





ISLAM  
&  
FAMILY PLANNING



# ISLAM & FAMILY PLANNING

*A faithful translation  
of the Arabic edition of the proceedings  
of the International Islamic Conference  
held in Rabat (Morocco), December, 1971*

Vol. I



THE INTERNATIONAL PLANNED PARENTHOOD FEDERATION  
MIDDLE EAST AND NORTH AFRICA REGION

P. O. Box 1567  
BEIRUT, LEBANON

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Library of Congress Catalog Card No. 73 -8/222

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297.19783

959

260012

DATA ENTERED

Printed in Beirut by IMPRIMERIE CATHOLIQUE

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6716

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## PREFACE

Besides this preface, the whole contents of these two volumes are a faithful translation of the original publication in Arabic *Al-Islām wa Tanzīm al-Uṣra*, published by the IPPF Middle East and North Africa Region, Beirut, 1973.

As a document, of evident concern to leaders of Islamic thought, it is of great significance also for the more than 500 million Muslims living throughout the world. It is, in addition, a contribution on behalf of one of the world's great religions to the process, *often a painful one*, of applying religious tenets to the modern problems of family size and population dynamics.

This two-volume work contains the full proceedings of the first international Muslim conference on family planning which was convened at Rabat, Morocco, in December 1971. It contains, in addition to the submitted papers and the discussions, all the available *fatwas* from all Muslim countries regarding this topic, as well as a glossary of all the *aḥādīth* (Prophetic traditions) quoted in the text together with their Arabic originals. These *aḥādīth* were translated anew in order to convey their original meaning as accurately as possible.

The English version of the Qur'anic verses quoted is that of the Rev. J.M. Rodwell's translation of the divine Qur'ān (London: Everyman's Library, 1950), but the numbers of the *Suras* and Verses are kept as in the original Arabic text.

In the different stages of preparing this English version, assistance was given by several individuals, whose invaluable contribution made this publication possible. The original papers were submitted in Arabic, English and French, and later translated by different people. Mr. Ḥasan Karmī undertook the entire task of checking and unifying the English language all through the text.

Special gratitude and thanks are due to Mr. Mahmoud Akhal, who undertook the task of transliteration of Arabic words and names in accordance with the system followed in the Encyclopaedia of Islam.



The hard work of proof-reading was accomplished by him, and by Mrs. Amal S. Khalidi to whom sincere thanks are extended. Particular reference must be made to the dedicated efforts of the IPPF Regional Office staff in Beirut, especially to Miss Olga Hajjar and Miss Rima Husseini for their indispensable help during the various stages of preparing the book.

I. N.

*13 April, 1974*

(ج) تذکرۃ الحفاظ - مرتبہ علامہ ذہبی (وفات ۳۸۰ھ)۔

۲۔ علم مصطلح الحدیث (اصول حدیث)

اس علم کی روشنی میں حدیث کی صحت و ضعف کے قواعد و ضوابط معلوم ہوتے ہیں۔

اس علم کی مشہور کتاب علوم الحدیث معروف بہ مقدمہ ابن الصلاح ہے۔  
مؤلف ابو عمر و عثمان ابن الصلاح (وفات ۳۵۰ھ)۔

ماضی قریب میں اصول حدیث پر دو کتابیں شائع ہوئی ہیں :

(الف) توجیہ النظر مؤلف علامہ طاہر بن صالح الجزائری (وفات ۳۳۸ھ)۔

(ب) قواعد التحدیث، مرتبہ علامہ سید جمال الدین قاسمی (وفات ۳۳۲ھ)۔

اول الذکر وسعت معلومات اور آخر الذکر حسن ترتیب میں ممتاز ہیں۔

۳۔ علم غریب الحدیث

اس علم میں احادیث کے مشکل الفاظ کی لغوی تحقیق کی گئی ہے۔ اس علم میں علامہ زرخشری (وفات ۵۳۹ھ) کی الفائق اور ابن الاثیر (وفات ۷۲۸ھ) کی نہایہ مشہور ہیں۔

۴۔ علم تخریج الاحادیث

اس علم کے ذریعہ معلوم ہوتا ہے کہ مشہور کتب تفسیر، فقہ، تصوف و عقائد میں جو روایات درج ہیں ان کا اصل ماخذ اور سرچشمہ کیا ہے۔ مثلاً ہدایہ از برہان الیقین علی بن ابی بکر المرغینانی (وفات ۵۹۲ھ) اور احیاء العلوم (امام غزالی)۔ وفات ۵۰۵ھ)۔

۱۔ اس علم کی رو سے حدیث کی اقسام و اصطلاحات پر مختصر بحث باب اصطلاحات حدیث ص ۳۸ پر ملاحظہ کریں۔

## INTRODUCTION

The many tragic cases resulting from frequent childbirths and from illegal abortions which I came across while practising as a gynaecologist, and my firm belief in the right of every person to know that he can control procreation and determine the size of his family if he so wishes, convinced me of the idea of family planning, and, consequently, of the need for the promotion of this idea by bringing it out first in my country, then in the region of the Middle East and ultimately join the international family planning movement.

To be sure, the idea of family planning is not a novel one. It is as old as man himself. But those who made use of it belonged mostly to the educated and well-to-do groups. However, the poor and the uneducated did not avail themselves of the use of contraceptives, because either they did not know of them, or because of the false notion that to bring up a child is less costly than buying contraceptives. Thus they took up a negative attitude towards family planning convincing themselves that it is God's will to beget children.

Nowadays man's realistic outlook and his conception of his responsibility towards himself, his family and his society has made him not only accept but also practise family planning in many parts of the world, particularly in industrialized societies. In the developing countries, family planning was accepted first by individuals, and only recently by governments.

What primarily induced the individuals to accept it is the burdensome cost of bringing up many children nowadays. The governments' adoption of family planning was due to the fact that they came to recognize the significance of population growth in relation to programmes of social and economic development. Hence national family planning programmes were adopted.

As family planning services are either lacking or difficult to obtain, the abortion problem came out to the open. Until recently, abortion was a sporadic and personal issue. Gradually, however,

and as a result of being widely practised, it developed into a source of danger to public health, since it is estimated that over thirty million abortion cases occur annually all over the world. The dimensions of this painful situation in our region were brought to light in a conference that was convened in Beirut early in 1971 to discuss the abortion problem. In this conference, the religious stand on abortion, was the subject of heated discussions. This served to emphasize the necessity for defining the religious views on the various aspects of family planning. Hence this conference which brought together religious scholars and specialists in medicine, the social sciences, economics and demography.

It is my belief that the Rabat Conference has greatly contributed towards achieving a better understanding of the subject and towards the resolution of our social problems. Perhaps the major achievement of the Conference is its success in getting together that large number of scholars of various specialities to spend five days in serious discussion and debate, prompted by a realistic sense of responsibility.

Since literature on this subject in the Muslim world and outside was in need of a reference work of this calibre, the Conference set as one of its aims the production of this work to be a source of reference and information for research workers and other interested readers.

ISAM NAZER

Beirut

*28 November, 1972*



## CONFERENCE PROCEEDINGS

A) The International Planned Parenthood Federation (IPPF) Regional Office for the Middle East and North Africa, which initiated and organized this conference, has arranged for the papers presented to be translated into the three working languages: Arabic, English and French for distribution to the members of the conference.

B) Following the formal inauguration the participants decided that:

1) All the meetings of the conference shall be closed.

2) A whole day shall be devoted to each of the four major topics, during which members will give brief resumés of their papers and participate in discussion of these papers. The discussion shall also cover papers whose writers are not personally taking part for failure to attend the conference.

3) Each session shall be presided over by an elected member of the conference assisted by the Regional Director of IPPF.

4) Four committees shall be established, each of which shall have a chairman and rapporteur. Each committee shall be concerned with one major topic and prepare a report to cover the proceedings of the session including the papers submitted on that topic and the discussions thereon.

5) There shall be a co-ordinator for all the four committees, who has to attend their meetings.

6) The chairman, and rapporteur of these committees, along with the co-ordinator, shall prepare the drafts for the final statement and the press release to be put before the conference for consideration and approval on the fifth and final day.

C) All the conference proceedings were tape-recorded in both the floor language as well as in Arabic. All these recordings are kept at the Regional Office.

D) The recordings were transcribed *in toto* on paper.

The discussions were rearranged in writing under the headings of the main ideas and subjects raised at the time.

The IPPF Regional Office proposed the creation of an international committee of verification and authentication whose members were to be selected after consultation from among the participants to the conference, for the purpose of approving the corrected written versions of the papers and the discussions preliminary to having them published.

This international committee met at the IPPF Regional Office in Beirut from 1-7 July 1972, during which the committee reviewed the final versions of the papers and approved them for publication. Subsequently the committee reviewed the discussions as rearranged in their written form on the basis of the full transcribed text and the recordings.

# INAUGURATION





MESSAGE OF THE SECRETARY GENERAL  
OF THE INTERNATIONAL PLANNED  
PARENTHOOD FEDERATION

Dr. JULIA HENDERSON

DR. ISAM NAZER

Hilton-Rabat, Morocco

May I ask you to express to the President of the IPPF Middle East and North Africa Region and all the eminent participants to this most important seminar my best wishes for satisfactory deliberations.

Your frank and wise comments will assist the IPPF present and future member organisations, also governments and other international and individual groups to respond to the great need for family planning services, and to provide education throughout the private and governmental sectors.

It has always been the IPPF's endeavour to be guided by people whose foresight and grasp of the need of individuals and their countries has been very clear and determined.

Please express also on behalf of the IPPF President and Honorary Officers their greatest appreciation to the president of the Family Planning Association and Government of Morocco for their guidance, assistance and hospitality. Through you we can count on our continuing collaboration and work for the future.





## JUDGE HASAN ABU-MAIZAR

*President of the IPPF Middle  
East and North Africa Region*

Your Excellencies,

Ladies and Gentlemen,

Thank you very much for being so kind to accept the invitation extended by the Director of the Middle East and North Africa Regional Office of IPPF. I also appreciate your taking the trouble of travelling to attend this conference and deliberate on its topics and discussions.

I think it is for the first time that the theme of this conference is being put up for discussion on such an elaborate level, by so many illustrious scholars and distinguished theologians in Islamdom. This clearly indicates the significance and effect of consensus on the affairs of Muslims and the legislation which regulates their life.

I believe that Islam, as a high-ranking and venerated religion, has granted the family its rightful share of legislation to ensure its welfare, preserve its structure and organize the tasks of each of its members. Family structure can serve as a firm basis for organising the society as a whole, and setting it on sound, durable, reliable and creative foundations.

It is an obvious fact that societies — including the Muslim community — are open to continuous changes day and night as an inevitable result of the interacting materialistic and cultural developments. These societies need to be reminded of, and enlightened about everything that may frequently provide them with the elements of solidarity and cohesion, and push them forward, while scrambling either for retaining the present status or attaining the desired, better one.

The task of reminding, edifying and enlightening lies basically on the shoulders of the intellectuals from various specialities. Theologians and social reformers come in the forefront of these. In view

of the strong belief of Muslims in their True Religion, the verification of truth in Islamic legislation is a necessity, and is vitally important in the interest of the Muslim communities. The discussion of this subject is also advantageous to those who are interested in widening the horizon of their knowledge.

The IPPF Regional Office for the Middle East and North Africa will edit and print the proceedings of this conference as useful scientific reference for the present and future generations.

Ladies and Gentlemen,

On behalf of the IPPF Middle East and North Africa Region, myself and my colleagues, members of the Regional Executive Committee, I express our great pleasure for the holding of this conference and for meeting every one of you. We also extend our sincere gratitude to His Majesty King Hasan II, and His Government for all the help they have rendered to the organizers.

## H. E. Dr. ABDUL MAJID BELMAHI

*Minister of Health, Morocco*

It is a great honour and pleasure for me and for my honourable colleague Mr. Ahmad Barkash, Minister of Waqf and Islamic Affairs, to jointly inaugurate your conference, and to welcome you on behalf of His Majesty King Hasan II here, in your country and amongst your folk and friends.

Your conference is due to examine in the short period of five days such an important subject as "planned parenthood", and how our True Religion — Islam — views this vital question.

This age, more than ever, is dominated by technologies and technicalities and things are developing rapidly. It is our duty, therefore, under this materialistic climate, to concentrate in the first place on planning our families, and in a radical, sobre and scientific way, consider planned parenthood within the frame of our sublime values and tenets. It goes without saying that the major plague in the second half of the twentieth century is the "demographic explosion" with all its social and economic consequences as well as its effects even on the air we breathe.

It is time, therefore, that we have to concentrate more than ever, with increased seriousness and energy, on family planning in order to secure a better life for our children and qualify them to play a constructive role in a society of multiple demands and enable them to keep pace with the endless scientific developments in the world.

✓ We must aim at building a more coherent and homogeneous family. This is a human mission which must be achieved. The only way to ensure this is proper information and education to every family.

✓ If the family — the basic unit of society — is happy, then the whole nation will be happy. This is our major aspiration.

Ladies and Gentlemen,

Not wishing to talk much on this vital human subject, I would only like to tell you that His Majesty's Government greatly appreciates your work and deliberations and wish you a happy stay in this part of Greater Maghreb to which you are linked either by blood or spiritual bonds. It also greets the distinguished personalities and other participants attending this conference, and also thanks IPPF, the International Planned Parenthood Federation. We wish you the best of success.

*PART ONE*

MUSLIM OUTLOOK ON FAMILY  
IN A CHANGING SOCIETY





# MUSLIM OUTLOOK ON THE FAMILY IN A CHANGING SOCIETY

BY

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## INTRODUCTION

Cultural stagnation is repugnant to the spirit of Islam and inconsistent with its ambitious and vigorous philosophy. This is true, and it is clearly attested by the fact that Islam, with this philosophy, has inspired Arab society and, consequently, transformed it in an extraordinary short time from an extremely backward nomadic society into a society that led human progress in the field of human relations and that of material achievement. But this fact about Islam must not lead us to be favourable to any change, whatever its nature just for the sake of change. The essential consideration is that the change if necessary should be such as to preserve the spirit and the distinct character of Islam.

This leads us to draw attention to the fact that the observer can clearly see that the process of cultural and social change in the Muslim world today is not entirely compatible with the basic tenets of this religion, a matter which requires a comprehensive examination of all the processes of change at work and a diagnosis of their unhealthy elements which must be remedied or eliminated in the light of Muslim legislation so as to diminish their nugatory effect on the distinct character of Islam.

As regards the task to which this conference addresses itself, which is the problem of the family in Muslim society, we notice that kinship in Muslim society is subject to deep and far-reaching changes.

Some of those changes are — from the Islamic point of view — desirable and must be encouraged and urged, and some others have to be stopped, because they seriously threaten the social Muslim

personality. It is imperative, therefore, that we must have formulas for social change which are in harmony with the teachings of Islam regarding human kinship.

Kinship may be purely a blood-relationship based on unity of lineage (the tribe, the clan, the sub-clan) and may be purely contractual arising from relations by marriage between strangers. Both kinds of relationship can be amalgamated together in case of marriage between relatives.

We can see from the above that kinship arises from two great sources:

1. Consanguinity (the tribe, the clan, the sub-clan).
2. Contractual kinship (the family).

It can be seen that the first kind is characterized by being ineluctable because once one is born into a tribe he must perforce bear a certain definite blood-relationship; not so the second kind, because it is optional.

The Muslim world today is part of what has come to be known as 'the developing societies'. As such, and as is the case in every developing society, consanguinity in the Muslim world is liable to various changes, some of which affect blood-relationships (the tribe) and some others affect the family.

The process of change cannot be allowed to continue unchecked, if we are to be selective. Consequently we have to define our position regarding those changes in the light of the teaching of Islam.

## 1. THE TRIBE AND THE FAMILY IN THE ISLAMIC SYSTEM

### A. *The position of the tribe in the Islamic system*

The Islamic system neither respects nor cares for tribal blood-relationships. The teachings of Islam do not encourage the development of tribal relationships. Islam, in fact, tried in different ways to destroy the tribal solidarity for the sake of building up a nation united by one creed, because the tribe cannot develop except at the expense of the nation as a whole. The tribe is characterized by two features which stand in the way of the creation of a well-integrated and homogeneous nation:

First: The tribe tends to develop into a social unit in which its members owe loyalty to one another, and owe allegiance to their tribal leaders and devotion to their traditions. Obviously, as a result

of this sort of relationship, the tribe cannot possibly develop into a united nation, with one overriding system of law.

Second: The tribal structure and social system imposes on its members certain emotional and psychological attitudes and certain obligations. Thus, as a result of the tribal atmosphere in which the member is brought up, there prevails a strict discrimination between relatives and strangers. Consequently, the member's psychological entity splits into two different constituents: one comprising his relations and emotions towards relatives, and the other comprising the attitudes he has to take towards strangers.

