (Al-Baqarah; 2:187).

In several places the Holy Qur'an speaks of the marriage alliance making the point that marriage, one of the prime and original necessities of human beings, is made for the solace of life; that man and woman are created to live in marital bliss, tranquility and mutual understanding. Thus love in such a close bond is evolved through a union of lifelong relationship, not merely a

flickering spark wearing away with time. This fondness which should ideally permeate a Muslim marriage is described in several verses of the Holy Qur'an: *"It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love)...."* (Al-A'raf; 7:189). *"And among His Signs is this, that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between your (hearts)...."* (Ar-Rum; 30:21). It further elaborates: *"And Allah has made for you mates (and companions) of your own nature, and made for you, out of them, sons and daughters and grand children,...."* (An-Nahl; 16:72).

Marriage is in fact a relationship which every Muslim must enter into unless there are compelling reasons why one should not: *"Marry those among you who are single, and the virtuous ones among your slaves, male or female; if they are in poverty, Allah will give them means out of His grace...."* (An-Nur; 24:32).

The Prophet (SAWS) has declared that those who do not marry (for no valid reason) are not of me. (Bukhari).

Inter-marriage is permitted with the women of the People of the Book. A Muslim may marry such a woman provided he gives her economic and moral status as he would give a Muslim woman, desiring chastity not lust: *"....(Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time, when you give them their due dowers, and desire chastity, not lewdness...."* (Al-Maeda; 5:5)

In Islam marriage is, therefore, besides being sanctimonious transaction, an agreement or a contract by which a man and woman enter into a certain legal relationship with each other which, in turn, imposes and

creates certain rights and obligations. According to Holy Qur'an all obligations must be faithfully fulfilled.

POLYGAMY

Polygamy prior to the Advent of Islam

There exists a misconception that Islam has done great injustice to women by permitting polygamy. Nothing is farther from truth. In fact, as brought out earlier, there were no restrictions on the number of women a man could take. Even where monogamy was imposed, sexual relations could still be established with any number of 'other women' as mistresses, concubines and, now fashionable, as live-in partners. These 'other women' have no legal status and protection unlike the legally married wife. Islam set right the grave distortion of man-woman relation and degradation of women and denial of rights to children born of such extra marital relations. In the societies where polygamy is banned, the number of children who do not know even their mothers is on the increase. Such societies have yet to grapple with the problem that they are just taking note of. In the meantime homosexuality in both the genders has been legalized in some of the developed societies.

It must be conceded that all is not well in Islamic societies too. Some of its members lost sight of the real purpose behind this permission and indulged in indecent and immoral practice for fulfillment of carnal desires, though restricted mostly to elitist medieval segments. But Islamic societies have moved to arrest this tendency by creating awareness on misuse of this permission and also enacting supplementary laws to regulate and restrict polygamous marriages with a view to restoring the true spirit behind this permission, which in reality was more of

a restriction imposed on unrestricted numbers of legal wives.

At this stage it may be pertinent to consider the imperatives faced by all societies with an unbiased and open-mind to understand the merits/demerits of polygamy.

Male/Female Ratio

It is an established fact that except in the societies where female infanticide is prevalent, males are outnumbered by females by a margin of 5 to 10 per cent for various reasons. Therefore if monogamy is imposed strictly, what will be the fate of un-married women, and the kind of impact it will have on society at large?

Man is exposed to greater risks thus facing a higher rate of attrition. Who should take care of the widows and orphans even if sufficient wealth is left behind - particularly if the widow and children are young? An odd case may be there where the widow is dynamic enough and the society broad-minded enough to have a single self-supporting lady without causing any problems to her. But in majority of cases it will be difficult for the widow to manage the family successfully all by herself. Polygamy provides a solution; as indeed was the case when Qur'anic verse 4:3 was revealed.

Now consider the verse of the Holy Qur'an which, according to some, permits upto four wives, and restricts the number of wives to four according to others: *"If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four...."* (An-Nisa; 4:3).

The point that must be noted here is the circumstances, which necessitate polygamous marriages. Muslim men had fallen in wars leaving behind widows and orphans who had to be taken care of. The options open were either lodge them in widows/orphan homes or to force them on their or their husband's parents. There was one more option i.e., to give the grieved family a fresh lease of family life. For this the married men could be persuaded to take additional responsibility of maintaining widow and children of a deceased Muslim brother. How can anyone grudge such a benevolent measure? Note the spirit behind. The verse starts with the words: *"If you fear that you shall not be able to deal justly with the orphans.."* then there is a strong rider: *"...but if you fear that you shall not be able to deal justly (with them), then only one,...."* (An-Nisa; 4:3). This clearly shows that the cause of social welfare is to be served but without causing injustice to anyone. It should be noted here that the Prophet (SAWS) himself did not marry in the lifetime of his first wife Khadija (RA), spanning over 25 years, even though she was 15 year older to him. Therefore the norm, in Islam, remains monogamy, unless compelling circumstances demand polygamy (permission), but not more than four at a time (restriction) with the condition that all be treated fairly and justly. Obviously those who could not be sure of ensuring this were to be content with one wife.

Requirement of Household

A family is the primary unit of human society. Its health determines the health of society. Situations may arise when household manager (wife) is rendered incapable to perform her duties. In such an event, is it not better to bring a capable manager without removing the incapacitated person or to first render her homeless for

the sake of monogamy? It may be of interest to know the choice of first wife herself. Obviously she will rather accept her husband bringing second wife for the sake of family welfare, than to be divorced and left to the mercy of society.