In this psychological climate the tribal member develops two distinct behavioural patterns: one towards his relatives and the other towards 'non-relatives'.

The former behavioural pattern is characterized by compassion and co-operation and by respect to one's self, to property and to all other rights, whereas he does not feel bound to behave in like manner in dealing with non-relatives (strangers).

This state of affairs militates against the development of a nation structured only on the basis of a single creed, and with members all alike in their subordination to the national law and internal discipline, bonded together by ties of friendliness and co-operation. It is not also favourable to the emergence of a nation such as Islam would wish to establish. On the strength of these two considerations, Islam relentlessly combated the tribal structure of society, with the aim of creating a nation having the same creed.

#### *B. The position of the family in the Islamic system*

The Islamic view of the family is different from its view of the tribe. The general spirit of Islam and the particular Islamic law tend to consider the family as something absolutely sacred, pure and good. Hence it must be guarded and looked after.

The Islamic law which insists on the complete dissolution of the tribe, strongly advocates the creation of the family and urges both men and women not to practise continued celibacy. Many are the texts which exalt people who lawfully bring together man and woman and promise them greater rewards from God. Many also are the texts which sternly condemn the crimes of those who separate husband and wife. We notice that the obvious crime committed by magicians is that they separate husband and wife. Such work is considered devilish.

Islam pictures the family in glowing terms, with the purpose of making it attractive to such an extent that people will feel in consequence urged to establish families for themselves. Thus we read in the Qur'ān: “And one of His Signs it is, that He hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you” (Sura 30/21).

The family, with its sexual content, enables men and women to satisfy, by lawful means, their sexual desires and consequently provides them with an opportunity to contribute to the rejuvenation of the nation through their well-brought up offspring.

## 2. THE PRESENT-DAY PROCESS OF CHANGE AND ITS INFLUENCE ON THE TRIBE AND THE FAMILY

### A. *The Process of Change in the Tribe*

The structure of the tribe which makes of society a group of distinct units, with various tribal systems, has been seriously shaken by the establishment of national regimes, following the termination of foreign rule.

Under national centralized governments, founded and supported by political, legal and economic unity, tribal groups have begun to owe their loyalty to the representatives of the national regimes which have constitutionally replaced tribal leadership with its local and varied colour.

The new conception of citizenship has had the effect of enforcing on the members of the tribal groups the duty of allegiance to the national political authority instead of the customary allegiance to the tribe and the tribal leader. Furthermore, it gives national interests precedence over the tribal objectives.

Side by side with this change in the character of the standing system of government there has appeared a social phenomenon, namely the growth of cities as a result of the increasing exodus of people from the countryside. This phenomenon has led eventually to increased contact between members of different tribes because of communal work in industrial and other firms which belong not to any tribe in particular but to the country as a whole and which bring together a medley of citizens of various tribal affiliations.

This development has exposed the citizen in the developing societies to the influence of two organisational matrices: that of

kinship solidarity, as determined by common ideas and feelings, which stresses communal membership, where the individual is bound by the ties of kinship, and the collective allegiance, and that of citizenship which calls for the dissolution of tribal ties, incompatible as they are with the idea of national solidarity.

We notice that as the latter matrix increases its influence on the mind and emotions of the people, national solidarity is increased and tribal emotions are weakened, and vice versa.

This dual membership is not restricted to the conflict between the conflicting tribal loyalties on the one hand, and the undivided loyalty to the nation on the other, but extends to the clash between the values of the tribal cultural institutions and those new ones brought about by the process of social change.

The change affecting various aspects of tribal life in the Muslim countries of Asia and Africa is gaining momentum on various levels. The degree of change differs from place to place depending upon the extent of modern process of social change to which the tribal groups are exposed. It is greater in capitals and cities than in the towns and the countryside, and also greater in villages and towns situated on, or connected by the main roads than in the relatively isolated villages. It is, anyhow, noticeable in varying degrees in every quarter.

This phenomenon has to be encouraged and stimulated if the process of social change in the tribe is to be accelerated and deepened, for the success of this experiment provides for the societies of the Muslim World one of the greatest opportunities, and protects them against the dangers of regionalism, of separatist tendencies and of civil war.

If the mistakes of the past have prevented Muslims from achieving the desired aim of breaking up the tribal entities and bringing about the fusion of those entities with the Muslim nation to help the concept of nationhood to strike roots, the great opportunity afforded by the contemporary process of social change must be allowed to escape the political, spiritual and cultural leadership in the Muslim world, in which the aspect of tribal life is still very much in evidence and is still dominating with vigour the behaviour of many social groups therein.

#### *B. The Process of Change in the Family*

There are two areas of change in so far as the composition, structure and conditions of the Muslim family are concerned, in

consequence of the processes of change now shaping the present developing Muslim world. One of them concerns the composition of the Muslim family, and the other concerns its structure and conditions. The latter comprises two sets of phenomena:

1. The first set relates to old practices which Islam attempted to abolish, but which were revived and fed upon the mistakes committed during, and after, the early period of Islam (in the backward and conservative social sectors).

2. The second set comprises new phenomena derived from a series of non-Muslim states of affairs (in the Europeanized permissive sectors).

### 1. THE COMPOSITION OF THE MUSLIM FAMILY

The Muslim world in general, and the Arab world in particular, has witnessed the prevalence of what is known as the "joint family" which consists of families belonging to three generations (grand fathers, sons, and grandsons) who live in one house, feed at one table, and have either the same occupation or complementary ones.

This condition is a corollary of the tribal life and a consequence of the primitive agricultural society. So long as it persists, it continues to strengthen and prolong these tribal formations in Muslim societies, and thus hinders the rate of social progress and retards the emergence of the "nuclear family".

We now notice, however, that the change in the economic structure of society, the growth of the individualistic spirit, the migration of rural people to urban areas, the modern styles of architecture in houses, together with other factors have begun to produce their rapid effect on joint families by breaking them up into smaller so-called "nuclear" families. This trend must be encouraged and promoted because it is in harmony with the spirit of Islam and in keeping with its ambitious attempt to build up a homogeneous nation.

### 2. THE STRUCTURE OF THE MUSLIM FAMILY

It has already been stated that in relation to this aspect, we may take note of two sets of phenomena, customs and obligations.

1. The first set is that of old practices still in existence in ignorant and conservative communities. (These conditions are not allowed by Islam).

2. The second is that of new ways derived from the norms of the western type of life and is prevalent amongst westernized groups. (These are not allowed by Islam.)

#### A. *Old Ways and Practices*

The trend of social change in the Muslim world today has the effect of doing away with the old ways and practices which we shall have an occasion to deal with later.

However, we would like at the outset here to state that, first, these are unislamic; secondly, that our aim in giving them mention is to combat them and bring their speedy termination; and thirdly that the process of discarding them must be conducted with extreme care lest it should result in impairing the cohesion and solidarity of the family, which is the object of Islamic legislation regarding the family.

##### 1. *The individual's limited opportunity for choosing a mate*

In vast areas of the Muslim world the choice of a husband (and in some cases of a wife) is still the prerogative of the parents only. Often brothers have a say in the choice, and sometimes even less immediate relatives (such as cousins, nephews and nieces) have also a say. All this takes place without giving the girl the opportunity to express freely her opinion, or wish. Hardly are her affections, feelings and inclinations taken into consideration. Very often the girl is married off against her will.

In some countries, like Iraq, a girl's cousin has the first choice on her and may therefore disallow her marriage to a more distant relative or to an outsider.

In many cases this situation leads to the failure of married life and to its dissolution by divorce, with consequences which bedevil matrimonial life with mounting tension and continuous disputes. Surely, in such a situation, the happiness of both husband and wife is destroyed and the psychological and emotional development of children is adversely affected.

This state of things is at variance with Muslim law (Shari'a) because the predominant view of the jurists (*fuqahā'*) is to recognizing the girl's right to freely choose her prospective husband or her right to have a say in the question of her marriage, along with her father and grandfather if both are alive or one of them. In case both

are dead, no other person can assume guardianship over her, because the Islamic fundamental principle prescribes that unless there are inferential restrictions of law, each person enjoys complete freedom of action.

### 2. *The Dowry*

The dowry tends always to be on the increase. Its amount depends on one's social status and means. Consequently those, who claim for themselves a high social status demand big dowries. By way of imitation, a tendency calculated to be socially contagious; salaried groups have followed the lead of the superior social class, and thus assisted in reducing the opportunities for marriage open to many young people. Naturally those young people find themselves driven to follow immoral ways and practices. It goes without saying that exorbitant dowries are unislamic traditionally, and have been resisted and discouraged by Islam.

### 3. *Marriage among Relatives*

The custom of marrying with the family is still common among Muslims, and particularly among close relatives (cousins). This phenomenon is a legacy from the old tribal life. It may be an indication of a residual tribal tendency expressed by the plea that the enjoyment by the males of the girls of the family by marriage is their inalienable prerogative. It may also point to another deep-rooted psychological fixation whereby one considers an outsider's marriage to a girl from the family a kind of encroachment upon the family's preserves or even an act of rape. Whatever the origins of this widely spread custom, the custom by itself is harmful because (1) it strengthens tribal affiliation, (2) it often deprives the girl of her right to choose her husband and (3) if it endures, it will result in bringing into the world weak and backward progeny.

Finally it is a custom which Islam frowns upon. Islam encourages men to seek wives outside their families in order to do away with the tribal tendency and in order to improve the quality of posterity.

The social change affecting the Muslim world today will sooner or later destroy those practices which, non-Islamic as they are, cause injuries to the structure of the family, adversely affect the emotional and psychological stability of married life, and often undermine the ability of the family to be the appropriate educational cradle for its children.



Those phenomena are many in the conservative and less educated quarters in which the clannish structure is still dominant. The process of social change affecting those quarters at present and breaking up the clannish structure will inevitably have its influence on these phenomena. We recommend, therefore, the promotion of such factors as would encompass their abolishment. However, this has to be done slowly and circumspectly, so that the character of the Muslim family and its cohesion will remain intact.

### B. *New Conditions*

Some of the new conditions to which reference will later be made, relate to the structure of the family and some relate to its way of life. We mean here the conditions which Muslims have acquired from Europeans, as a result of mutual contact, and the influence the European way of life has had on Muslims.

These are also non-Islamic. If they succeed in getting firmly established they will acquire the nature of tradition and become psychologically so fixated that it will be extremely difficult to adjust the situation in relation to the Muslim family in the light of Muslim law.

We hardly need to assert that should the situation prevailing at present continue, the Muslim family will either be destroyed, perhaps like the Scandinavian family, or remain weak, with ever loosening ties, and unable to properly exercise its sacred and noble function.

The following are the most important considerations which make it necessary for us either to take positive steps to stem the present tide of those ways or to find safeguards against their harmful effects.

#### 1. *Marriage to Non-Muslim Women*

During the recent decades the custom of seeking non-Muslim wives has spread, particularly among those who have received their education in Europe and the United States.

Here I would like to warn that in principle I am not opposed to the marriage of Muslims to non-Muslim women. This is of course allowed by God, as revealed in the Qur'ān and stated in the prophetic traditions. It is a practice which Muslims, throughout the ages, have followed. (The Shī'ite Muslims, however, tend legally to prohibit permanent marriage with scriptuary women, but permit such marriage if it is temporary (*mut'a*), and some of the Shī'ite jurists, regard

such permanent marriage as lawful.) What I would like also to point out is that marriage to a non-Muslim woman, especially a European or an American, usually involves some harmful aspects which, fraught as they are with great danger, should not be overlooked.

We notice that as the foreign wife establishes herself in the husband's country she develops a feeling of superiority while the husband develops a feeling of inferiority, both of which feelings are inspired by the manifest features of backwardness in the husband's country. This situation prompts the husband to draw closer to western modes and concepts of life and western norms and manners, while drawing away from the spirit of Islam in behaviour and social relations, with the possibility that more often than not, he will forsake his country and emigrate to that of his wife.

This abnormal situation adversely affects the children who often grow without distinct religious emotions, or who eventually may be induced to profess their mother's religion. There is also the possibility that the children will grow up in a non-Muslim atmosphere, and this makes it quite difficult for them in the future to adapt themselves to a Muslim society, and may, ultimately, leave their country forever.

Cases of marriage between a Muslim husband and a non-Muslim wife in the past used to take place in a society governed by Muslim law in theory and in deed. The husband used to feel superior and self-assured, and in high spirits. Consequently, no dangers were liable to come, from such marriages. But the situation has since become completely different in the Muslim world.

## 2. *Civil Marriage*

Some of the governments in the Arab states have adopted civil marriage codes and the advocacy for this adoption in many other states is increasing. But civil marriage in our opinion, is not only against the law but is fraught with many grave dangers to the Muslim family.

1. It is against the law because Muslim law requires that the marriage contract should be couched in certain technical terms relating to the formula of proposal and consent. If this is not provided for in the contract of civil marriage the contract will have failed in its purpose which is the establishment of legal marital relations between man and wife.

2. Civil marriage also makes it possible for a Muslim woman to get married to a non-Muslim man, and for a Muslim man to have a

non-scriptuary wife. In these two circumstances, in the Islamic view, there can be no proper marital relations at all.

3. Even if civil marriage is concluded between a Muslim man and a Muslim woman or between a Muslim man and a scriptuary woman, the marriage will create a feeling that the contract is devoid of religious sanctity, and this feeling in its turn will eventually incline the couple to regard their marital union as something ordinary, shorn of the element of obligation which they feel encouraged to bypass.

4. Civil marriage entails corollary civil divorce, which means that either party can dissolve the marriage at will, and thus give rise to rapid disintegration in the Muslim family, in addition to the consequent psychological havoc to the life of the children.

5. In the case of civil marriage children grow without the sense of belonging to Islam or without the sense of belonging to any religion.

The call for civil marriage is being sponsored by atheists and renegades from Islam, and by Christian clergymen in the Muslim world. They wage the campaign under cover of spurious mottos such as justice for all, giving the chance to irreligious people to gain recognition, and providing an opportunity for the establishment of a homogeneous non-sectarian society.

These mottos are not real, because justice is born of public and religious laws and not of their violation. Furthermore, Islam is not bound to produce legal pleas to justify attitudes taken by people who do not believe in it and who reject it. Religious marriage, anyhow, does not impair the national unity of society.

Sooner or later, civil marriage will damage the Islamic character of the Muslim society which comprises religious minorities, with an admixture of atheists, or those who have distorted ideas or misconceptions about Islam.

### 3. *Overriding the Guardian's Opinion*

Guardianship is one of the securities with which Islam provides the family in its formative stage in order to create out of it a healthy social institution based on solid foundations.

What is beginning to take place in the westernized sections of the society (as distinguished from what goes on in ignorant and conservative communities where the guardians have complete authority over the girl), is that the girl overrides her guardian's wishes and gets married to whomsoever she chooses without taking any notice

of the wishes of her guardian and his solicitude in choosing the right husband for her.

Since what is taking place in ignorant and conservative sections of the society involves transgression of God's command and works against the structuring of the family on sound foundations, it is equally true that the westernized sections similarly disobey God and work against the sound structuring of the family.

The Lawgiver in Islam instituted guardianship with the purpose that guardians may rationally consider the interests of their wards. Guardians are in a position to undertake this task calmly and dispassionately because they are not personally involved and consequently they are able to offer the best possible advice.

If we consider that, when choosing a husband, a westernized girl is guided by standards which are not always sound and which, in the long run, will prove to be inconvenient because she lives according to non-Islamic conceptions, we shall realize that her independent choice will often be ill-advised to a great degree, and that the mistake committed will adversely affect the nascent family life and bring it to ruin, making it most unfit for the rearing and breeding of the rising generation.

Some may say that in order to be in harmony with the spirit of the age which tends to assert individual freedom, guardians must relinquish their guardianship. This argument is fallacious, only to be rejected because, even if the guardian is willing to relinquish this guardianship, he cannot do so, the reason being that this right of his is not so much a prerogative meant to confirm his authority as it is a responsibility and a duty. It is a "legal injunction", and not a "legal right".

Guardianship lapses or becomes void only when the guardian exercises his obligations in a way either too biased or prejudicial to the girl's welfare in his choice of a husband. And even if it is legally possible for the guardian to surrender his right to the guardianship, we still believe that his so doing is not in the best interests of the Muslim family. Similarly, it is not in the best interests of the family that the girl should be given full liberty to choose a husband, in view of the considerations already mentioned.

The practice of overriding the guardian's wishes is spreading and striking roots. It has, therefore, to be checked, especially through introducing amendment to the existing law relating to what is called the 'legal age' and by specially stipulating that the marriage of a

mentally sound virgin who is already of age, cannot be considered as fulfilled without permission from her guardian, and only after making sure that he has exercised his right properly and has not prevented the girl from marrying her equal (*kuf'*) or forced her, against her will.