Here it must be kept in mind that female is primarily moulded to take on household duties and upbringing of children. Exceptions will always be there when some women, bestowed with special talents to shoulder greater responsibilities, serving larger interests of society, will not like to get tied down to domestic routines. Even for this polygamy will facilitate fulfillment of her aspirations freeing her from the duties at home; or else the home and children will be left to the mercy of 'governesses'/'ayahs' with resultant denial of proper attention to children, thus adversely effecting their upbringing, if at all the husband agrees.

Misuse and Control

It is but human to err. Although all Qur'anic tenets and commandments are for the pious and God-fearing Believers (*Muttaqeen*), they are not beyond error. In fact Islam itself is all about guarding against error (vice), accepting them with due repentance, as and when they are committed, seeking divine forgiveness and accepting penance. Indeed carnality overwhelms almost all other fields of human pursuits. Hence scope of error is significantly large in this field. Polygamy or no polygamy gross excesses have been and continue to be committed. Compared to back-door polygamy without legal and social safeguards, open and legal polygamy is far better and in the interest of women themselves. Real status of mistresses, girlfriends and live-in partners of the progressive and developed society is there for all to see.

Howsoever one may call Muslim society stagnant and conservative, mostly under the influence of dazzling western societies, almost all Muslim societies have recognized the need of enacting supplementary laws to ensure, as humanly as possible, that polygamy is for social justice and improving the family life, and not misused and abused. As for instance under the Syrian Law a person must seek permission from the court to enact a bigamous marriage. In Malaysia, under the Islamic family law (Federal Territory Act) 1984, the financial status of the husband his liabilities and consent or the views of the first wife, are some necessary conditions. In Bangladesh and Pakistan, the first wife can seek a divorce if the second marriage has been unlawfully contracted. For details refer to Tahir Mahmood (1988): Status of Personal Laws in Islamic Countries.

Islamic Spirit

Islam is for upholding and promoting decency and dignity in human conduct and disapproves strongly selfish and carnal pursuits leading to degradation of human dignity. Nature is at the core of its guidance. The message contained in the Holy Qur'an is neither unnatural nor time or place specific. It is eternal, universal and final. Therefore, one need not be apologetic about permission of polygamy in Islam. It is in perfect harmony with the spirit of compassion for all mankind. Banning polygamy altogether will not only harm the interest and welfare of women themselves, but also promote unauthorized and immoral practices in the society. Woman will be the greatest sufferer of all kind of insult and indignity. Present day commercial exploitation in print and video media and other hidden forms is a direct consequence of 'liberating' women from the safe confines of homes. Neglected, even parentless, children will be to-

morrow's responsible citizens. Quality of such a society may well be imagined.

To sum up, marriage in Islam is a civil contract entered into by man and woman on the authority of Allah (SWT) on mutually agreed terms with honest intention of honouring it sincerely. However, with the authority of Allah (SWT), it may be terminated when it becomes absolutely un-tenable even after honest and impartial arbitration. But the breakage of the most intimate relation is to be brought about with the spirit of "agree to disagree" maintaining complete dignity. Special care is to be taken to assuage the feelings of women by displaying chivalry and magnanimity. Polygamy is an exception, just as divorce, and not a rule, meant primarily, to help women and, in certain cases, to set right the family affairs should the house-hold routine be on the breaking point. It is not at all a license to debauchery. Above all, marriage is a divinely sanctioned institution for procreation of mankind with established and identifiable lineage and pedigree and associated responsibilities, in the process, safeguarding the dignity of human life and making the worldly life enjoyable and purposeful.

CHAPTER – 4

DIVORCE IN ISLAM

As previously noted, though marriage in Islam, according to legal terminology, is only a civil contract which creates a status fixing certain rights and duties on either spouse, yet it is a *Mithaq-e-Ghaliz* or solemn covenant and the responsibilities consequent upon it are so serious in nature to both the individual and society, that a high degree of sanctity is attached to it. While the Roman Catholic Church considers marriage sacrosanct, and, therefore, leaves no way open to its dissolution. Islam, under certain unavoidable circumstances, allows its dissolution. This is, however, permitted only in exceptional and unprecedented circumstances.

Pre-Islamic Custom Of Divorce

Among all the ancient legal systems the capricious power of the husband to divorce his wife was regarded as unequivocal and as a natural suffix to marital rights. The husband, among the early Arabs, could exercise the power to divorce without the imposition of any restriction whatsoever and the desire to abandon rather than effect an agreement to part, were the norms of the time. The infamous methods he adopted to exercise this power showed his extreme contempt for women as well as his arrogance for being born a male. This characteristic was, however, not peculiar to Arab civilization as the legal systems of the Jews, Romans, Athenians also permitted similar practices.

Under the ancient Jewish legal system a husband could divorce his wife at will without any cause

whatsoever and there were few or no checks to the whimsical use of his power.