#### 4. *Delay of Marriage*

The practice of delaying marriage until the parties are in their thirties or forties is quickly becoming common in the Muslim world. It is also becoming popular among youngmen to view early marriage with misgiving.

Though the requirements imposed by modern life and the long period needed for education and professional training are to some extent in some cases responsible for the rise of this state of affairs, yet we find that in many other cases there are other reasons, excluding the economic ones, which share in the responsibility for its rise.

The style of western life which puts woman on her own and renders her easy of access and the weakening of the moral and religious restraints have increasingly led more youngmen to prefer to satisfy irresponsibly their sexual desires in a way that would not incur the obligation of being restricted to one wife in a settled family life.

This situation is apt to lead to the following contretemps:

1. It lays an increasing number of girls open to vice under the urge of sexual desire unchecked as they are by the ethical and religious restraint in their search for a lawful husband; and they start to consort with boy friends who are out for easy pleasure without regard to family obligations.

2. It leads to marriages between couples of widely different ages, which entails disharmony in outlook, and consequently, engenders tension in the family and strained relations between wife and husband.

3. The residue of the experiences of unmarried life usually casts its shadow on the behaviour of the couple and on their attitudes to each other and this no doubt precludes to some extent the psychological and emotional cohesion.

The practice of delaying marriage must be combated by convenient means if the dangers arising from its continuation and spread are to be avoided.

### 5. Women and Work

The separation of man from woman in practical life is none of Islam. It is not supported by the generally reliable sources of Islamic laws and teachings. Nay, it is rejected by some of them, as is evidenced by historical facts which prove, beyond any doubt, that Muslim men and women worked as partners in their daily life at a time when Muslims used to adhere to Islam in the correct way.

This situation of separation of the two sexes in practical life is not the product of any authenticated rules of the law, but rather the product of historical and cultural reverses, when the proper rules of the law lost their clarity and purity under the debris of customs and traditions acquired through contact with non-Islamic societies and under the impact of the spate of slave girls, which inundated the countries of Islam, where those females were used for pleasure and entertainment, and thus it was necessary that a free woman should be distinguished from a slave girl by a social status which isolated her from public life.

Therefore, it follows that in view of the new social changes there should be no objection to the Muslim woman's participation in practical life, subject to the following two reservations:

1. A bachelor girl, subject to the second reservation has the right to work and earn her living, if she is in need, or if and when her services are required by society, for such occupations as medical care, nursing, education etc.

The main and fundamental task of the married woman, however, is to build up and maintain the family. In order to devote herself completely to this fundamental task with no time available for other engagements, Islam has made it obligatory that the husband should be the sole provider. Therefore, anything that might conflict with her main task must be excluded.

In her motherhood, she should devote all her time to her duties so that she should not deprive her children of motherly affection and care. Nurseries and children's governesses cannot be a substitute for the mother's loving care. A governess may succeed in bringing up physically well-developed children, but for lack of proper and complete motherly care and tenderness they may suffer spiritually and psychologically.

This is only in normal cases. But if it becomes necessary in case of need for the wife to work in order to help her husband or to

support herself, the husband's permission has to be secured by virtue of his being the householder and because her other work will interfere with her fundamental duties of her devotion to the care of the children and to run her household properly.

It is to be noted here that when the husband's permission is given, the wife's earnings are her own and not her husband's or any other person's. The money she earns should not be the cause for any responsibility to be laid on her towards the expenses of the family. These expenses will continue to be the sole duty of the husband however rich his wife may become in the meantime. But any contribution on her part to this end is to be regarded as voluntary.

The exploitation by the husband or relatives of the woman's work in agriculture or business as is the practice now in many Muslim countries, is absolutely illegal and the money taken from her has to be considered as extortion to be remedied by whoever the extortioner is, be the husband, the father or any other person, unless the money is given with her consent.

2. The pressure of contemporary change which is producing deep transformations in the structure of Muslim societies is continually pushing group after group of unmarried Muslim women to seek work, similar to the European woman.

We know that according to the European way and manner of life the need to earn a living has brought men to take woman, as she takes herself, to be only an object for exhibitionist advertisement and a means for amusement and fun. Consequently she has been employed in all walks of life, without making any distinction as to her personality as a human being and her usefulness as a sexual object. As she is now a physician, nurse, teacher, pharmacist, merchant and factory worker, so is she also an actress in sexual movie films, an aeroplane hostess, a saleswoman in a shop, a secretary etc.

In other words, there are jobs which the woman does in her capacity as a human being with certain qualifications entitling her to do a certain job, as well as certain other openings or activities of special kind assigned for the woman alone in her capacity as a female with certain sexual attractive features in which she is employed or engaged by men for her femininity only and not for being simply a human being.

The process of evolution through which the Muslim world is passing today and which occasions the employment of women to do

various jobs, imposes on woman certain activities in her capacity as a human being. This is not objectionable in Islam. But Islam disapproves of women's employment in their capacity as sexually attractive females whose feminine charms can be exploited for the pleasure and entertainment of men who, in this case, will find themselves induced to spend money. Islam disapproves also of employing woman in a job with the aim that she may provide man with a temporary entertaining companion. All these jobs do not meet the demands of Islam or agree with its objectives because they dehumanize women, reduce them to objects of enjoyment and pleasure, and also expose them always to the possibility of falling victim to vice, so long as their femininity is the desired object and not themselves as human beings. Another reason is that such engagements on the part of woman are apt to detract her from her fundamental duty in managing and building up the family. A man can do the other jobs most profitably for his needy family. Finally, in such jobs, a woman tends to spend more than she earns in order to remain an attractive female and consequently to keep her job secure.

#### 6. *Fashions*

In civilized societies clothes are not used only to protect people from cold and hot weather, nor merely to cover the body, though they are basically meant to serve these purposes. Subsequent to the rise of civilisations, each society came to develop its own cultural attitude towards clothes and a special outlook on them. They ceased to be merely a practical instrument, but they came also to epitomize a certain humanistic and cultural standpoint.

On this assumption about the function of clothes, it is to be observed that the styles and fashions of clothes prevailing in western culture have most decisively conquered Muslim women. This fact, which is patent to every observer, is very much in evidence, not only in cities, but also in the rural areas, a prominent indication of Islamic cultural vacuum on the one hand and of the predominance — and not the superiority — of modern European culture on the other.

Modern fashions are not incompatible with modern European outlook on woman, but they are definitely incompatible with the role of women in public life as conceived by Islam.

The Western cultural conception of public life on the practical and social planes focuses on the femininity and the sexy attractiveness



of women and regards them as females for all. This explains why the Western world has begun to create all devices to promote this view of woman in this respect. But the Muslim cultural conception of public life — both practical and social — focuses on the human aspects of woman and takes her to be belonging exclusively to her husband only. By the same token, the Muslim outlook focuses on his human aspects and considers him as belonging exclusively to his wife. This means, in the Islamic view that sex is a very special matter and not a commodity offered for sale.

Thus we observe that the western cultural outlook on woman and her sexual role has begun not only to threaten, but also to ruin woman as a human being, and has posed a veritable threat to the structure of the family, thanks to the unbridled sexual urges which are fully satisfied extramaritally.

Because of the above considerations we recommend the rejection of the European concepts of fashion and its function, and suggest devising a style of clothes inspired by the spirit of Islam.

Both the old ways and practices — which are non-Islamic — of the ignorant and conservative communities and the new ways and practices — which are also non-Islamic — of the westernized communities are threatening the Muslim family with disintegration and instability. Each of these two groups of ways and practices in the human sphere hinders the family from performing its important and fundamental task, namely, to bring up healthy and good generations.

To address ourselves to the task of devising proper ways and practices, with courage and candour, in the light of a sound and liberal understanding of Islamic law is quite indispensable for the proper and sound growth of the Muslim family in the throes of the mounting changes now taking place in the Muslim world.

To neglect this task means in effect that the Muslim family will remain fossilized in suspension between two extreme alternatives; either to continue engulfed in the darkness of the past and in its chains and consequently remain an impediment in the way of social and cultural progress, or to break loose from Muslim ties and thus lose its Islamic character. In this latter case, the family can become anything; but a Muslim family, and consequently, the character of Muslim society, becomes liable to dissolution, as a prelude to the nation becoming dependent upon, or governed by, foreign colonial powers,

thwarting Muslims from assuming again their long-awaited world leadership.

May God teach us what we do not know and enable us to benefit from what we know. He is the most generous One to be asked, and our last resort. Praise be to God the Lord of the World.

# THE FAMILY IN ITS DEVELOPMENT AS A SOCIAL GROUP IN THE ISLAMIC CONTEXT

BY

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This subject is new, both in its conception and treatment. I know of no serious study, either previously or in recent times, which attempted to describe to us, in sufficient detail, the various stages of the Islamic family's development as a social group, from the pre-Islamic period down to the present time. Perhaps one reason for this is that social studies, anthropological, sociological and otherwise, are only of recent origin, but more important is that Arab historians of literature and of the dynasties, were only concerned with narrating events on the lives of men, not with showing their activities as a connected and meaningful story, related to the stream of events of the times — instead they collected incidents and anecdotes, exploits and heroic deeds, to serve the purpose of exalting or glorifying the man concerned. Moreover, the historical and literary records which we have about pre-Islamic social life have been distorted through the biased interest of the chroniclers in the pastoral and nomadic life of the desert. The bedouin or the *A'rābī*, was for a long time considered as the 'noble savage' of the Arabs. This attitude was responsible for our meagre knowledge of the social life of the urban community in Arabia. Consequently, the circumstances of the family were left obscure. Even the idea of 'family' suffered because of this attitude. We still have no adequately explanatory word in Arabic for 'family'. The word we generally use is either the classical *usra*, or the colloquial '*ā'ila*'. Nowadays the word *usra* calls to mind association and solidarity with the tribe, because *usra* is a derivative of the verb *asara*, which means to make strong and able-bodied, through solidarity with kinsmen as part of a clan or a tribe.

The Arabic dictionary is clear on this. The colloquial word '*ā'ila*' does not exist in the Arabic dictionary in the sense of 'family'

as we understand it today. But it is a derivative of the verb *'āla* which means to support or to furnish with a livelihood. The word is of recent coinage and reflects the idea as to the function of the family in the Islamic or, more correctly, in the Arab society. It tells us that the family is a group of people supported by a provider, sometimes, even as early as the first period of Islam, referred to as the *kāsib*, earner. The term *kāsib* was used by the poet al-Ḥuṭai'a when he was imprisoned by 'Umar b. al-Khaṭṭāb, the second Caliph after the Prophet. He says in the first two lines of the poem:

“What could I say to some fledgelings in this Marakh, with their crops covered with down, where there is neither water nor vegetation. Seeing that you have thrown their earner into a dark pit. Forgive, O 'Umar; God's Peace be upon you.”

*Usra* the term used these days in Arabic to denote 'family' carries with it clear association with the tribe and tribal society. This is because of its linguistic derivation, as we explained above, and also because of its interlocking with the system of grouping in Arabia, before Islam. Arab genealogists have a descending scale of division by which they show the interrelationships of various clans and tribes. The smallest subdivision is the *usra* with the *raḥṭ* coming next in order of size. At the top of the scale is the *jidhm* or the main stock. These divisions and subdivisions, ten or eleven in number as given in *Nihāyat al-Arab* of al-Nuwairī and in *Bulūgh al-Arab* by al-Alūsī, give a rough picture of the social structure of Arabia before Islam, especially the social structure of the nomadic or tribal society.

All this, in my opinion, reveals the family as a miniature clan or tribe, in the sense that it rests on the principle of tribal, rather than on internal solidarity, as is the case now. The way classes are divided among the Arabs before Islam indicates that society then was predominantly tribal in its character in the same manner as other African, Asian or other societies, where allegiance is owed in full to the tribe or clan as a whole rather than to a particular person in the *usra* or *raḥṭ*. This solidarity was indispensable for survival, notwithstanding the incidental dissensions and animosities. Every Arab used to trace his descent to one of two stocks: 'Adnān or Qaḥṭān. The Prophet was 'Adnānī. Therefore, in order to trace descent to origins, particularly in the case of a tribal leader, sage, hero or prophet one resorted to the genealogists whose business it was to draw up a genealogical tree for those who came to them for this purpose.

In the course of time this practice on the part of genealogists came to be regarded as a highly prized speciality to be guarded with extreme jealousy. A genealogist was called *nassāba* and early in the Islamic period, Abū Bakr, the first Caliph, was recognized as one of the greatest genealogists. The reason why the Arabs were so jealous of their descent is not very clear from Arab chroniclers and historians, but it seems reasonable to suppose that the practice of polyandry and marriage by capture was prevalent in the Arab nomadic society to such an extent that it was quite a problem to identify the fathers of children, especially of male children. Roaming freebooters in the desert used to dwell on their way with a tribe and during the sojourn the newcomer used to live with a woman, perhaps in the way of a temporary marriage, known occasionally as *mut'a* and in many cases the woman would bear him a child. Sometimes, when the child was born, the father had left the tribe and gone away, perhaps to live in the same way with another tribe.

This kind of marriage relationship was accepted in the olden days, as something normal by force of circumstances, and was consequently tolerated. But gradually the practice became odious, especially to the communities halfway between the nomadic and the agricultural or urban life, and people started to preserve histories of their ancestries (with continuous lines of lineage). They were proud of their descent, if not marred by admixture, concubinage or incest. Men were accordingly divided into high-born, low-born and mixed-born. Even non-Arabs, to avoid the stigma of unrelatedness, used to attach themselves to a clan or tribe known to have a pure descent. In Arabic literature, there are many cases of this kind, especially when the Arabs in the first and second centuries of Islam, began to intermarry with alien races, Persians and Greeks. Al-Khansā', a famous Arab poetess of the very early Islamic period, prided herself on the fact that she did not taint the blood of her children, meaning that she married only into a well-established family. Bashshār b. Burd, a famous Abbasid poet, a freedman, was ashamed of his low-birth and therefore, he attached himself to the clan of 'Uqail.

This long introduction, which is solely concerned with the Arab society is regrettably necessary. I cannot talk about the Islamic society, inasmuch as it is based upon the family in Islam, without giving a background sketch of the Arab society in which Islam arose. But even this modest aim is not easy to achieve. The Arab society in pagan times was such a mixture that it is very difficult, when

speaking about the Arab family, to distinguish it from the other larger groups in the desert or from the joint family in the urban areas.

In the desert, the Arab society, as described rightly by Wellhausen, was a 'commonwealth without a ruler'. This meant that the individual and the nuclear family existed for the most part as subordinated to the tribe, and then could pursue their activities only in so far as they conformed to the major activities of the tribe and its aims. This means that the family played a minor part in the Arab pagan society, among the nomadic or pastoral population. In the cities and towns, the joint family stood in the same position vis-à-vis the nuclear family as the tribe, although even this joint family continued to have close associations with the tribes in the desert, from which their numbers were replenished, until well into the Abbasid period. Professor Gibb carried out a useful piece of research into the influence of the tribes over a long period in the Islamic society and state. What also complicates matters in this respect is that the pagan society of the Arabs was neither savage nor barbarian; an anthropologist cannot investigate it in the same way as he would investigate the primitive communities in Africa, Australasia, or America. If the information gleaned from the 'Days of the Arabs' or their ancient poetry, is trustworthy, one can only conclude that the society has a civilization of its own which manifested in peace and in war, a high standard of morality, social discipline and individual behaviour. Another difficulty in our investigation of the Arab family before Islam, to which reference was made at the beginning of this talk, was the fact that almost all our sources on the subject concentrate almost exclusively on the tribe, with the consequence that scant information is available from these original sources on the family proper either in the tribe itself, or in the urban communities. One has to read between the lines, so to speak. There is also the most significant fact, namely, that Islam was not intended for a tribal society, but for an urban society built on a closeknit family group. The kinship solidarity of the tribe was intended to be replaced by kinship solidarity of the family. We shall turn to this point later.

But what is the 'family'? This is a vague and elastic term although the entity denoted by it is an object of universal recognition and in actual existence. To try to define it is like trying to define 'human nature' which although vague, is a real object of universal experience. The family may be small, in the form of what is normally termed as the 'nuclear family' or it may be large, as in the case of the extended

or joint family; but there is one type of family which is a universal social phenomenon in all stages of human society and this is the 'nuclear or basic family' which always consists of husband, wife and the immature children, and which constitutes a unit apart from the larger unit of the community. The structure of this universal smaller unit appears to have been preserved all along, irrespective of cultural change in the larger unit. This means that the structure remained the same, without significant change, both in the primitive and the civilized stages of social and cultural developments. The Arabs, whether pagan or Muslim, uncouth or cultured, have gone the same way in this respect, and even their later system of the extended family, especially in the rural community, produced no notable change in the nuclear unit. Rather the change took place in the extended or joint family, until the advent of the industrial and now the technical, age, when the basic structure of even the nuclear family has been menaced with disintegration. This situation, however, is peculiar to the Western world so far.