Among the ancient Romans as well as the Athenians the husband's right to repudiate the wife was totally unrestricted. In later times the Jews and the Shamatis tried to change the custom of divorce by restricting the right of the husband, but the school of Hillel upheld the primitive law. At the advent of the Prophet Muhammad (SAWS) the Hillelite doctrines were in force among the Jews in Arabia and repudiations by husbands were common among both the Jews and the pagan Arabs.⁸

Concept Of Divorce In Islam

The Arabic word for divorce is *Talaq*, literally meaning "freeing" or "undoing of a knot" and when defined in terms of the law it is a release from the marriage tie. When claimed by the wife, in the terminology of jurisprudence, it is called *Khula'* (meaning putting off or taking off a thing).

Both the Holy Qur'an and Traditions show that though divorce is permitted eventually, yet the choice can be exercised only under exceptional circumstances. A Muslim is required to face the problems of marital life rather than try to escape them and thus turn to divorce only as a last and final resort.

The Holy Qur'an, explicitly disapproves divorce: *"...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 through it a great deal of good."* (An-Nisa; 4:19). Other remedies are also suggested by the

8. Muhammadan Law, p:432.

Holy Qur'an to bring about reconciliation between the parties to avoid final parting. *"If you fear a breach between the twain, appoint (two) arbiters, one from his family, and the other from hers; if they seek to set things aright, Allah will cause their reconciliation...."* (An-Nisa; 4:35).

Prophet Muhammad (SAWS), if not prohibiting divorce altogether, was desirous of imposing curbs on its unfettered uses as permitted by pre-Islamic practice. Besides restricting the husband's power divorce, he raised the status of women conferring on them their rights of obtaining a separation on reasonable grounds, and went so far as to forbid its exercise without the intervention of the arbiters or judges (*Hakams*)⁹. He denounced *Talaq* as the most detestable of all things permitted and a famous dictum of his reported by Mu'adh bin Jabal (RA) says: "The Prophet (SAWS) said to me 'O Mu'adh Allah has not created anything upon the face of the earth, which he loves better than emancipation; and Allah has created nothing upon the face of the more hateful to him than divorce."¹⁰ The Prophet (SAWS) strongly disapproved: "With Allah, the most detestable of all the things permitted is divorce." (Abu Dawud). Besides preventing conjugal happiness it also interferes with the proper upbringing of children. "Divorce without need is an act of folly, an abuse of discretion and sheer ingratitude for a blessing."¹¹

From the above stated verses, it is amply clear that divorce is looked upon with great disfavour in Islam; not only this but that all means to effect a reconciliation must be exhausted before one resorts to this extreme measure.

9. Muhammadan Law, p:432.

10. Mishkat al Masabih, vol. 1, p:698.

11. Muhammadan Law of Marriage and Divorce, p:94.

The impression that the wife cannot initiate the proceedings in a Muslim divorce is also dispelled. Wife can obtain *Khula'* by making a settlement with husband: "...there is no blame on either of them if she give something for her freedom...." (Al-Baqarah; 2:229). A Tradition of the Prophet (SAWS) (If any woman asks her husband for divorce without some strong reason the odour of paradise will be forbidden to her.)¹² also shows the legal right of a woman to demand divorce despite the moral exhortation against it.

The causes which generally lead to a divorce are so varied that they would differ with each individual case. Thus the causes that may lead to a divorce are not specifically set out in the Holy Qur'an. Therefore, if a couple wishes to continue to live together as husband and wife inspite of a defect that would be considered sufficiently justifiable ground for divorce, such as a disease which renders him or her unfit for conjugal relations, no power can separate them. In fact this earns the pleasure of Allah (SWT) as stated in verse 4:19 above. On the other hand, if either of them finds such a continuation of relationship impossible, then it would mean a breach of the marriage agreement or *Shiqaq*. This breach or *Shiqaq* may arise from other causes such as cruelty, misconduct, or incompatibility to the extent that life is made miserable for both the parties. In such cases of *Shiqaq* it would depend subjectively on each couple and their willingness to continue or terminate the marriage agreement. If they wish to initiate proceedings they would have to follow the procedure set forth by the Holy Qur'an of appointing *Hakam* or conciliators before a final step is taken.

12. Miskat-al Masabih, vol. 1, p:696.

In matters relating to divorce it is clearly seen that both the sexes are placed on a level of perfect equality. "A breach between them" would mean that either the husband or the wife wants to break off the marriage agreement, *Talaq* and *Khula'* merely being terms to describe by whom the proceedings are initiated. In the process to be adopted each spouse is placed on a footing of equality. A conciliator has to be appointed from either side and if the conciliator cannot strike an agreement between the parties, divorce would follow.

A great diversity of opinion exists among the schools regarding unilateral divorce or the power of divorce by the husband of his own will without the intervention of conciliators. The *Hanafis*, *Malikis*, and *Shafeis*, the *Hanbalis* and the bulk of the *Shiahs* hold a unilateral *Talaq* as *Mubah* (permissible), though they regard the exercise of such power without any cause to be morally or religiously abominable.¹³

The Significance Of Conciliators

Though the Holy Qur'an refers to divorce "pronounced" by the husband, yet it would seem that, on a close study of it together with verse (An-Nisa; 4:35), it is not an unfettered or unilateral right for indulging his whim for an instant separation, and a limitation is placed upon his right. According to this verse, in case of disputes between husband and wife in which a breach is feared, two conciliators (*Hakams*) are to be appointed, one from her side and the other from his side. The primary function of these two conciliators is to decide on the adequacy of the couple's reason, in order to either save the marriage or effect the divorce. Thus it is only through the conciliators

13. Ibid, p:433.

or judicial authority that a divorce may be obtained either by the husband or by the wife. When wife obtains divorce, against the will of her husband, through judicial intervention, it is called *Faskh*.