Many anthropologists and sociologists have tried to trace the evolutionary course of the family and to outline the various stages through which the family developed from savage, barbarian, classical, medieval and modern times. Plato and Aristotle, for instance, maintained that the family was at first patriarchal, in the sense that the male head of the family was the ruler and the centre, as was the case in Greek history. Sir Henry Maine thinks that this family type was more primitive, natural and therefore, more original than the later type which, in an advanced stage of culture, was female-centred.

Then, according to Sir Henry Maine, the Arabs never experienced the female-centred family.

Another theory, which occupied the centre of attention for a long time, was the evolutionary theory of the nineteenth century, which was inspired by Darwinism. As a result of anthropological and sociological investigation, it was inferred that human society was not patriarchal, as the ancient philosophers had supposed, but matriarchal at the beginning, or based on a woman-centred family. This new theory, which was later drastically modified or even discredited, was first put forward by Bachofin in his book *Das Mutterrecht*, and subsequently supported by Spencer, Morgan, Tylor and others. The gist of this new theory is that society was based upon a very loose family, with no firm kinship solidarity other than the mother-child tie, which was really stable. In this type of society, and in time of extreme

deprivation and poverty, parents used to kill their female infants (infanticide). In consequence, there would result a preponderance of males in the society, with a smaller proportion of females, and this situation used to lead to polyandry.

Later, when the food supply became available again and increased there arose a new situation, the reverse of the older one, namely, that the sex-ratio had changed and females were proportionately more numerous and men could afford to marry more than one wife, hence polygamy or polygyny. Monogamy was still a later development when the sense of justice and equality took a fairly firm hold of the human way of thinking. In the early polyandric stage, the father-child relationship was very dimly felt and the mother-child bond was the only centre of the family, with a fairly strong emotional relationship. The fatherhood of the child was not important and therefore uncertain. It was the mother who knew the father of each child. Generally speaking this theory is normally referred to as the Spencerian Theory, after Herbert Spencer (1820-1903), the famous British philosopher and sociologist.

This theory seems to have been abandoned in recent times, altogether. The belief in a linear or single line development of the family seems to have been abandoned in the face of more recent findings of anthropology. But the theory is interesting because it sheds some side-lights on the family in pagan Arabia before Islam. It seems (and this applies especially to the Arab nomadic society) that ties of marriage were very loose and laxity in marriage, particularly in the case of polyandry, put a premium on the woman to be married. Since the offspring of the polyandrous wife was of uncertain paternity, the tribe or the clan used to insist that the children of its kinswoman should belong to it and should, in the event of separation or death, be joined to it as its 'sons' or 'daughters'.

Even the woman herself continued after marriage to belong to her tribe, and her allegiance was not to her husband's people. Wellhausen has shown that women remained under the shelter of their paternal families even after marriage and their kinsfolk protected them and defended their rights. This may be the reason why the maternal uncle (*khāl*) was very important and even the Arabs up to this day are more proud of their maternal uncles than of their paternal uncles.

There is a popular saying, current almost everywhere in the Arab world, to the effect that two-thirds of the child are of his maternal



uncle. This *khāl* relationship was effective in the highest degree when the need arose for support or protection in times of war. Thus in a controversy between Qais b. Ḥassān and a kinsman of Banī Nahshal, Qais complained to his maternal uncles Banī Mujāshi' and told them the story. They were very angry for his sake and a deputation went to Banī Nahshal to remonstrate. The deputation told them that a kinsman of theirs had attacked the son of their sister, wounded him and taken his camels. They said that they would not forsake him, being as they were his *akhwāl*, maternal uncles. There is also the story of Raiḥāna bint Ma'dīkarib, when she said to Duraid b. al-Simma, sometime after the death of his brother: "My son, if thou are not able to attempt alone to take blood-revenge for thy brother, apply then for help to thy maternal uncle and his family of Zubaid."

It appears that in such a polyandrous society there was no great concern to establish the paternity of the child and generally the precise father could not be found. According to Robertson Smith, a group of kinsmen — perhaps several brothers — would jointly procure a woman of another tribe, either by capture or by purchase and bring her to their home to be 'wife' to them all. In the circumstances, a single line of descent was impossible to achieve and therefore this peculiar type of promiscuity made it inevitable for the Arabs to try and establish a system of rules by which they could father the various children of the same woman. The system developed, according to al-Aṣfahānī in *al-Dhari'a*, was known as *qiyāfa* (physiognomics), that is the determination of the genealogy of the man and the recognition of him as belonging to a certain clan or tribe. This was known as *'ilhāq* (attachment), and the one who attached himself to a clan or tribe without popular recognition was called *da'iyy* or pretender.

The Arabs also had a graded scale of tribal nobility or noble birth. Tamīmī, for instance, was higher in this scale than Bāhila; and Tamīmī nobility was used as a yardstick for comparison. Jarīr, an Umayyad poet, says in this context:

"The mother which gave birth to Quraish  
was not sterile or promiscuous,  
No child was nobler by birth than Quraish  
and no maternal uncle nobler than Tamīmī"

In an old Arab story, Aktham b. Ṣaifī is reported to have admonished his children, in the following terms: "O my children, do not be

taken up with the beauty of woman to the neglect of the purity of descent." Abul-Aswad al-Du'alī once said to his children: "I have done well to you when you were young, old and before you were born." They said: "How could you have done well to us before we were born?" "By choosing for you," he replied, "such mothers as you would not be disgraced by them." Al-Riyāshī says in a line of verse:

"My doing well to you is that: I have chosen for wife a woman of noble birth, conspicuous for her chastity."

In pre-Islamic Arabia, there were a number of professional famous genealogists, such as Daghfal b. Ḥanzala al-Sadūsī, Warqā' b. al-Ash'ar, 'Adullāh b. Ḥuṣain, Zaid b. al-Kayyis, Mālik b. Khabīr.

Also the idea of *jiwār* in practice enhanced the position of the mother and strengthened her ties. For even after marriage, a woman continued to be bound by her allegiance to her kinsfolk and was more inclined to have her children attached to their maternal uncle rather than to their father's people. Therefore, at a later stage, men became more interested in having their wives from among their people in order to retain their children, especially their sons, within their own family. This may have caused a decline in the position of the wife generally and the rule *al-walad lil-firāsh*, which in the past referred to the custom of attaching children to their mother's people, ceased gradually to have effect, especially as from the beginning of Islam. An illustration of this is the case, before Islam, of the mother of Sa'd b. al-Dibāb, who gave birth to her son after marrying al-Dibāb, following her divorce from her former husband, the real father of her son. The son was adopted by al-Dibāb as his son. With this change, perhaps, the time of matriarchy, if such a thing ever existed among the pagan Arabs, came to an end.

The other point of interest in the evolutionary theory is the question of infanticide. Among the pagan Arabs, this barbarous custom appears to have been widely practised, although Lane Poole thinks that in the desert it was 'exceedingly rare'. According to al-Maidānī however, infanticide was practised by all the Arab tribes until the advent of Islam, when it had decreased, except among Banū Tamīm, where it increased instead.

It is mentioned in the Holy Qur'ān, and the reason given for its practice is poverty. Sura 6, Verse 151, says among other things: "and that ye slay not your children because of poverty." Also verse 31 of Sura 17 says: "Kill not your children for fear of want." This

clearly shows that poverty or scarcity was the reason for this practice. The use of the word 'children' in the two verses might suggest that the Arabs used to kill their sons too, but it is agreed that the reference is to the daughters. Other reasons for this practice are also given by Arab historians, including the reason that fathers by killing their daughters when very young spared themselves the degradation which might attach to them if the daughters were carried off to be married by capture. It was feared that women might prefer their captors to their former husbands, as happened, when the daughter of Qais b. 'Āṣim preferred to stay with her captor rather than go back to her husband. In consequence, Qais b. 'Āṣim started to bury alive every girl born to him, and he buried more than ten of them. A similar case was that of Rabī'a.

There is also another theory by Westermarck about the evolution of the family. He disagrees with the previous theories and maintains that, in the lowest and highest tribes, monogamy was prevalent and that cases of polyandry, promiscuity or polygyny (polygamy) were only temporary aberrations from the monogamous norm. He concludes that man did not develop towards monogamy, but was always fundamentally monogamous.

The fourth theory, which sounds more plausible, about the evolution of the family, is that the mother-child relationship is more fundamental than the father-child relationship, the permanent husband-wife relationship or the husband and two wives relationship. This would mean that matriarchy and promiscuity were older in the scale of development.

These theories and other more recent ones seem to conflict with one another, especially when applied to the pagan Arab society. However, one might conclude in so far as the Arab society is concerned, that in view of the fundamentality of mother-child relationship, matriarchy seems to be the older system of family life. Some wives enjoyed at that time a privileged position. They were consulted in important affairs. Al-Nu'mān, for instance, consulted his wife as to what he should do, when he was fleeing from the Persian King. Also Mas'ūd b. Mu'attib al-Thaqafī showed his respect to his wife Subai'a by sparing the lives of those who had sought refuge in her tent. The story of 'Amr b. Hind with 'Amr b. Kulthūm and his wife Laila is too well-known to be recounted here. This continued to be predominant until it was superimposed by patriarchy and was finally superseded by it. Traces of the matriarchial system survived until well after the

rise of Islam. Many tribes traced their descent to females and many great men used to call themselves after the names of their mothers. Names like Mu'āwiya, Murra, Mughīra, Umayya, 'Umaira, Ḍamra, Rabī'a, Kināna, 'Alqama, Ḥanīfa, Hind, Wabra, Ḥanzāla, Bajīla, 'Udhra, Sā'ida, Zurāra, Fazāra, Nuwayra, Tha'laba, Ḥarmala and many others of the same feminine gender would at least indicate that, at one time in the early primitive period, some sort of matriarchy was present.

It also indicates that the system of kinship among the pagan Arabs was matrilineal, that is that a person is affiliated with a group of kinsmen who are related to him through females (mother's side) only. But it was also patrilineal or even bilateral, either at the same time as matriliney or later on. Patrilineal lineage means that a person is affiliated with a group of kinsmen who are related to him through males (father's side) only. Therefore, it may be that some Arab tribes used to be matrilineal and some others patrilineal. It is also possible that some tribes used to be bilateral in kinship, that some of their members used to affiliate with kin through males and others through females, or, judging by the mixture of female and male names in the same genealogy, that kinship was duolineal in the sense that a person is affiliated to both a matrilineal and a patrilineal kin group.

This aspect of kinship was given a great deal of weight in recent studies of primitive societies, undertaken in order to find out which system of kinship preceded the others. In our discussion here, we can only give a bare outline. It seems, according to Murdock, that patrilineal institutions, such as descent, inheritance, were associated with higher cultural levels, while matrilineal institutions were associated with lower levels. Murdock also found that some matrilineal traits are more primitive than others.<sup>1</sup> Lower cultures, in his opinion, have matrilineal descent and exogamy, matrilineal residence and the allotment of children of divorced parents to the mothers.

All this suggested to Murdock that social organisation under primitive conditions tends to be matrilineal only partially and in an incipient sense, and is elaborated into a fullfledged and consistent matrilineal system, with the extension of the principle to authority and succession. He also maintains that patrilineal forms show an

<sup>1</sup> Robert M. Marsh, *Comparative Sociology* (New York : Harcourt, Brace and World, 1967), p. 50.

especially high correlation with animal domestication, metal working and general occupational specialization.

Aberle, another American sociologist, agrees with Murdock, that contrary to the unilinear evolutionary theory, matrilineal descent is a characteristic of one general stage of cultural evolution and argues that the incidence of this form of descent is a matter not of general evolution but of specific evolutionary adaptation. He says that "matriliney is a special adaptation to certain productive conditions capable of surviving under other, but by no means all other, conditions. Matriliney is largely limited to a certain range of productivity and a certain range of centralization — ranges, narrower than those of either patrilineal or bilateral systems. It is, however, only one of the principles of descent reckoning which can occur within this range, and cannot be viewed as a 'stage' or 'level' of evolutionary development." Aberle also discovered that societies whose main occupations are pastoralism or agriculture, tend to select against matriliney.

It is very difficult, for lack of sufficient information, to say that the Arab pagan society was matrilineal, patrilineal or bilateral at one period of history. Even the information we have is confused to the extent that we sometimes wonder whether the reference in the legend, story or poem is to the urban, rural or nomadic society, for it is a fact that all these types of societies existed side by side and interpenetrated. Makka for instance, even shortly before the Prophet, was partly tribal and partly urban in so far as the family is concerned. Its life was a true mixture of tribal, urban and mercantile society. Madīna, to the north, was different because it was more rural and less tribal. What also added to the confusion is the great variety of local, physical and geographical conditions in the vast expanse of the Arab peninsula. The modes of food production varied from region to region, and many tribes were almost sedentary, as perhaps in Najd, whereas others, west and east, were almost entirely nomadic. The south, in Yemen for instance, and the north, round Madīna, and the northern approaches to Syria, were mainly urban or agricultural. This fluctuation between the desert and the sown and the variation between the nomadic and the sedentary modes of life have precluded the possibility of obtaining a uniform picture of the family in particular, and the society in general.

Even in the question of marriage there is a great deal of uncertainty. There are instances of polyandry and there is something to support the idea that polyandry was an old practice, at least in some

parts of Arabia, considering that warfare among the tribes and the consequent death of many men made it possible for a majority of men to be polygynous (polygamous). On the other hand, the system of *sabī* (capture of women) in warfare made it possible for a majority of men to be polygynous (polygamous). Women used to be captured along with camels and other livestock. There are several indications of such a practice in the controversies and polemics (*naqā'id*) of Jarīr and Farazdaq. A case in point is that of a raid on Banī Yarbū' who were despoiled of their women and livestock. It is believed that when people change from a hunting to a pastoral mode of life they change from polyandry or monogamy, to polygyny. It is also reasonable to expect that polyandry is often the cause of female infanticide, although the cause of it is given sometimes as the desire on the part of the parent to obliterate any condemning traces of an adultery committed by an alien with his wife.<sup>1</sup> Among the pagan Arabs the causes of female infanticide are many and various.

In the case of polygyny or polygamy, it is believed that when a community changes from a hunting to a pastoral way of life it changes from polyandry to polygamy, the idea being that man in a pastoral society has a greater advantage over woman in being more able to look after his or the community's cattle.

Since, in a pastoral society, animals such as camels in the case of the Arabs, are the main source of food, man naturally becomes the chief provider and hence the ruler in the family. Because of this dominant position, man was able to force women into the system of polygamy. His increase of wealth, in the form of more and more cattle or camels gave him the wherewithal for a plurality of wives.

It is very interesting to note here, in passing, that pastoral life, in the desert for instance, has been a source of disruption in the life of villages bordering on the desert. These villages or settlements have always been in danger of raids by nomadic tribes and they have always been in fear of losing their stored-up food, without being able to defend themselves so long as they lack the efficient means of defence. The oppressive sense of insecurity in these small urban areas is the chief cause of enmity between the 'desert' and the 'sown' and there is no better illustration of this situation than the continued warfare between the nomads and the settlers, not only in pagan Arabia but also during most of the history of the Islamic state or states. This

<sup>1</sup> J. K. Folsom, *The Family* (New York: John Wiley, 1934), p. 123.

enmity was patently reflected in the Arabian life and even the Qur'ān, and the traditions of the Prophet explicitly condemn the ways of the Arab nomads, called *al-A'rāb*.

Condemnation of the nomadic and pagan society took other more effective forms, and the idea, as exemplified in the attitude of the Prophet, was to try and destroy the nomadic structure of society and replace it by an urban structure, based on a closely-knit family. This to my mind, is one of the main achievements of Islam. Loyalty to the clan or tribe, which caused bloodshed and murderous jealousies, had to be removed and be replaced by a new one. The theory, sometimes put forward by modern Arab writers, e.g. 'Abdul-'Azīz al-Dūrī, that the old clannish loyalty was replaced by loyalty to Islam seems to lack substance and a firm foundation. A social loyalty has to be replaced by another social loyalty not by an ideological loyalty. Therefore Islam created the family in the form we know it.

Let me now give the reasons for the new social creation, I mean the Islamic family. Let us remember from the start that Islam is an urban religion, unlike Judaism, which is patriarchal and tribal, and that it is highly interested in the welfare of the human society, unlike Christianity in its early stage. Secondly, let us remember that Islam grew, especially in its social aspect, in an urban and agricultural environment, in Madīna. Thirdly, the enmity to Islam proceeded from two kinds of allegiances: pagan and tribal. Both had to be suppressed before Islam can have any chance of being established and both have to be replaced. The first one was replaced by allegiance to Islam and the second by allegiance to the family as a social and primary group.

The family has two relationships: a) inward-looking and b) outward-looking. The inward-looking relationship is the one which exists among members of the same family — between brothers and sisters, children and parents, or father and mother. The outward-relationship, on the other hand, is the one existing between the family and the clan or the tribe. This, it will be remembered, was strongest among the nomadic Arabs, even today. Apart from procreation of children and their protection during their immaturity, the Arab family then enjoyed no independence similar to the one enjoyed by the modern nuclear family. Therefore, it appears that the inward and the outward orientations in the social familial group has always been in a state of tension, whether in the tribe or in the present social system. Which of those two relationships is more vital to the life of

the community? Is it the welfare of the smaller group, the family, which should be insured as against the welfare of the larger one, the tribe? Is it possible to reinforce the structure of the family by external arrangements or laws and thus weaken its outward-looking relationship? I ask these questions to draw attention to the situation in the Arab society at the beginning of the Prophet's mission, in regard to the structure of the society. If we remember that Islam, particularly at Madīna, after A.D. 622, turned more towards social questions, after the main tenets of dogma and religion had been laid down and promulgated at Makka for 13 years. The concern of Islam with society and the creation of a unitary state caused the family to be one of the chief objects of reform or design. Also the growth of Islam in a predominantly agricultural environment in Madīna, where the tribal link was comparatively weaker, as is the case in rural areas, favoured the creation of a compact social group, the family, with a stronger inward-looking relationship. Let us see how this was done.

There are three kinds of family. First, the joint family which is the nearest analogue to the type of family which was in existence in the tribal society. This family lives a communal life, with all its members sharing the same place of habitation and holding in common what property it possesses, either in the form of land or livestock. This type of family is now almost extinct, except perhaps in primitive societies and to a certain extent in India, and perhaps Japan. In India, the joint family has existed for many centuries from the earliest times. T.B. Bottomore describes the Indian joint family as a corporate body with property held in common, common worship of a tutelary deity (the same as in the Arab pagan society where almost each tribe had its own idol) and authority exercised by the head of the family (usually the eldest male in the eldest male line), as in the case of the tribal Sheikhs among the Arabs, even today. According to the Hindu Law, the family property was not strictly impartible but partition was infrequent and it was quite usual for families to comprise three or four generations living, working and eating together. Besides property and work, Bottomore says, religion was an important force uniting the joint family, for its members included the dead and unborn as well as the living. The living members of the family, according to an Indian authority, are, so to speak, the trustees of the house which belongs to the pitris, the ancestors, in the interests of the putras, future members of the family. The central idea here, according to this authority, quoted by Bottomore, is the worship of the family



(Kula) as a temple of sacred traditions (parampara). One of the most important duties of the family members was to keep alive the sacred fire.

Bottomore quotes from another authority a description of a typical joint family among the Goorgs of South India. The Okka, the patrilineal joint family, is the basic group among the Goorgs. A Goorg has definite entity apart from the Okka of which he is a member: "It affects his life at every point and colours all his relations with the outside world. People who do not belong to an Okka have no social existence at all, and the elders always bring pressure on the parties concerned to see that children born out of wedlock obtain membership in their father's or mother's Okka.

"Membership of an Okka is acquired by birth and the outside world always identifies a man with his Okka (as the Arabs used to refer to a man as 'the brother of Tamim', 'the brother of 'Udhra', etc). His association with his Okka does not cease even after his death, because he then becomes one of the body of apotheosized ancestors (karanava) who are believed to look after the Okka of which they were members when they were alive. The ancestors are worshipped and offerings of food and drink (bharani) are occasionally made to them.

"Formally, the boys in an Okka, all sons of agnatically related (through male descent or on the father's side) mates, grazed the Okka's cattle together, hunted birds and played games. When they grew up all of them jointly looked after the ancestral estate under the guidance of the head of the Okka.

"Membership of an Okka determines to a very large extent the choice of spouse. First of all, marital relations are forbidden between members of the same Okka. Where agnation overflows the Okka, the taboo extends to agnatic relatives who are not members of the same Okka. Again, children of sisters may not marry.

"The ancestral, immovable property of an Okka was formerly regarded as impartible. It usually descended from one generation of agnatically related males to another without being split up in the process. Partition did, however, occur when every adult member of the Okka wanted it.

"But such cases were unusual — at least that is what one is told. Both the difficulty of partition and the preference for leviratic (the man marrying the widow of his dead brother) unions added to the strength of the Okka. The members of an Okka have to live together

from birth till death. They were bound together by numerous strong ties, and they co-operate in performing common tasks. After death, they become ancestors who continue to show an interest in their Okka and demand propitiation from their descendants. The Okka is something very much more than a group of living members in it at any given moment. It is a continuum through time and the body of living members at any particular moment form only points on it. Goorgs themselves clearly state that the Okka has a longer life than its members. They are also aware that an individual lives in a social sense, as long as his Okka. There is a great desire for the continuance of the Okka and there is no greater calamity than its extinction. When an Okka is threatened with extinction certain traditional devices are resorted to to perpetuate it."<sup>1</sup>

This is a typical joint family, which is a chief constituent of the old Indian society. Another type of family, based on the idea of communality and extension of relationship, is the extended family, prevalent in the old Chinese society. An extended family consists of two or more nuclear families (to be explained later) related together through an extension of the parent-child relationship, that is by the affiliation of smaller families so that the grandfather lives with his married sons and his grandsons, or very rarely, with his great-grandsons. This composite family is normally found in primitive societies or in rural communities, especially in villages, as in the countries of the Arab Middle East. William J. Goode presents a detailed description of the traditional Chinese family, prior to the rule of Communism. This type of family is known as the extended family. It consists of many generations, living under the same roof and united patrilineally, or through the males. This communality (or even community) includes the oldest living male member and his wife, their sons and their sons' wives, the unmarried daughters, all the unmarried grandchildren, the wives of the married grandsons and so on. This, of course, does not necessarily mean that all families in old China were like that. It has now become clear that it was only the well-to-do families that were able to maintain extended families.

The largest corporate kin group in China was the clan called 'tsu'. The tsu was regarded as having descended from a single remote ancestor, whose name all the members of the clan must bear as a surname, in the same way as members of an old Arab clan used to add

<sup>1</sup> T. B. Bottomore, *Sociology* (London: Allen and Unwin, 1970), p. 166.

the name of the clan after their personal, their father's and their grandfather's names. The members of the clan are regarded as equal in the question of inheritance. Only the sons in the family have the right to inherit and they inherit equally. This system, which is dissimilar to the joint family system in India and the family system in Japan in this respect, had the effect of dividing the family capital or property into small portions and thus threatening the continued firm existence of the kin group. In Japan, on the other hand, one son, normally the eldest, inherited all.

This old Chinese family system required of each member to be loyal first to his family and then to the feudal lord or Emperor. The elders of the family, the fathers and the grandfathers, should be obeyed unquestionably, although this might conflict with obedience to higher authorities, such as the state. The chain of allegiance or fealty extends from each member through his father, his father's lord or leader and through the higher hierarchy up to the princes and the Emperor.

The conflict between duty to the family and duty to the state presupposed that a member of a family in a responsible position must try and render services to his kinsfolk first, a kind of nepotism. This is not unnatural, nor unusual. It is still with us everywhere. In the present industrial society, families, especially influential and wealthy ones, always insist on keeping lucrative posts and responsible jobs 'within the family.'

According to the *Encyclopaedia of Religion and Ethics*, the family institution in China is ascribed to Fuh-hsi (2852-2736 BC). Before this time, the people were like beasts, knowing their mothers but not their fathers and paring without decency. Fuh-hsi established the laws of marriage, organized clans and introduced family names.

Society in China is predominantly patriarchal. The family is the social unit and the norm of social organization. A mandarin is the parent of his children's people. 'The Empire is one family,' 'To the Son of Heaven there is not stranger: he regards the Empire as his family.' In accordance with this idea filial piety, the duty of a child, and the duty of a younger brother, are the fundamental social virtues.

A typical Chinese family may consist of father, mother, sons, daughters-in-law and grandchildren. To have four generations living in one household is marked felicity: if five generations live

together at the same time, many are the congratulations and special announcement of the fact is made in the temple of the City Guardians.

In the family, the father is the supreme authority — a general rule with many qualifications according to the ability and force of character of other members of the group. A woman is not supposed to rule, as a girl she should obey her father, as a wife her husband and as a widow her grown-up son.

All families, descended from a common ancestor, recognize in that a bond of union, and a special kinship is recognized between persons who derive from a common ancestor not more than five generations removed. The family belongs to a clan and all members should have the same surname. There are villages with hundreds and thousands of inhabitants, all of one surname and tracing their descent from a common ancestor, but divided into fathers' houses, or *bait ab* in ancient Hebrew society to some one of which each villager should belong. These 'father's houses' are distinct and may be friendly or hostile to one another. It is therefore, a matter of no small importance, not only to belong to a powerful clan but to belong to a 'father's house' which is powerful, the degree of its power being determined not by seniority but its numbers, wealth or the official persons who belong to it. It seems that these stratifications have their approximate replica in the old Arab tribal system, where all members of the same tribe bear the same surname, like al-Fazārī, al-Shaibānī, al-Khuzā'i, and so on and where the 'sons' of a clan, called *banū*, like Banū 'Abdul al-Maṭṭalib, or Banū Hāshim, constitute a separate 'fathers' house' within the tribe, with variations in power and authority. The importance of the great number of the sons of a clan in Arabia was well recognized. Poets used to boast of the plurality of their clans, using the word "*qabs*" for this purpose or, sometimes, *ḥaṣā*, Al-A'shā says: "You are no more numerous in multitude (*ḥaṣā*) for power belongs to the multitudinous."

With regard to property and inheritance, in the old Chinese family system, the father, in the division of the family property, was directed by usage. Daughters do not inherit. The eldest son often receives the largest share of the inheritance, for the reason that he bears the greatest burden of filial piety during his father's life, but, as stated previously according to Goode, they very often inherit equally. If the property was not divided by the father during his lifetime, on his death it will be held in common by the sons. Sons

of concubines have a share in the inheritance but it is always smaller than that of the legitimate sons.

The third family pattern is the nuclear or conjugal group. This is universal and has been in existence from the remotest periods of antiquity among all types of society, primitive, barbarian and civilized. This, however, does not mean that the structure has always been the same. A nuclear family, for instance, may be independent as in the present industrial society or a subordinate group of a polygamous or extended family. The trend, almost all over the world, for the extended, the joint and the Chinese type of social grouping, is towards disintegration into smaller units, such as the nuclear or conjugal family. The joint family in India was dissolved into smaller units as a result of new legislations under British rule, regulating the disposition of inheritance and property. Through successive laws in this direction, the joint family lost its cohesion and identity and was, in the majority of cases, replaced by smaller separate groups, with individual property rights. This obviously may be a pointer to the effect of the laws of inheritance introduced by Islam in the social structure of the Arab pagan society based on the Indian and also the Chinese family pattern. In India, as a result of the new inheritance and property disposition laws, families are no longer drawn to the old traditional joint family form but tend generally to separate into something like the modern nuclear or conjugal family. In China, the Communist regime has changed the old family structure completely and reduced the new society to a conglomeration of conjugal families, within an economic larger grouping, the commune.

According to Goode, family systems of the world are gradually moving towards a form of the family known as the 'conjugal family'. This small social unit consists simply of parents, their children and only a very limited extended relationship of kin. In this unit, parents have a gradually decreasing authority over their children and the children are enjoying increasing freedom of choice in their mature way of life, especially in the choice of their wives or husbands, with greater freedom to the individual as a whole. The system seems to suit the needs of the industrial society, especially in the under-developed countries, now going the same way as the parent industrial nations. In this system of family life there is more mobility and less attachment either to the family or to the locality of the family. Besides, the counsels of the family elders count less and less and the individual is forced by the new situation to rely more and more upon his or her own decision.

There is some sort of rebellion against authority in any form and the new attitude of the young is most conspicuous in their refusal to be tied, as before, to the apron of their mothers or to defer to the wishes regarded as archaic, of their fathers. There is a process of disjunction or atomization, which has more often than not alienated man not only from society in general but also from broad familial life in particular. Strangely enough, although the tendency in industrial societies is towards the conjugal family, the families which are most successful are those least adjusted to industrial needs. This means paradoxically that the families which are successful in the industrial society are the ones which maintain wider kin relationships and thus seem to incline towards the extended type of family, especially among the most prosperous or elite families.

But the new trend towards change in the family structure, previously in the West, and now in China, India and the Arab world, seems to be inevitable. William J. Goode, at the end of his book, already referred to, says about this change, the following: "Yet I welcome the great changes now taking place and not because it might be a more efficient instrument of industrialization, for that is irrelevant in my personal scheme. Rather, I see in it and in the industrial system that accompanies it the hope of greatest freedom, from the domination of elders, from caste and racial restrictions, from class rigidities. Freedom is for something as well: the unleashing of personal potentials, the right to love, to equality within the family, to the establishment of a new marriage where the old has failed. I see the world revolution in family patterns as part of a still more important revolution that is sweeping the world in our time, the aspiration of the part of billions of people to have the right for the first time to choose for themselves — an aspiration that has toppled governments both old and new and created new societies and social movements."

This wide excursion through the family patterns of China, India and Japan has been undertaken here to give a general outline of certain family patterns which compare and contrast with the early or late Arab family structure. To start with, we must bear in mind, when talking about the development of the Arab and Muslim family from its earliest stages, that the pattern has never been uniform, varying, as it has done, according to the stage of civilization of the community or according to locality. The nuclear family and the conjugal family, especially the former, have always been in existence, but the fact that Arabia was either nomadic or rural before Islam indicates that the family patterns

in those two societies were not the same. Although the idea of kinship in both societies was based on the idea of subordination and collective security.

The ties of relationship in the urban or rural communities, as in Madīna for instance, were more determined by personal gains in a businesslike manner than by kin solidarity for protection and security. The system of holding land, pasture land, cattle and water in common in the family, extended or joint, was in operation not only in the desert but also in certain towns, such as Makka and Ṭā'if. Even the camels of the trade caravans of Makka were the property of the community, all too often referred to as the 'īr of Quraish, or the 'Caravan of Quraish', when on a trade mission to the north or to the south.

But the only circumstance which bedevilled life in Arabia and made security for soul, body and property almost non-existent was the social system. It is evident from history, narratives and chronicles of warfare that Arabia before Islam was a vast arena of raids, counter-raids, murder, blood revenge, pillage, destruction, assassination and many other outrages. The multifarious allegiances to tribal ancestries causing, as they did, bitter rivalries and jealousies made it impossible for this vast area to settle down to a peaceful and good neighbourly life. The need for this better state of things was always keenly felt, but the remedy was lacking. How could this gigantic Gordian knot be untied or at least cut through? This was the problem which faced Islam when it arose.

To my mind, Islam was concerned with two things: a) God and b) man. These were the two poles between which Islam operated. Let us leave the question of God in Islam aside because it concerns us here only in so far as the unity of God implies the unity of those faithful to Him, and concentrate on the other pole, man. I mean by 'man' here not the individual living in isolation, but I mean by 'man' the individual within the framework of a community, *umma*. Islam is concerned, next to God, with creating a society of a certain type according to a certain set of rules. This requires that the bases and foundations of the new Islamic community from a sociological point of view should replace the older ones. This is the first requirement. The second is that allegiance to ancestry and tribal lineage should be replaced by consideration for i) locality, ii) property and iii) immediate family. The allegiance, in other words, should be nearer at home and attachment to a fixed locality through having some property to be concerned about is a major factor in creating a society

based on the nuclear, conjugal (or extended) family. Therefore, I am tempted to say that Islam was responsible for the creation of the Islamic family, and its creation led to the disintegration of the old tribal society and to the weakening of tribal allegiances, and tribal kinship based on ancestry.

It is very fundamental to remember that Islam created two new allegiances or loyalties; a) loyalty to Islam itself and b) loyalty to the family. The one was a consequence of the conversion of the Arabs to Islam and the other was a consequence of the new rules for creating a localized and propertied family. The importance of locality, as against kinship, has been proved and demonstrated by facts, gathered by anthropologists in many areas of investigation and research.

In *Government and Politics in Tribal Societies* — (Watts, London, 1956), Schapera quotes Teggart as saying, (top of page 2): "If we compare 'primitive' and 'civilized' groups of men as we find them in the world today, almost the first point of difference that will strike the observer is that among the former the individual identifies himself by particularizing his blood-relationship, whereas, in the latter, the individual defines his status in terms of relation to a given territory."

About the same points, Schapera quotes H.S. Maine's passage: "All ancient societies regarded themselves as having proceeded from one original stock and even laboured under an incapacity for comprehending any reason except this for their holding together in political union. The history of political ideas begins, in fact, with the assumption that kinship in blood is the sole possible ground for community in political functions; nor is there any of those subversions of feelings, which we term emphatically revolutions, so startling and so complete as the change which is accomplished when some other principle — such as that, for instance, of local contiguity — establishes itself for the first time as the basis for common political action. The idea that a number of persons should exercise political rights in common simply because they happened to live within the same topographical limits was utterly strange and monstrous to primitive society."