Regarding the powers of the conciliators Ibn Arabi states: "If reconciliation cannot be effected by conciliators, they should report the matter to the *Qazi* giving their opinion as to which party is guilty. From this report the *Qazi* should decide whether the fault lies with the husband or the wife. If the fault lies with the husband, he shall force him to repudiate the wife, while if the fault lies with the wife he can force her to take a *Khula'* so that she has to pay him a compensation. If the fault lies with both parties, they will be separated in lieu of part of the dower."¹⁴

Various Forms Of Divorce

(i) ***Talaq-e-Ahsan***. This form of repudiation (*Talaq-e-Sunnah*) is the only approved, or the least disapproved, form in the Holy Qur'an where a *Talaq* takes place at a single pronouncement on a wife, when she is free from her menstrual flow, there being no sexual intercourse between them subsequently. The period between two successive menstruations is technically known as a period of *Tuhr* or purity. Such a pronouncement is to be followed by an abstinence from intercourse during the period covering her next three monthly courses, if the wife were beyond the age of menstruation, three lunar months. This three-months period after the pronouncement is known as *'Iddat* (waiting period). At the end of this period the marriage is terminated, provided there have been no sexual relations between the couple. However, if conjugal

14. Ahkam al-Qur'an, Ibn al Arabi, Cairo, 1957, vol. 1, pp:423, 424, 425.

relations have been resumed during customary period of *'Iddat*, the pronouncement is nullified.

This form of repudiation is *Raja'e*, or revocable, and its legal after-effect is that the couple have the option to remarry after the period of *'Iddat* has expired or the repudiation is complete. During the period of *'Iddat*, the parties have time to reconsider their decision so that if the pronouncement is not revoked by word or act (resuming conjugal relations), remarriage is possible. In case of the death of either parties during *'Iddat* the other is entitled to his/her share in deceased's property. Such a *Talaq* can be effected twice: "A divorce is only permissible twice; after that, the parties should either hold together on equitable terms, or separate with kindness...." (Al-Baqarah; 2:229). If *Talaq* is pronounced for the third time; the option of revoking is not available: "So if a husband divorce his wife (irrevocably), he cannot, after that, re-marry her..." (Al Baqarah; 2:230).

All the *Sunni* as well as the *Shiah* schools accept this form of divorce as being the most desirable form.

(ii) *Talaq-e-Hasan*. Like the *Ahsan* form of divorce this is also considered by the jurists as *Talaq-e-Sunnah*, though it is, generally, not considered even by them as acceptable as the *Ahsan* form.

The *Hasan* form of divorce is generally effected in the following manner. The husband pronounces *Talaq* three times, during three successive periods of purity or *Tuhr* within three consecutive months. When the last *Talaq* is pronounced, the divorce becomes irrevocable, and the marriage is permanently dissolved. In other words, if the husband pronounces one *Talaq* at the beginning of one *Tuhr* (in the first month) a second *Talaq* at the next *Tuhr* after her second monthly period (in the next month) and

subsequently, pronounces a third *Talaq* at the third *Tuhr* (in the following month), the divorce becomes irrevocable and the marriage is permanently dissolved. It should be noted that, in this form, within *'Iddat* (waiting) period, comprising three months, as clearly stated in the Holy Qur'an, three *Talaq* are pronounced and divorce effected. Reconciliation and revoking is possible before pronouncement of third and final *Talaq*. In case he wishes to remarry her after the final pronouncement, he can only do so after she has married another man and that man has voluntarily divorced her: "...he cannot, after that, re-marry her until after she has married another husband and he has divorced her...." (Al-Baqarah; 2:230) and this process is legally known as *Halala*. The point of time when the *Talaq* becomes irrevocable is the time when the rights of inheritance also cease. Thus in the *Hasan* form it ceases with the third pronouncement.

Talaq-e-Hasan is accepted by all the *Sunni* Schools as well as the *Shiah* Schools.

(iii) *Talaq-e-Bid'at*. The third form of divorce is known as *Talaq-e-Bid'at*. As its name suggests, it is an irregular or heretical form of divorce. Although disapproved by the classical jurists, it has been validly accepted by most of the *Sunni* jurists, "though in its commissioning the man incurs a sin." The *Shiahs*, and *Malikis* do not accept the validity of this form of divorce.

The most common method of *Talaq-e-Bid'at* is a triple pronouncement (also known as *Talaq-e-Thalatha*) brought about in a single sitting. *Talaq-e-Bid'at* is also effective even if the husband were to pronounce it during her menstrual flow, or also, if he were to accompany a single repudiation with some expression of finality. However, if the marriage has not been consummated, a

single repudiation without additional phases, would cause an immediate divorce. The essential feature of *Talaq-e-Bid'at* is its irrevocability which becomes immediate on pronouncement. As irrevocability is its immediate effect, it is also known as *Talaq-e-Bain*.

In this form of *Talaq* after the pronouncement, if the parties wish to remarry, they cannot do so unless the wife undergoes *Halala* as explained above. The rights of inheritance cease immediately and the *Talaq* becomes irrevocable, though the death whether of the husband or wife may occur before the expiry of *'Iddat*.

The *Talaq-e-Bid'at* or heretical divorce is good in law, though bad in theology, and it is the most common and prevalent mode of divorce in Indian sub-continent.