A third quotation is also significant; M. Morgan as quoted again by Schapera, says that, "all forms of government are reducible to two general plans. The first, which he calls 'social organization', or 'a society', occurs among all savages and barbarians, it is 'founded upon gentes, phratries and tribes', and the government deals with people in their personal capacity as members of kinship groups.



The second, distinguished as 'political organization', 'political society', or a 'state', is characteristic of civilization, it is founded upon territory and property and the government deals with people in their residential capacity, as inhabitants of a regional unit such as a township or state."

I need not add further statements in corroboration of this general idea, by such eminent sociologists as Durkheim, Vinogradov, MacIver, and others. My point is that Islam had two social aims; a) the destruction of the tribal society based on kinship and lineage, and b) the creation of a state founded upon territory and property, with a characteristic familial unit, sustained by private property and inward-looking solidarity. It is very interesting and rather flattering that Burton, the famous translator of the Arabian Nights, in one of his appendices, has this to say about Islam: "After many a tentative measure Muḥammad seems to have built his edifice upon two bases; 1. the unity of the Godhead and 2. the priesthood of the pater-families... The Moslem family, however humble was to be the model in miniature of the state and every father in al-Islam was made priest and pontiff in his own house, able unaided to marry himself, to circumcise his children, to instruct them in the law."

Therefore, Islam created the family as we know it, out of the chaotic state in which it was existing before Islam in Arabia. It was not religion inside and outside Arabia that was in need of reformation and correction, but society at that time had sunk to such low depths of incoherence and utter confusion that some really drastic remedy had to be administered. Tribal allegiance and blood-ties amounting as they did to fetishes and cults had to be replaced by a wider, all-embracing, solvent framework. This was loyalty to Islam. But what about society itself? This was the second thing that Islam remodelled, with the family as the understructure, or to use a more technical term, as the substratum. How it was done is my concern in the following discussion.

First of all, as I indicated before, the inward-looking attitude of mind should be cultivated among the members of the kindred. The father and the mother should be the nucleus around which the other members should cluster, with obedience and affection. The parents were more than just procreators. At the same time, prescriptive loyalty to the clan or the tribe should be discouraged. This kind of outward-looking loyalty was called *birr* which in the pagan times meant that the individual had no existence apart from his clan.

In Islam, the meaning was reversed, in the sense that *birr* has come to mean the individual's inward responsibility and not only piety or religiousness. The Holy Qur'ān says: "There is no piety in turning your faces toward the east or west; but he is pious who believeth in God and the last day, and the angels, and the Scriptures, and the prophets; who for the love of God disburseth his wealth to his kindred, and to the orphans, and the needy, and the wayfarer, and those who ask, and for ransoming" (Sura 2/177). The verse clearly lays down certain rules for the individual to follow according to his own conscience, and not according to tribal norms. The emphasis on being kind to one's kindred is clear and it is first in the series.

To turn the attention of Muslims from their outward-looking attitude, the Prophet urged them to forget their boastfulness about their forefathers. In one of his traditions, he says: "Verily God has taken away from you pagan allegiance and your boastfulness of ancestors and forefathers." The new allegiance must be to one's kinsfolk in the parental family and near relatives. Another tradition condemns in very strong terms the custom of ascription to ancestors.

To strengthen this attitude and shift allegiance to the parents rather than ancestors, Islam enjoined obedience to the father and the mother, and condemned conformity to ancestral worship or ancient beliefs and customs of forefathers. This condemnation is expressed in strong terms in many Qur'anic verses. But the injunction to obey and love one's parents is no less prescriptive. The Qur'anic verse which says: "Name them after their father's" (Sura 33/5), means that they should no longer be called after the names of their clans or tribes, as was the custom in the pagan times. The duty of affection and beneficence towards parents is expressed in the following verse: "We have commanded man concerning his parents. His mother carrieth him with weakness upon weakness; nor until after two years is he weaned. Be grateful to me and to thy parents" (Sura 31/13).

A more notable verse in this direction is the following:

"Thy Lord hath ordained that ye worship none but him; and, kindness to your parents, whether one or both of them attain to old age with thee: and say not to them, "Fie!" neither reproach them; but speak to them both with respectful speech; and defer humbly to them out of tenderness; and say, 'Lord have compassion on them both, even as they reared me when I was little' " (Sura 17/23, 24). Muḥammad 'Alī of Lahore, in his comment on this verse says very significantly: "Obedience to parents is placed next to submission

to God, for among fellow beings none has a greater claim upon a person than his parents. Moreover, obedience to parents is the seed from which springs the great obligation of obedience to all constituted authority. Hence it is that obedience to parents is given such an important place in the moral code of Islam." I would like here to refer to the new sociological conceptions of the 'in-group' or 'primary group', and the 'out-group' or community in general, and I would like to refer to a special study of the cohesion between the smaller and the larger grouping summarised by Leonard Broom and Philip Selznick.<sup>1</sup>

I have seen it reported in a classic book of Arabic literary history that one day a youth came to the Prophet and enquired from him as to whom he should obey first in the family. "Your father," said the Prophet. "And who next?" asked the youth. "Your father," repeated the Prophet. "And who next?" asked the boy. "Your mother," said the Prophet.

The Prophet's insistence on obedience and deference is no less strong. He says for instance: "God enjoins you that you should be good to your mother, and then to those who are next and next." He condemned in very strong terms the insubordinate and undutiful behaviour of sons and daughters towards their parents. This kind of behaviour is referred to in Arabic as *'uqūq*, which is the antithesis of loving kindness. There is a very well known tradition of the Prophet's, which says: "Paradise lies at mothers' feet." The Prophet also says: "He who wishes to enter paradise through the best door must first please his father and mother." In another tradition, he says: "There is no child, a doer of good to his parents who looks on them with kindness and affection, but God will grant for every look the rewards for an approved pilgrimage." What is still more injunctive is the Prophet's tradition: "A man is bound to do good to his parents, although they may have injured him." Unfilial behaviour is described by the Prophet as one of the greatest deadly sins. I have found in one collection of traditions, compiled by Ibrāhīm Şnobar, no fewer than twenty-six traditions, enjoining dutifulness towards parents and close ties among members of the conjugal family and of the extended family, whether they are called *rahīm* or *munāsibīn*. The duties of parents towards their children as well as those of children towards their

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<sup>1</sup> Leonard Broom and Philip Selznick, *Sociology* (New York: Harper, 1956), pp. 153-163.

parents are clearly laid down in books of tradition or in books of law. Even the duties of children towards the friends of their fathers or parents are prescribed.

In one of the traditions on this point, the Prophet says: "One of the kindest acts is for a man to be on friendly terms with his father's friends." In a didactic poem, Ḥārith b. 'Abbās al-Sulamī says: "Honour the friend of your father wherever you meet him; for it is unfilial on your part not to do so."

To sever good relations with these friends is placed on parity with severance of kind relations with members of one's extended family. This latter one is known as *qatī'at al-raḥm* whose antithesis is *ṣilat al-raḥm*. The Prophet is reported to have said: "The good deed most deserving of reward is to maintain ties of womb-relationships and the evil deed most deserving of punishment is aggression and severance of the ties of womb-relationship." He is also reported to have urged: "Your Kin." In another tradition, he says: "Kinship is attached to the divine throne and says: He who does kindness to me will have kindness done to him by God; and he who forsakes me will be forsaken by God." There are many traditions in this vein. The Qur'ān is of course the guide in these matters. The attempt in Islam to create strong cohesion in the conjugal and the extended family is also expressed in the following verse: "But as for those who have believed and fled their country, and fought on the path of God, and given the Prophet an asylum, and been helpful to him; these are the faithful. Mercy is their due and a noble provision. And they who have believed and fled their country since, and have fought at your side, these also are of you. Those who are united by ties of blood are the nearest of kin to each other. This is in the Book of God. Verily, God knoweth all things" (Sura 8/74 - 75).

With regard to *ṣilat al-raḥm* and *qatī'at al-raḥm*, the Prophet in one of his traditions, said, the former was the most deserving of reward and the latter as the most deserving of punishment. The Prophet also said: "No severer (*qātī'*) of womb-relationship ties will enter Paradise."

These and other similar Qur'anic verses or traditions of the Prophet emphasize the necessity for the reinforcement of blood-relationship within the family as against the relationship of the kind that existed in the Arab tribal society. The inward-looking attitude, therefore, has been made to replace the outward-looking one.

Solidarity among members of the same family, termed very often as *ṣilat al-rahm*, has become some sort of a religious social duty.

But the family, to have a clearly defined framework and identity, must be founded upon another, more concrete basis, namely, locality or localization within a certain area. This to my mind, should mean that the second pillar of the family is property. You cannot have a properly constituted and interrelated social group, such as the family, without property. It is property which, in most cases in history, transforms a society from nomadic to settled life. And property, from another direction, serves as a strong bond between individuals.

There are two kinds of property, private and common. Private property has always been in existence in all societies, primitive and civilized. Generally, in many primitive societies, the chief economic resources, such as water, pasture and hunting and grazing land are held in common.

The word *mushā'* in Arabic conveys this meaning and indicates that this communal ownership was prevalent among the Arabs in olden times, until very recently, even in rural areas, especially Palestine. The Prophet is reported to have said that water, pasture and game are communally owned. However, in rural communities, when agriculture becomes the chief occupation or the main source of livelihood, private property begins to be the order of the day. There may, however, continue to be certain resources to be held in common, but this gradually dies out until property becomes fragmentized, not only among families but even among individuals, especially so in the industrialized society. In India where the joint family pattern used to prevail, common ownership may continue to operate. In Palestine, during the Ottoman rule, land, in almost all rural areas, used to be owned jointly by the extended family, known as *ḥāmūla*. These rich and large numbered families were also feudal for which the rest of the small families were mere appendages or serf families. The extended family of this type had land and property in general, held in common ownership. In fact, the system of common ownership or *mushā'* was a consequence of the tax-collecting system from the early days of the Arab empire especially under the Abbasids and later the Ottomans.

The extended families under their feudal lords were fewer in number than the smaller families, but their influence was greatest. These were the origin of the various small dependencies which in course of time led to the creation of separate dynasties, especially during the Abbasid Caliphate in the east, and in the west after the weakening

of the Umayyad Caliphate in Spain. What is paradoxical is that while industrialization has for the major part done away with common ownership, the extended family has emerged again in the modern society, founded not on common ownership but rather on kinship solidarity because of community of interests.

To go back to our original thesis, we must reiterate that encouragement by Islam of sedentary life, coupled by rules for the creation of property and of its disposition, has had the greatest effect in solidifying the family as an independent social unit. Together with kinship solidarity, property, as determined by the new Islamic laws, formed the base for the new Islamic society and state. Therefore, one might say that the early period of Islam ushered in a new group, not wholly original, with certain definite characteristics, which is the family.

I am not going to go into further details about property and its disposition, especially by inheritance, but I would like to give certain remarks relevant to our subject as a conclusion to this talk. According to a report by Sa'd b. Abī Waqqāṣ, one of the companions of the Prophet, the Prophet, when asked by Sa'd whether he should give two-thirds of his property and leave one-third to his daughter, his only inheritor, admonished him to give away nothing and to leave everything to his inheritors, for to leave them rich was better than leave them dependent upon the charity of people. This story may indicate to us how much store by property was set by the Prophet, so long as the property remained within the family.<sup>1</sup> Another indication is that the owner of the property, his own property, is not allowed by law to dispose by testament of more than its third, with two-thirds remaining as legacy for the members of the family. But it should be remembered here that these members are always the nearest paternally and maternally. So it is always the gravitation towards the centre. To bequeath by the owner and to inherit by a member of the family are obligatory in Islamic law. The inheritance to which a member of the family becomes eligible after the death of the owner is an inalienable right. There is also the more important general principle, namely; that inheritance in Islam is exclusively within the family. Hence the importance of legitimacy and solemnization of marriage. Those who are more eligible for inheritance are those who are nearer in kin

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<sup>1</sup> Ibrahim Şnobar, (ed.), *Min Aḥādīth Rasūl Allāh [An Anthology of Traditions]* (Amman, 1967), No. 221.

to the father, sons and daughters, because they are more an extension of the father than the father's father or mother and also because, as children, they are in a greater need for property to build themselves economically and to have families and children. The rules of inheritance in Islam are known to all and I do not intend to go into them in detail.

In this connection, J.A. Spender says: "Joseph Chamberlain let a most alarming cat out of its bag when he said in his 'unauthorized' speeches before the election of 1885 that the rich owed 'ransom' to the poor. The word raised angry protests from Whigs and Conservatives, but the theorists saw the necessity of revising their doctrine. They now said that the real unit of society was not the individual, as Herbert Spencer supposed, but the family, and that if the family was not permitted to make provision for its offspring by handing on its wealth, the most creditable motive for industry and that which sweetened toil for the breadwinner would be removed. It was precisely on this incentive that the greater part of civilization has been built up. If founding a family was to be forbidden, and everything that a man made was to perish with him or be confiscated at his death, then life would become a confused struggle in which each generation would seek to consume what it produced and hand nothing on to its successor."

This passage, restricted in its application to a particular period and society as it is, does not fail to convey the general idea that the fulcrum of society is the family and the fulcrum of the family is property. For this reason, in one respect, at least, the disposition of property according to Islam is an actual factor in the perpetuation of the family and consequently in the perpetuation of culture. Political power does not seem to be dependent wholly upon the family, although families were responsible, in many and various cases of history, for the creation of states and for maintaining them, or at least for appropriating to themselves areas of influence, which were to all intents and purposes independent from the central authority. Arab and Muslim history abounds in such cases.

Before I move on to consider how the new Islamic family developed further, with its newly created solidarity based on both family loyalty and property, I would like to introduce my following discussion of this development with a few quotations from Ibn Khaldūn in his *Prolegomena*. Ibn Khaldūn was greatly interested in family solidarity, particularly in kinship loyalty, which he calls '*aṣabiyya*', and thought that states prospered and decayed inasmuch as this '*aṣabiyya*' was

strong or weak. The link between this extended loyalty and the family loyalty was regarded by him as basic. For instance, in speaking about *'aṣabiyya* as founded upon blood-relationship, he quotes a tradition by the Prophet, in which the Prophet is reported to have said: "Learn from your genealogies what makes you on good relations with your kin." Ibn Khaldūn uses this tradition to prove his thesis that blood-relationship or descent is only useful in so far as it reinforces solidarity among members of the same *'aṣabiyya* group which in its turn causes good relations to exist among them. This is extremely significant from our point of view. The inward-looking attitude which Islam created to replace the other tribal outward-looking one can be seen clearly exemplified in this tradition. It can also be seen from it a new interpretation of the meaning of the word *nasab* (genealogy), descent from ancestry. It is no longer 'loyalty to ancestry' in the Arab pagan sense, but loyalty to one's kin or family. The similar transformation of meaning took place in the case of the word *birr* to which reference has been made.

Ibn Khaldūn considers that so long as people lived the life of nomads away from rural or urban areas, they would always be jealous of their descent, which they would always try to keep pure, *ṣarīḥ*, and unmixed. This, in his opinion, applies to a number of Arab tribes such as Muḍar, Kināna, Thaqīf, Asad, and Hudhail. The other tribes such as Lakhm, Judhām, Ghassān, Ṭayy, Quḍā'a, and Iyād, which were always in contact with rural, agricultural or urban areas and especially with the Persians in the east and the Greeks in the north, gradually lost the purity of their descent and also lost, along with it, interest in their ancestry. Here Ibn Khaldūn quotes a saying by 'Umar, the Second Caliph, in which he urges the Arabs as follows: "Learn genealogy and do not be like the Nabateans of the agricultural frontier (*sawād*), who, when asked about their origin say that they come from such and such a village." The family name gradually ceased to be identified with the tribe, and when the tribal designation fell out, an urban designation took its place and families preferred to call themselves after the names of their villages, towns or cities. Even in consequence of mixture with rural and urban people, let alone mixture with alien races, new other designations appeared on the scene, mainly those resulting from trade, profession or craft. Prestige changed its conception and those who were noble on account of their *nasab*, lineage, were rivalled in status and prestige by a new class, rich and prosperous, calling themselves *ḥasīb*. The luckiest



and most influential were those who were both *nasīb* and *ḥasīb* such as a member of a ruling dynasty or prosperous head of the rump of an old clan or tribe.

All such changes, as a result of ruralization and urbanization had great effect upon the family in the early period of Islam. The mobility of the Arabs during their conquests and their settlement, as tribes or urban people, in new environments caused a lot of disruption in family life and it is believed caused men to marry more than one wife. There is a well-known story about 'Umar, the Second Caliph, to the effect that he ordered soldiers who had been away from home for four months or more to return to their families in Arabia. The story gives it that the order was out of solicitude for the wife, living as she was in loneliness and in need of her husband for sexual satisfaction. But there is another side to it, namely that Arab soldiers fighting in Persia, Syria or Egypt found it easy to marry there, although in many cases temporarily. But this circumstance naturally affected life in the family to a great degree.