This seems to have been the customary form of divorce practiced in pre-Islamic Arabia. Neither does the Holy Qur'an mention this form nor does it seem to have been recognized or sanctioned by the Prophet (SAWS) who, on the contrary, strictly disapproved of it. The Gazette of Pakistan published in the year 1956 while considering a legal reform movement, answers some interesting queries regarding matters dealing with various aspects relating to marriage and divorce. It includes an answer to a question posed to a leader of a religio-political party in Pakistan, regarding *Talaq-e-Bid'at*. The reply says: "although all jurists have accepted it as a final, and a valid divorce, and irrevocable, it is really un-Qur'anic. It is a sin and punishable crime." Innumerable jurists and theologians from the days of antiquity down to modern times held that the pronouncement of a triple divorce at one sitting amounts to a single pronouncement. The Gazette continues: "This opinion must be given legislative effect. This is an important reform and if enacted will bring into

force the law as laid down by the Holy Qur'an and the *Sunnah*, and followed by the first *Khalifa*. It is authentically reported by Ibn Qayyim that *Khalifa* 'Umar was extremely sorry to have allowed it even as an emergency measure."

***Khula'*: A Way Of Dissolution**

In pre-Islamic Arabia women had no right to claim a dissolution of the marriage tie on any ground whatsoever, unless a special reservation was made in her favour by the marriage contract. As a general rule, neither the pre-Islamic Arabs nor the Jews recognized the right of divorce for women.

In Islam the wife can claim a divorce for any good reason even though there is no ill-treatment on the part of her husband (Al-Baqarah; 2:229 & An-Nisa; 4:35).

The wife of Thabit Ibn Qais (RA) is reported to have come to the Prophet (SAWS) and said: "O Messenger of Allah, I do not find fault in Thabit regarding his morals of faith but I cannot pull on with him." The Prophet said: 'Will you return to him his garden, which he had settled as a dowry?' On receiving a reply in the affirmative, the Prophet sent for Thabit and ordered him to take back the garden and divorce his wife." (Bukhari)

The Tradition of the Prophet (SAWS) concerning the case of Barirah (RA), who was wedded to the slave called Mughis (RA) clarifies this point still further. Due to her aversion for her husband she could not live with him. He loved her so well that he followed her weeping in public and was quite inconsolable. The Prophet (SAWS) advised her to return to her husband, whereupon she asked: "Is this an order?" When the Prophet (SAWS) said: "it was merely a recommendation", she declined to return to her

husband saying: "I have no need of him". The divorce came through.

No further clarification is required to approve that a woman who has a fixed aversion for her husband, cannot be compelled to live with him and can divorce him on these grounds. Her instance also proves that the Prophet (SAWS) did not force an unwilling wife to live with her husband. Another Tradition, illustrating this point, reads as follows: "Whatever woman asks for divorce from her husband without any harm, the odour of Paradise shall be forbidden to her."¹⁵ This Tradition recognizes the right of the woman to demand divorce so much so that she may even demand it without any harm being caused to her, although she is told, as in the case of *Talaq*, which of all permitted things is considered most hateful in the sight of Allah (SWT), she would displease Allah (SWT). The warning here, however, is more moral and is in no way destructive of her legal rights.

Another instance of *Khula* reported during the times of *Khalifa 'Umar (RA)* and *Khalifa 'Uthman (RA)* further illustrates this point. According to Suyuti, it is reported that a woman approached *Khalifa 'Umar* and asked him to get her a release from her marriage tie. "*Khalifa 'Umar (RA)* asked her to refrain from such a step, but she persisted in her demand whereupon the *Khalifa* kept her in confinement for three days and nights in a dirty stable meant for keeping camels. He then called her and asked her if she had given up her desire for separation. She replied: "I swear by Allah (SWT) that I have never slept better than during these three nights. On this the *Khalifa* called the husband and asked him to divorce her. A similar case came up for decision before

15. Mishkat al Masabih, vol. 1, p:698.

Khalifa 'Uthman (RA), the third *Khalifa*: "One Rubayyih daughter of Mu'awwadh, wanted to obtain *Khula* from her husband who did not agree to it. She then sought the intervention of the *Khalifa* who asked the husband to dissolve the marriage for a consideration." These two examples are sufficient to show that the wife had the right to claim a divorce on those very grounds on which the husband could divorce his wife.

Ila / Zihar

Ila and *Zihar* were prevalent in Arabia before the advent of Islam. These are archaic and preposterous systems of divorce most damaging to the dignity of woman and highly tortuous in nature. The Holy Qur'an came down heavily against these grossly tyrannical modes of divorce.

Ila. Prior to the formalising and regulating the system of divorce in the Holy Qur'an the *Ila* system of divorce was prevalent in pre-Islamic Arabia. Under this tribal system the husband would simply declare on oath that he would cease to have any conjugal relations with his wife. Thus he would keep the woman in suspense for years together in order to harass her with this off and on declarations on conjugal relationship. The Holy Qur'an came down heavily against this unfair system most damaging to the interest of the woman. The Holy Qur'an declared: "*For those who take an oath for abstention from their wives, a waiting for four months is ordained; if then they return, Allah is oft-forgiving and most merciful.*" "*But if their intention is firm for divorce, Allah hears and knows all things.*" (Al-Baqarah; 2:226-227). This firm restriction on this evil mode of divorce systemised and controlled it.

Zihar. *Zihar* like *Ila* was pre-Islamic and highly arbitrary and absurd mode of divorce. The husband would just declare that his wife was like the back of his mother, he cannot have conjugal relations with her and hence divorce. One Thalbah bint Thabit was divorced by declaration of *Zihar* by her husband. She protested strongly against this grossly unjust mode of divorce to the Prophet (SAWS). Allah (SWT) mercifully responded to her legitimate protest, strongly condemned it and completely prohibited this system of divorce (Al-Mujadilah; 58:1-4).

The Holy Qur'an is very explicit on the husband's cordial and gallant treatment towards his wife not only under normal marital circumstances but also where there is disagreement between them (Al-Baqarah; 2:229).

The following verse further emphasize this point: *"...either take them back on equitable terms or set them free on equitable terms: but do not take them back to injure them, (or) to take undue advantage; if anyone does that, he wrongs his own soul...."* (Al-Baqarah; 2:231). Even where there is lack of compatibility it is stated: *"...if they return to obedience, seek not against them means (of annoyance)...."* (An-Nisa; 4:34). The husband are asked specifically not to desert their wives *"...but turn not away (from a woman) altogether so as to leave her (as it were) hanging (in the air)...."* (An-Nisa; 4:129).

To sum up divorce is for remedying an unbearable and unfortunate strain between husband and wife and in no way a means to change life partners for trivial reasons or un-holy intentions. This is the only permitted action that is to the dislike of Allah (SWT) and the Prophet (SAWS). Islam has removed all the cruelties and humiliations which used to be heaped upon women and provided handsomely for her maintenance during the period of

'Iddat. All the gifts, and other belongings are allowed to be carried by the divorced woman and her *Mahr* (Dower) if not already paid. Islam has, thus, restored the equal status and legitimate right of women.

CHAPTER – 5

INHERITANCE IN ISLAM

Reform Introduced By Islam

The reform introduced by Islam into the rules relating to inheritance is twofold: it makes the female a co-sharer with the male, and divides the property of the deceased person among his heirs on an equitable basis, instead of handing it over to the eldest male heir, as is done by the law of primogeniture. The Arabs had a very strong tradition that 'he alone could inherit who smite with the spear', and therefore they did not give any portion of inheritance to such of the heirs as were not capable of meeting the enemy and fighting in battles. Owing to this tribal custom, which strongly appealed to people among whom tribal fighting was carried on day and night, not only were all females but also male minors had no right to inheritance. Woman, in fact, was treated as part of the property of the deceased, and therefore her right to property by inheritance was out of the question.

Islam came as the defender of the women and the orphan just when defensive war against the whole of Arabia was being carried on by a handful of Muslims. The prevailing law of inheritance, which gave the whole of the property to those members of the family who bore arms, was declared to be unjust, and a new law was given which put widows and orphans on a level of equality with those who fought for the defence of the tribe and the country. The general principle of inheritance is laid down in the Holy Qur'an (An-Nisa; 4:7) and the shares of all inheritors of the deceased properties are clearly laid down (An-Nisa; 4:11,12,176). It may be noted that the ratio of shares is 2:1 in favour of male members. It may appear to

be an unjust distribution of property. But in the context of the responsibility of providing basic needs of women put squarely on the shoulders of men, and top priority given to payment of dues to wife before other members of family, including females are paid their shares, it will be found judicious and pragmatic.

By proclaiming this divine system of inheritance, Islam shifted at one stroke the loyalties of individuals from tribes to immediate family including wife, children, parents, grandparents etc. Simultaneously it demolished the grossly unjust and iniquitous system of succession by primogeniture by which only the eldest male child succeeded to the estate of the deceased.

Finally, it significantly raised the status of the female members of the family by declaring them as Qur'anic heirs or 'sharers' in the estate of the deceased in their capacity as daughters, wives, sisters, mothers etc. Thus it terminated forever the deprivation of the female members from owning any property. This revolutionary, equitable and progressive measure made women powerful a force in the family with their own independent voice and made family the nucleus of the future development of Islamic society.

It is hoped that the contemporary Muslim states will maintain this progressive outlook of the Holy Qur'an and the *Sunnah* of the Prophet (SAWS) and will introduce adequate reformatory measures which will continue to lift the status of women so that they are able to contribute to their full potential the growth of a healthy, just, transparent and equitable society in the Muslim countries within the parameters of decency, modesty, chastity and dignity as prescribed in the holy Qur'an and the Traditions of the Prophet (SAWS).

CHAPTER – 6

GENDER SEGREGATION

Decency and dignity in private and public life is the hallmark of Islam. Unfortunately this does not come easily. An average person is prone to the carnal desires and, unless restrained, is likely to succumb as and when provoked. The very thing that is the important means of procreation becomes extremely uncivilized leading to dangerous consequences if not controlled and regulated. Islam does not tolerate any man - woman relation other than marriage. The severest punishment is reserved for people indulging in extra - marital sex, even though it does not result in any loss to anyone if committed by mutual consent (An-Nur; 24:2).

Such being the gravity of this otherwise natural and essential act, Islam ordains strict preventive measures. The essence of the preventive measures include avoidance of unnecessary intermingling of genders, adopting a decent dress code identified with respected and dignified people of the societies of the place at a given time. The severe punishment to the offenders is only a last resort with a view to deter others.