The Arabs in their new occupation as conquerors and not marauders or raiders, were very adaptable to any new set of conditions. They suddenly came into contact with alien civilizations and unusual ways of life. This was difficult for them to understand or even to accept to understand but only for a short time. Soon, however, they adapted themselves to the new conditions and intermarriage was the first great social innovation. A Muslim male was able, according to Islam, to marry any woman who professed a religion recognized by Islam or if she became a Muslim. The new circumstances made it imperative for the rule of equality in marriage to be relaxed, especially by Abū Ḥanīfa, a leading jurist, who lived in Kūfa where there was a medley of races and no strict concern about nobility of lineage or even for lineage or descent.

All these changes along with others, were only social and economic. There was no change in the structure of the family from the Islamic point of view. In this respect a very significant fact — the Islamic family — remained, to all intents and purposes, almost intact and unchanged. What changes took place in the family were of a different kind; and all of them were destructive and contributed as such, to the far-reaching disorganization of family life. Let me, before proceeding to illustrate this matter, clear up a few points, both by way of repetition and further elucidation. It appears, as was indicated before that the pagan Arab society was at once both a)

tribal and b) rural or urban. The best example of the tribal society is the tribes of the desert where, according to Ibn Khaldūn, people were always on the move with their camels, eking out an austere living and always engaged in warfare and predation. These people cared very much for the purity of their descent, and vied with one another on that account. There was, of course, a system of family among those nomadic people, but what kind of family? It looks as if the type of family there was the nuclear family, consisting of the parents and the immature children. But this social unit had its own identity only because of marriage relationship and solidarity among its members was very weak in view of the fact that that solidarity was merged into solidarity with the tribe.

The society on the other hand, as exemplified in the people of Yemen, lived on agriculture and had a somewhat fixed habitat. This society has less of a tribal solidarity but more of a kinship (family) solidarity. The family was not nuclear, but mainly extended, consisting of a cluster of nuclear families joined together for economic reasons, in the majority of cases. Solidarity among the members of this type of extended family was great. Normally, such extended families were comparatively rich, either in land or in trade. Poor families, in an agricultural society, were always small and uninfluential. Makka, a prosperous trading centre had a society, although oligarchic and elitic, structured on the system of the extended family or the clan. The Prophet belonged to one of the Makka extended families. In the north, Madīna, an agricultural community, was similarly based upon the extended family system. Banū al-Najjār, for instance, were an extended family. Although such families in the rural or urban society at those times cared very much for their lineage, their increasing interest in their localized affairs had the effect of reducing their interest in that concern. Solidarity, as indicated above, was strong in the wider sphere of the extended family, but weaker among the immediate members of the parental family.

Islam was dissatisfied with the life of the desert and the tribal excessive solidarity. The extended or clannish family system failed to give a sufficiently strong solidarity in the parental family and on this account it was not regarded as satisfactory from the Islamic point of view. It is interesting to note here what Goode has to say on this question. He says that the first breakthroughs into modern industrialism were made in Western society and asks why in Western society and not in the Islamic society? He gives one possible reason for that

is that the prevailing family systems in the West for hundreds of years have more closely approximated the modern conjugal type than have the family systems of the major non-Western cultures.<sup>1</sup>

This means that the conjugal family in so far as its structure is concerned may be regarded, on the basis of this statement, as the cause of these breakthroughs. But Goode, on second thoughts, modified this theory and thought that the change in the family is to some extent the result of changes in ideology and values. In his view: "The ideology of the conjugal family proclaims the right of the individual to choose his or her own spouse, place to live and even which kin obligations to accept, as against the acceptance of others' decisions. It asserts the worth of the individual as against the inherited elements of wealth or ethnic group. It encourages love which in every major civilization has been given a prominent place in fantasy, poetry, art, legend as wonderful, perhaps even exalted, experience, even when its reality was guarded against. Finally, it asserts that if one's family life is unpleasant one has the right to change it."<sup>2</sup> Perhaps one might be tempted to say, on reading Goode's idea on this point, that the ideology creates the structure of the family. But where does the ideology come from? In the case of the Islamic family, the formative ideology came from the Qur'ān and the tradition of the Prophet. They created a new structure which has remained almost unchanged but which has failed to reach the stage spoken about by Goode, where the family is transformed into what is called the conjugal family. This miscarriage is due to various reasons which, because of our limited time, cannot be discussed here. But I would like to go back to the subject of disorganization in the Islamic family, to which brief reference has already been made. I am going to be comparatively brief on this part of the subject. A full discussion of it, ramified as it is, would require two or probably three more essays in the length of the present one.

The Islamic family in its intended pattern became a reality in the early period of Islam. It was intended to be a self-contained unit, with reciprocal obligations to its own members, and strangely enough, with no obligation to the tribe. The individual was released from allegiance to the tribe but placed under obligations towards the family, in the way of such strictures as obedience to the father, love of the mother, and brotherly feelings towards the other members.

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<sup>1</sup> Marsh, *op. cit.*, p. 84.

<sup>2</sup> *Ibid.*

The law of inheritance provided the framework for the family and determined its physical structure, in addition to the legal structure. There was nothing in the law to determine the relationship of this group with larger groups, such as the tribe or the clan. This was completely ignored, on purpose, as we have seen before. This pattern established itself very firmly and promptly and continued to exist throughout the various Islamic states, almost everywhere. The tribal society was very much weakened, first because of the new law and secondly because of the new mobility necessitated by the early Islamic conquests and the consequent settlement of Arab tribes in Syria, Iraq, Persia, Egypt, Africa, and even as far afield as Spain. Unfortunately or fortunately, the Umayyad Caliphs were able, because of their zeal for Arabism, to revive the tribal spirit and to employ it as a weapon in their political struggle with the former elites, the protagonists of Islam, either the companions of the Prophet or his family. This rivalry had the effect of bringing to the fore the prejudices of lineage with claims to better ancestries and ascriptions of low birth to adversaries. This was reflected very clearly in the disputes between the famous poets of the Umayyad period, such as Jarīr, al-Farazdaq, al-Akḥṭal and al-Rā'ī. Even Quraish, the tribe of the Umayyads, was not spared in poetical satires and once Mu'āwiya, the first Umayyad Caliph, was stumped by a derogatory retort from Al-Aḥnaf b. Qais, leader of Tamīm tribe. But all this was short-lived, only once coming to a head dangerously at the battle of Marj Rāhiṭ, and was only concerned with *nasab*. The social structure was all the time undergoing rapid change, so rapid that this tribal revival soon subsided and yielded place to a new conception founded on either distinction in the service of the new state or on economic grounds, especially under the Abbasids. The result was that the new Islamic family, which was threatened for sometime under the Umayyads by the revival of tribal mentality, began to have a new shape. The extended family came into existence and the tribes and the clans almost disappeared from the scene, to be restricted to the innermost parts of the desert. It was not called *ḥamūla* at that time, but was designated by the prefix of *āl*, such as Āl Barmak or Āl al-Muhallab.

When the state's authority was eroded and the central government became ineffectual, the need for protection and defence, for villages and people in large estates, became imperative. Families, rural and urban, used to rely more on their numbers and strength than on the state. Consequently they grew in number and the

members of each family gravitated towards the centre, and in time extended families were found everywhere, especially under the Ottoman Empire or under the Moghul Emperors in India. The Kuprulis in Istanbul under the Ottoman Sultans were an extended family, very similar to Āl-Barmak in Baghdad; but the pattern of the extended family was prevalent in villages as well as in cities. Al-'Az̄m extended family in Syria is a conspicuous example. The Pashas of Egypt are of the same category.

To my mind, all these changes were mainly causes of disorganization, in the society as well as in the family. It is true that the family maintained its legal structure, but it soon and always, especially now, faces new stresses and strains. The greatest of these was cultural — the flood of Western civilization. This took the Muslim world almost by surprise. The new flood was preceded by colonialism which endeavoured in many countries to keep the feudal family pattern alive. But the enthusiasm of the new rulers for modernization and socialization was instrumental more than anything else in destroying the extended family, either by agrarian reforms, as in Egypt, or by dislodging influential men of politics who had managed to keep themselves in power by virtue of their old-standing position as large landowners or as scions of traditionally noble families. Even members of such illustrious families were deliberately impoverished or ignored. There was another important result of independence, namely, the emergence of a new corps of bureaucrats, white-collar men and administrators. This was a novel experience for the new states, especially the socialist ones and soon gravitation to cities and towns was accelerated. There is no doubt that, in consequence of these new circumstances the family ties, so far unbroken, became rather loose. Also government officials became a class by itself and they were very much in demand as husbands.

The enthusiasm of the leaders of the new independent states was shown in their frantic efforts to educate 'the people', men and women alike. Education became compulsory and universal and in no other time secondary schools in large numbers came into being and also universities were rapidly established. The disparity of the level of culture and education between men and women was at the beginning, even till now, a cause of tension in the family. Mixing between the sexes was facilitated and the new drive for education created a sense of alienation among the new budding elites. In some way they were refugees in their homes or like people removed from their habitat

and resettled somewhere else. The school children, who could now read and write, listen to radio and watch television, both local and foreign programmes, go to cinemas and theatres and imbibe ideas from abroad, found themselves at variance with their parents, who were still traditional in their outlook. They were also dissatisfied, with their society. The unity of the family, at least traditionally was shaken.

Western ideas, imbibed through various channels, changed the climate of opinion, first gradually and then rapidly. Women were most affected by this change. The educated ones among them, early in the twentieth century, clamoured for what Westerners love to call 'emancipation'. This has now been achieved. In fact, Muslim women, even in the early periods of Islam, had a much better and higher status in the family than women in Europe before the end of the nineteenth century. But, socially, and perhaps outwardly, women became Europeanized. They now know languages, go about their business unveiled, travel far and wide unchaperoned, even by their husbands, dance, frequent clubs, drink, flirt and are even free to marry whomsoever they like, to the extent that very few of them have flouted the Islamic stricture which forbids a Muslim woman to marry a non-Muslim.

A subtle development, as a result of the spread of education and Westernization, was that people became indifferent as to the lineage of the would-be husband or the would-be wife. Marriage is now completely free from the restrictive rule of equality, and purity of birth lost its significance. Mixture with girls at school and college and in many cases in offices, has tended to direct attention to good personal points other than 'pure birth' or family standing. An increasing number of marriages are now for love.

Service in the government necessitates mobility. Transfer from one station to another is always expected. Officials and clerks in business for that matter, prefer to travel light, unencumbered by a large family. Many of them, mainly for this reason, marry later than usual. The social and emotional ties between parents and other members of the family are weakened or even severed. Urbanization has intensified this tendency and it looks as if the new Muslim society, under internal and external pressures, is about to lose, or has already lost, the old extended family pattern, and the conjugal or perhaps the nuclear type is gaining predominance. This is mainly the case in cities, but in villages and especially in conservative communities, such as the

Druze in Lebanon, and the Kurds in Iraq and Persia and the Berber in the mountains of Morocco and Algeria, the clan or the extended family is still very much in evidence. A typical example of this extended family in Lebanon is described by William J. Goode.<sup>1</sup>

Industrialization is on the way. It has already produced its imprint on society, at least in Egypt; Cairo seems to be both urbanized and industrialized. But what is most important in the Arab countries is the oil industry, in so far as the family is concerned. The prominent effect is the gravitation of people towards the source of wealth produced by the new industry. People left cities, towns and villages to go and work in the field or the offices connected with oil. Libya, for instance, where the rural stage of social development was bypassed and tribal people from the interior and around townships gave up their pastoral life and offered themselves as labourers and soon were transformed from a desert austere life to a new urban or semi-urban comfortable life. A similar situation developed in other Arab countries with oil resources, such as Algeria, Kuwait, and Saudi Arabia. Kuwait formerly a desert, mainly inhabited by pastoral or nomadic people living a sparse and wretched life, has now become almost completely urbanized with a population at least ten times what it was before, always on the increase because of the migration to the area of living-seekers from the Arabs of Syria, Lebanon and even Persia, especially from among the Palestine Arab refugees. The new states of the Persian or Arabian Gulf, hitherto barren and inhospitable, are being rapidly urbanized. The new oil wealth has again transformed a bedouin into a town-dweller almost overnight. In all these oil-producing countries, the uppermost thing is to earn money more and more and to try and be comfortable as much as possible. This attitude of mind has produced a great deal of demoralization. People have become lax about various social and even ethical standards. The family has been disrupted to a great extent. Men and women have become accustomed to live far apart. Even children in very many cases, are alienated from their parents because they are often sent to boarding schools, sometimes in Europe, to get them out of the way. The number of people who are now able to bear the cost of a tour in Europe is assuming large proportions. Everybody wants to be Europeanized, women before men. This onrush to be

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<sup>1</sup> William J. Goode, *Readings on Family and Society* (New Jersey: Prentice-Hall, 1964).

civilized, because of wealth, on the American model, is irresistible. The orientation is outward and not inward and therefore the first thing that is now losing its focus is the family. In simple terms, it is disintegrating, although the legal structure has remained almost intact, with some amendments and abrogations of certain religious rules, and with some alteration in the process of adjudication. This legal subject is not my concern here. I am concerned with the physical structure of the family and the first thing I should remark here is that the family kinship of a certain kind which Islam created has now lost stability. The uprooting of the family has produced a state of chaos in the Muslim society everywhere. With colonialism, westernization, wealth from oil, and mobility, Muslim society has lost its character, as a whole. Muslims seem to have lost confidence in everything essentially Muslim. They are the most alienated peoples. One thing they seem to have acquired as a substitute for their previous virtues, is their desire to live and to be left alone.

They are not even interested in who rules their country so long as the ruler leaves them alone — complete apathy. The alienation between people and their habitat has undermined the family unity. Mobility is not caused by voluntary migration alone, but also by eviction or flight, as the case of political refugees or Palestinian refugees. Even alienation from original Muslim culture seems to be complete and the future of the Islamic family in its structure seems to be moving towards the anonymous.

I cannot say more about this wide subject than I have said here, or the time being.



## WOMAN'S RIGHTS IN ISLAM

BY

DR. ZĀHIA QADDŪRA

This conference is being held in the sister country Morocco, this age-old Islamic region that has illustriously contributed its brilliant share to the history of Islamic civilization. Here we see our glorious past linked to the present Islamic resurgence — a resurgence we mean to keep alive in order that we may restore to our homelands their glorious past. Here we see a new spirit emerging, stemming from a new consciousness and a deep understanding of the constituents of this great, radiant civilization.

Our civilization, gentlemen, is one long continuous movement of development. Ever since the Arab nation, with the emergence of Islam, came into being, and ever since Islam spread to the far corners of the earth, this civilization has enjoyed continued existence. Many a civilization has flitted across the scene of history, but Islam lives on, ever vibrant and capable of giving and enriching — if we but only knew how to understand it and how to bear the standard of its message.

The Arab Maghreb has an honourable record of making valuable contributions in building up the body of this civilization in its varied aspects. It is no wonder, therefore, that this conference is held in its hospitable bosom to help carry out this useful study.

I have chosen to speak on the first of the subjects to be dealt with at the conference, namely, 'Islam's View of the Family in a Developing Society'. However, since the subject cannot be exhausted in one lecture, I shall confine myself to certain aspects of it only. I shall be dealing with the rights of woman in Islam, considering that woman is the mainstay of the family and its first nucleus.

To introduce the subject, there are certain observations which must first be made:

1. Islam is a world religion that has proved itself able to gather within its fold various nationalities and races, irrespective of differences

of regional background or language. It has no place for racialism or room for regionalism.

2. With this universal outlook, Islam has been able to build up a framework for a world civilization to absorb all activities practised or contemplated by man.

3. Islam has glorified and honoured man as man, and raised him to the highest degrees, in making no distinctions between man and woman, or between the high and the lowly, and giving man precedence over all other beings. "He it is who created for you all that is on Earth, then proceeded to the Heaven, and into seven Heavens did He fashion it; and He knoweth all things" (Sura 2/29).

In this verse of the Holy Qur'ān ample proof is furnished of the exalted position bestowed upon man by God. God created all things for man. Hence man cannot be enslaved for any material gain, nor can material things be given precedence over him.

To gain actual mastery over the earth and all things therein is the ambition of civilization and man's highest aspiration. Perhaps this civilization may set its aim higher and look forward to the conquest of new worlds and new spheres. The Holy Qur'ān has proclaimed the subservience of all material things to man. Therein lies the ideal image of man's unique worth.