The Holy Qur'an guides the believing women: that they should lower their gaze and guard their modesty; that they should not display their beauty (An-Nur; 24:31); stay quietly in their houses (Al-Ahzab; 33:33); that they should cast their outer garments over their persons (when outside the house), that is most convenient, that they should be known (as such) and not molested (Al-Ahzab; 33:59). To the believing men it ordains; that they should lower their gaze and guard their modesty that will make for greater purity for them (An-Nur; 24:30). It has

prohibits people from indulgence in scandalous publicity and slandering chaste women who may be indiscrete but believing, or else they are cursed and face grievous penalty in this life and in the Hereafter (An-Nur; 24:19,23). And for pious men and women there are good tidings of forgiveness and great reward (Al-Ahzab; 33:35).

Taken together, it becomes absolutely clear that decency and dignity enjoy topmost priority in Islam. Unambiguous instructions are given to both men and women to refrain from doing or saying anything that may cause any untoward incident. Unfortunately these measures are mistaken as violation of personal freedom of women. If Muslim women do not mix freely with men, avoid going out un-necessarily, wear decent clothes at home and use extra garment to properly cover head and body when outdoors to avoid mischief by unsocial elements, they are perceived to be oppressed by men, without even checking whether they are being forced by their men or they are simply obedient Muslim women honestly and willingly following the divine guidance. In any case there are many which do not follow these guidelines just as many who do not offer prayers, observe fast and so on. Islam is a code, and guidance from the Creator for the success and welfare of mankind. Accepting or rejecting is left to the free will of individual (Al-Baqarah; 2:256). Further, even for those who accept, following or not following, or following partially, or follow at their convenience, is again an individual's choice at his/her own risk of retribution in the Hereafter. Of the Muslims, there are some who practice the tenets of Islam honestly and many who do it occasionally, and yet there may be few who ignore them altogether. Same is the case with women adhering fully or partially or ignoring the tenets applicable to them.

To make a sweeping conclusion that those who follow are the oppressed lot is obviously unfair and betrays the bias against Islam itself. Ironically those very sympathisers of Muslim women find nothing wrong in denying them the right to dress the way they like. The codification of Law against *Hijab* in France is a classic example of grave injustice being perpetrated on Muslims in France by the French government, which claims to be secular and progressive. The Muslims are being denied the freedom to live the life the way they have chosen to live. This double standard of flag bearers of all kinds of 'rights' should close this argument effectively for those within Muslims who tend to draw inspiration from them and examine Islamic values critically.

CHAPTER – 7

CONCLUSION

Man and Woman together form the humankind, which is unique and the best creation in universe. Unlike other species, it has a future beyond this life. The Creator of universes and all that exists therein informs us that mankind will ultimately return to Him and be resurrected to face the final judgment of worldly deeds. The deeds will be judged with reference to the messages containing basic tenets and set of do's and don'ts, conveyed through the appointed Prophets from time to time from the very beginning of human life. Prime importance is given to the life in the Hereafter so much so the present worldly life itself is subordinated to it, whose success or failure is measured in terms of reward and punishment on the Day of Judgment and not the material achievements (Al-Ankabut; 29:64).

Islam enjoins mankind to accept the code and adhere to it for its own benefit. The obedient are guaranteed eternal life in Heaven. Fire of Hell is the guaranteed punishment for those who rebel against Allah (SWT) (Al-Anbiya; 21:47). This is applicable to whole mankind - men and women included. Men are enjoined to fulfill their duties and women their obligations to earn their rewards. There is no distinction or disparity between them in this regard.

The roles of men and women are complimentary, equal in value, yet un-identical. Accordingly their physical, biological and temperamental constitution is quite different from each other though both are of human species. Male cannot conceive, bear children and wean them. He is too rough to handle babies and not tender

enough to bring up infants. Similarly, female is not robust and strong enough to bear the physical exertion and mental tension involved in earning livelihood. Exceptions to this general rule do not prove the contrary. Therefore, any attempt to ingress into the functions of each other just to prove the misplaced notion of equality, will only result in disturbing the balance of social life set by the Creator – as indeed is the case with environment. World is now paying the price for reckless and rapid industrialization without bothering to preserve the delicate ecological balance. Similarly having discarded the divine values and playing with the family norms, society is paying a heavy price in broken homes, parentless children, neglected aged and helpless people, AIDS and, above all, the merciless exploitation of women.

Ironically the razzle-dazzle of industrialization and rapid spread of colonization had had its profound effect on the traditional societies in general and Islamic societies in particular, which had, unfortunately become stagnant and stale. The material, military and political dominance of America and European nations in the last three centuries has almost wiped out the greatest social revolution brought about by Islam fourteen centuries ago. It is ironical that the very religion, which restored the rightful place to women, should itself be charged with oppressing them. It is a greater irony that some of the Muslims themselves have succumbed to this vicious propaganda and toying with idea of revision of Islamic tenets. Mercifully such misguided movements are mostly restricted to urban segments.

A close scrutiny of post-industrial revolution period will reveal that the woman was first dragged out of home to meet the ever-expanding need of industrial labour. Then she was pushed on the center stage of

entertainment and commercial advertisement. Two world wars within a short span of 30 years in the first half of 20th century left a large number of homeless women in strictly monogamous societies of Europe. With the advent of movie cinema, women became a source of disgraceful entertainment on a massive scale for the neo-rich urban societies of Europe and America. Then followed the vice of pornography compounded by internet. The good old social order was turned over its head. Now we have the spectacle of unwed mothers, parentless children and even gay priests. Modernity turned women from mothers and cradle of humanity into fun-loving, 'live-in' partners and even lesbians. Under the circumstances it is not surprising to learn that women, being fed up of undignified life, are more attracted towards Islam in European and American societies. Just as the world is grappling with the problems of disturbed ecology and widespread violence with uncontrolled proliferation of all kinds of devices of destruction, it is also riddled with the ruined society and dreaded disease like AIDS. So far it has been a losing battle. To shift the focus from the man-made disasters, some nations have launched a vicious campaign to malign Islam as a religion of terror and oppression. In short it is all a question of ideology and agenda. Unlike Islamic societies, west is world-centric. Islam will not remain Islam the day it apes the west.

Given below are some of the Traditions of the Prophet (SAWS) that drive home the point that Islam brought about a revolution to uplift women and restore their status at a time when her status was just above an animal.

- A Woman, with her two daughters came to me begging (alms), I found nothing with me except a ripe date, which I gave her. She divided the same between

her two daughters, and ate not thereof herself; she then went away. Afterwards the Prophet (SAWS) came to me, and I told him of it. He said: 'Whoso is put to trouble on account of these daughters, and yet treats them well, it shall be to him a protection against the fire (of Hell).' (Ayesha - Bukhari, Muslim, and Tirmidhi)

- A widow shall not be married until she is consulted, nor shall a virgin (be married) until her permission has been sought. They said: 'And how shall she give permission?' The Prophet (SAWS) said: 'She will keep silent.' (Abu Hurayrah - Bukhari, Muslim, Abu Dawood, Tirmidhi, Nasa'ee)
- A man came and said: 'O Prophet of Allah! Who is the most worthy among people to be associated with kindness?' The Prophet (SAWS) said: 'Your mother.' This he repeated thrice; then he said: 'Your father.' (Abu Hurayrah - Bukhari and Muslim)
- When any of your women ask leave of you to go to the place of worship, do not hinder her. (Ibn-e 'Umar - Bukhari, Muslim, and Abu Dawood)
- Verily, Allah has disallowed you the disobedience of mothers, and the burying of female children alive. And has forbidden (you) covetousness, and has made talkativeness and much questioning, and wasting of property hateful to you. (Mughaira - Bukhari and Muslim)
- Hind, wife of Abu Sufyan, said: 'O Prophet of Allah! Abu Sufyan is a miserly fellow; he does not give me what may be enough for me and for my children, unless I take from him while he does not know.' The

Prophet (SAWS) said: 'Take what may be enough for you and your children in reason.' ('Ayesha - Bukhari, Muslim, Abu Dawood, and Nasa'ee)

- When you come from a journey, come not to your women by surprise, until the woman whose husband is absent puts herself in order to receive him. The Prophet(SAWS) also forbade the people from surprising (their) womenfolk, lest they charge them for dealing falsely, and seek their weak points. (Jabir - Bukhari, Muslim, Abu Dawood, and Tirmidhi)
- When the Prophet (SAWS) returned from any expedition or a journey, and night befell him, he would never enter his house until it was morning; and even if he reached home just before the morning he would never enter it until it was morning time. He used to say: 'Wait awhile that the women may put themselves in order to receive you.' (Jabir - Bukhari, Muslim, Abu Dawood, and Tirmidhi)
- Take care that no man sits alone with a woman, unless she be his near relative. (Ibn-e 'Abbas - Bukhari and Muslim)
- Join not with the women whose husbands are absent, for verily Satan runs into each son of Man with the running of (his) blood. They asked: 'And what about you, O prophet of Allah?' He said: 'It also flows in my veins, but Allah has strengthened me against him, and has kept me safe.' (Jabir - Bukhari, Muslim, Abu Dawood, and Tirmidhi)
- The Prophet (SAWS) would call women 'Glasses.' (Anas - Bukhari and Muslim)

So far as women's status and rights are concerned it must be remembered that status is determined by the Creator and rights go with responsibilities. Nothing is absolute. Even liberty is defined by restrictions.

Finally, the women have universally accepted their dependence on men in this world and continue to do so. Does it not contradict the very call of equality in all respects? A serious consideration of the issue of gender discrimination will reveal that there is more fury than substance.

In conclusion it can be stated that Islam has granted equal status to women and even higher as mother; upheld her right to education, work, art, craft, or any other activity within the bounds of dignity and decency laid down in the Holy Qur'an and Traditions of the Prophet (SAWS). Having created her to be a mother, Creator has enjoined men to be extremely respectful, generous and compassionate towards women. It is in recognition of her high status and unique position in the family that she has been absolved of the onerous task of earning livelihood even for herself. In any good Muslim family, women are safe and well cared for. Bad examples in Islamic society and superficial dazzle of other societies should not hide this fact. Islamic way to salvation is through acceptance of and adherence to the divine guidance. Going by the graphic details given in the Holy Qur'an about the happenings on the Day of Resurrection, the luxuries and bliss of Heaven reserved for the faithful and righteous, and the horrible details of blazing Hell, there cannot be an iota of doubt about the certainty of life in Hereafter. No sane person can afford to ignore it for worldly reason and risk the eternal life after death.