Islam attributes to man the ability to learn and to gain knowledge and absorb it to a most considerable degree. "And He taught Adam the names of all things, and then set them before the angels, and said, 'Tell me the names of these, if ye are endued with wisdom'" (Sura 2/31).

This means that God has favoured man with such knowledge as angels never experienced, enabling him thereby to face the life divinely ordained for him in this universe. This great faith has, among other things, presented mankind with a positive system of extremely precise rules relating to the family, with all manner of legal details and provisions suited to the needs of all societies.

Since woman constitutes half of the human society, as mother, daughter, sister or wife, it is natural that she should have equal share with man in every mark of human dignity. The Qur'ān says: "And now we have honoured the children of Adam" (Sura 17/70), rather than "We have honoured man." From the very start, therefore, Islam has been a form of regeneration for man on the human, religious, social and intellectual level. The message it taught was not confined to the demolition of the superstitious beliefs and the destruction of

the idols of the pre-Islamic era (*Jāhiliyya*); it brought along with it a social revolution which did away with the iniquities, in life in general, improving the social structure and affording woman a fitting place at all levels of the social scale. Has it not forbidden the burial alive of newborn girls and the capture of women in war? And has it not given women social as well as legal rights? The emergence of Islam brought along with it an economic revolution in the lives of all the Arabs. Woman under Islam was no longer regarded solely as a chattel, nor did she continue to be precluded from her patrimonial rights or from owning goods and property in her own like her male counterpart.

It also engendered a political revolution, which forged the weak scattered Arab tribes into a mighty and awesome power, conscious of its own identity, a power which proceeded to organize its commonwealth in accordance with the best political methods and systems known to the world at the time, and to put its house in order lest it remain ever a prey to, or at the mercy of, its formidable adversaries: the Persians and the Byzantines.

#### MARRIAGE AND DIVORCE IN ISLAM

Marriage in Islam is a social institution advocated by the Faith, the Holy Book and the Prophet's tradition. It is urged upon man because it constitutes the foundation upon which society can be built. Marriage rests upon a contractual arrangement entered into by man and wife, not limited to a period of time, because it is meant to continue and endure. In Islam no group of people is debarred from matrimonial life — monastic celibacy does not exist in Islam.

When Islam came forth with its mission, promiscuity and polygamy were rampant in the Arab peninsula. There were no laws or restrictions binding either party in marriage. Islam laid down fixed rules, clearly defining the rights and responsibilities of man on the one hand and those of woman on the other.

Perhaps one of the most remarkable contributions of Islam was that it gave woman the right to choose her own husband; no one could force her to take a husband against her will, not even either of her parents. In addition woman had the right to have the marriage contract annulled if it appeared later that she had been forced to, or tricked into, accepting it. The Prophet annulled the marriage of Khansā' al-Anṣāriyya, daughter of Khudhām, because the latter

had forced her to marry against her will.<sup>1</sup> The Prophet was reported to have said: "Give women the say in the disposal of their persons; the unmarried woman (previously married) can express her wish explicitly, and the virgin's consent is by her silence."<sup>2</sup>

Lastly, Islam produced a cultural revolution, with rules binding equally upon Muslim, man and woman, and calling upon them to seek knowledge and to understand everything, and become proficient in the principles of religion. It committed them to the duty of *jihād*, holy war or supreme sacrifice, in the propagation of the faith and of its noble message, each according to his or her field of activity or walk of life. Through the inculcation of these ideas, Islam aimed at making Muslims of exemplary lives and character, so that the Muslim community both individually and collectively, may present a picture of superior excellence and strength. Has not God addressed the Muslims, saying: "Ye are the best folk that hath been raised up unto mankind — Ye enjoin the just, and ye forbid evil" (Sura 3/110).

As for woman, what did this new life mean to her? Previously, in the pre-Islamic era, she was looked upon as a burden to be tolerated out of man's chivalry. In the post-Islamic age, however, man learnt that she had inherent natural rights, something hitherto out of his ken or scope of vision.

The first step taken by Islam was to prohibit the burial alive of newborn girls. Verses were revealed, reassuring the poor and the needy that He would provide for them and their children, and that their practice of infanticide was a heinous crime. Again and again the Qur'ān admonishes men against such barbarous action. "And that ye slay not your children because of poverty: For them and for you will we provide" (Sura 6/150). "Kill not your children for fear of want: For them and for you will we provide verily, the killing them is a great wickedness" (Sura 17/31). The practice of burying newborn girls alive (*wa'd*) was strongly condemned without qualification, not even if prompted by an exaggerated sense of virtue or honour. "And when the female child that had been buried alive shall be asked for what crime she was put to death" (Sura 81/7,8). And also: "Lost are they who, in their ignorance, have foolishly slain their children, and have forbidden that which God hath given them for food,

<sup>1</sup> Shihāb al-Dīn Ibn Hajar, *Al-Iṣāba fī Tamayīz al-Ṣaḥāba*, vol. 8 (Cairo, 1323 A.H.), p. 65.

<sup>2</sup> Al-Suyūṭī, *Al-Jāmi' al-Ṣaḥīḥ*, vol. 1 (Cairo, 1323 A.H.), p. 3.

devising an untruth against God! Now have they erred; and they were not rightly guided" (Sura 6/140). God expressed displeasure at the resentment shown by some people when the birth of a girl was announced to them. "For when the birth of a daughter is announced to any one of them, dark shadows settle on his face, and he is sad: he hideth him from the people because of the ill tidings: shall he keep it with disgrace or bury it in the dust? Are not their judgments wrong?" (Sura 16/58, 59). Thus the burying alive of newborn girls was prohibited. However, Islam was not only content with prohibiting *wa'd* (infanticide) or *sabi* (the capture of women in war); it went further, urging over and over again equity and fair dealing to women. Perhaps this marked concern on the part of Islam arose from its desire to obliterate from men's minds the strongly-entrenched concepts of woman's inferior position and to redress the scales more equitably between the sexes.

Books on the traditions (acts and sayings of the Prophet) abound with exhortations in woman's favour, urging man to respect and regard her and commending her to his especial care: "I commend women to your care; they are only as captives with you." On the authority of 'Āisha, the Prophet was reported to have said: "He who is unfortunate in having some female children, but has dealt with them kindly, will have them as a screen to shield him from the fires of hell."<sup>1</sup> And again: "Woman is created out of a crooked rib. If you try earnestly to straighten it up, you will break it. Therefore deal with her indulgently, and you will manage to live with her."<sup>2</sup>

In matters pertaining to faith as well as those pertaining to the rules of life and conduct, the Prophet showed himself to be both practical and logical. He began by practising what he taught, following the maxim "Charity begins at home". He was indeed noted for the gentleness and kindness with which he treated the women of his household and of his kinsfolk.

When we come to 'Āisha, we shall see with what high esteem he held her — a feeling he extended to all his womenfolk. He respected their opinions, never refused to talk things over with them and even to expostulate with him concerning matters with which they were not satisfied. He was not irritated at being asked by his women to reconsider his opinion on a certain point, thus setting an example for

<sup>1</sup> Ibn Hanbal, *Musnad*, vol. 6 (Cairo, 1313 A.H.), p. 88.

<sup>2</sup> Ibn Qutaiba, *Uyūn al-Akhbār*, vol. 4 (Cairo, 1930), p. 77

menfolk in the treatment of their women. The following story is told of 'Umar: "I shouted at my wife", 'Umar is reported to have said, "whereupon she demurred. When I showed my displeasure thereat, she retorted: 'And wherefore should you resent it? By God, the Prophet's wives do demur'." <sup>1</sup> His indulgence of his own daughters, as well as the daughters of his companions was something unfamiliar to the Arabs. His love and admiration of his daughter, Fāṭima, were superior to any love shown by other fathers to their sons. Indeed he was reported to have said: "The best of women are Maryam, daughter of 'Imrān, Asia, daughter of Muzāḥim, Khadīja, daughter of Khuwaylid, and Fāṭima, daughter of Muḥammad." <sup>2</sup> The Prophet was always wont to say of Fāṭima, that what displeased her was displeasing to him and what pleased her was pleasing to him. Such was his self-effacement that he used to help his womenfolk about the house and to look after himself. On being asked what the Prophet busied himself with at home, 'Āisha answered with the words: "Just as any body of you would (normally) do; he picks up this, and puts down that, and sees to the needs of his family." Another version of the same tradition runs as follows: "The Prophet used to see to the needs of his family, to carve meat for them and sweep the house, and to lend a hand to the servant in his domestic work." <sup>3</sup> A third report has it that: "The Prophet used to mend his shoes, sew his garment and make himself useful about the house just like the rest of you." <sup>4</sup> To his wives, the Prophet used to say: "Your state after I am gone is of concern to me, for only the truly forbearing people will be forbearing towards you." <sup>5</sup> On the same subject he said: "He who watches over my wives is the one of devotion and goodness." <sup>6</sup>

The Prophet asked the Muslims to follow his example and deal kindly with the members of their household. "A dinar you spend in the way of God, and a dinar you spend to free a slave, and a dinar you give as an alms to a poor man, and a dinar you spend on your family — the most worthy of God's reward among them is the one you spend on

<sup>1</sup> Al-Ṭabarī, *Al-Simṭ al-Thamīn* (Aleppo, 1928), p. 183.

<sup>2</sup> Ibn 'Abd al-Birr, *Al-Istī'āb fī Ma'rifat al-Aṣḥāb*, vol. 1 (India, 1318 A.H.), p. 740.

<sup>3</sup> Al-Ṭabarī, *op. cit.*, p. 11.

<sup>4</sup> Ibn Ḥanbal, *op. cit.*, p. 167.

<sup>5</sup> Al-Ṭabarī, *op. cit.*, p. 11.

<sup>6</sup> Ibn Sa'd, *Kitāb al-Ṭabaqāt*, vol. 8 (Leiden, 1325 A.H.), p. 152.

your family.”<sup>1</sup> By family is meant both its male and female members. He also said: “Everything that a man diverts himself with is vain and worthless save the taming of his horse or the shooting of arrows or joining his family in play.”<sup>2</sup> Stressing the importance of the family he declared: “The best one among you is he who is best for his own folk and I am best of you all for my own.”<sup>3</sup>

Women used to feel at ease in the presence of the Prophet. They felt they could speak their own minds freely and as they liked and indeed were encouraged to do so. It is related that ‘Umar once asked leave to call on the Prophet. It chanced that the Prophet was at that moment with a group of Quraishite ladies who were talking in loud voices. As ‘Umar came in, however, the ladies withdrew and covered themselves with their veils. At this the Prophet laughed, and ‘Umar asked: “What is it that makes you laugh, O Prophet of God?” The Prophet answered: “I am laughing at these women who were here with me; no sooner did they hear your voice than they hastened to veil themselves.” ‘Umar turned to the women and said: “O you who are their own worst enemies, do you stand in awe of me and not of the Prophet of God?” Upon which the Prophet answered: “By Him who holds my life in His hands, were Satan himself to see you following a path he would follow a path other than yours.”<sup>4</sup>

It seems that men in those days did not spare the rod as a means of disciplining and chastening their womenfolk. This practice was repugnant to the Prophet and he tried hard to stamp it out both by deed and word. The following tradition was related by ‘Aisha: “The Prophet (PBUH) never lifted a hand against a woman or a servant or any other living thing, unless it is in fighting for God’s cause.”<sup>5</sup> Chastisement was not to be used except in the case of evil-doers. “Only the evil-doers among you shall be beaten,”<sup>6</sup> he is reported to have said, the injunction applying equally to men and women.

Seventy women once came to the Prophet complaining to him that their husbands beat them. He was greatly outraged, and said that he would not wish to hear of that in the future.<sup>7</sup> When a woman

<sup>1</sup> Ibn Qutaiba, *op. cit.*, p. 81.

<sup>2</sup> *Ibid.*

<sup>3</sup> Ibn Sa’d, *op. cit.*, p. 148.

<sup>4</sup> *Ibid.*, pp. 130-31.

<sup>5</sup> *Ibid.*, p. 147; Ibn Hanbal, *op. cit.*, p. 32.

<sup>6</sup> Ibn Sa’d, *op. cit.*, p. 147

<sup>7</sup> *Ibid.*, pp. 147-148.

complained to him of her husband beating her, he said: "There are those among you who would beat a woman as they would beat a slave, and then embrace her unashamed."<sup>1</sup>

The Prophet commended woman to man's care, be she sister, daughter or wife, declaring that paradise lay under the feet of mothers. He stressed the respect due to mothers and urged that they be treated with all loving-kindness, particularly in their more advanced years when they become helpless and infirm, in obedience to God's command: "Thy Lord hath ordained that ye worship none but him; and kindness to your parents, whether one or both of them attain to old age with thee: and say not to them, 'Fie!' neither reproach them; but speak to them with respectful speech; and defer humbly to them out of tenderness; and say, 'Lord, have compassion on them both, even as they reared me when I was little'" (Sura 17/23, 24). And also: "We have commanded man concerning his parents. His mother carrieth him with weakness upon weakness; nor until after two years is he weaned. Be grateful to me, and to thy parents. Unto me shall all come" (Sura 31/14).

It is told that a man came to the Prophet and said: "Who is the most deserving of my protection?" The Prophet answered: "Your mother." The man then asked: "Then who?" The Prophet answered: "Then your mother". Again the man asked: "Then who?" The Prophet answered: "Then your mother". Lastly the man asked: "Then who?" The Prophet answered: "Then your father."<sup>2</sup>

It is also told that a man once came to the Prophet asking for permission to go and fight in the cause of God, whereupon the Prophet asked: "Are your parents living?" The man answered: "Yes". Then the Prophet said: "Strive to satisfy their needs; therein lies the true path of dutifulness."<sup>3</sup> All through his life, the Prophet continued to enjoin the Muslims to take care of their wives, nor did he forget to make mention of them in his 'Farewell Sermon': "Take care of your womenfolk",<sup>4</sup> he urged.

The Prophet's teaching and example soon bore fruit; many followed him in treating their womenfolk with kindness and consideration. A distinguished companion of the Prophet, Ma'n b. 'Aus, a

<sup>1</sup> *Ibid.*, p. 148.

<sup>2</sup> Muslim Ibn al-Ḥajjāj, *Al-Jāmi' al-Ṣaḥīḥ*, vol. 8 (Cairo, 1329 A.H.), p. 2.

<sup>3</sup> *Ibid.*

<sup>4</sup> Ibn Hishām, *Al-Sīra al-Nabawiyya*, vol. 4 (Cairo, 1955), p. 251.



highranking poet among the poets known as the *mukhadramūn*,<sup>1</sup> was known to have a large number of daughters. But he was noted for his affection for them and his taking good care of them. In all he had eight girls. It so happened that a girl was born to one of his clansmen, who received the news most gloomily, upon which Ma'n recited the following verses in reproach.

“There are those who would hate their daughters,  
Yet among them, to be sure, there are good ones;  
And there are, should one day ill-luck o'ertake the man,  
Others who, if the man dies, will continue to lament him  
untiringly.”<sup>2</sup>

One of the abominations which Islam did away with was the custom of treating a wife like an article of the household which used to be inherited as a patrimony. A son used to inherit his father's wife personally and dispose of her as he pleased. Verses prohibiting this custom were revealed: “And marry not women whom your fathers have married; for this is a shame, and hateful, and an evil way; though what is past may be allowed” (Sura 4/22). The Holy Qur'ān moreover proscribed the practice of preventing girls from marrying: “O believers! it is not allowed you to be heirs of your wives against their will; nor to hinder them from marrying, in order to take from them part of the dowry you had given them” (Sura 4/19). Some men forced their girls into prostitution for their material gain. This was likewise prohibited: “Force not your female slaves into sin” (Sura 24/33).

It was customary among the Arabs to go to extremes in their mourning and lamentations. Islam sought to soften the rigidity of these customs. “It is not lawful for a woman”, said the Prophet, “to mourn more than three days the death of any person other than her husband.”<sup>3</sup> He also forbade women to cover their heads with ashes and dust, and to lament and wail immoderately. “The dead,” he said, “are made to suffer through the lamentations of the living.”<sup>4</sup>

Islam regarded man and woman as having been created from the same being: “O men! Fear your Lord, who hath created you of one

<sup>1</sup> The word *mukhadram* was used to designate such contemporaries of the Prophet whose life span bridged the time of paganism and that of Islam.

<sup>2</sup> Al-Aṣṣfahānī, *Al-Aghānī*, vol. 1 (Cairo, 1285 A.H.), p. 165.

<sup>3</sup> Ibn Ḥanbal, *op. cit.*, p. 184.

<sup>4</sup> Ibn al-Hajjāj, *op. cit.*, vol. 3, p. 41.

man, and of him created his wife, and from these twain hath spread abroad so many men and women" (Sura 4/1). God also says: "God, too, hath given you wives of your own race, and from your wives hath He given you sons and grandsons" (Sura 16/72). And again: "He hath given you wives from among your own selves" (Sura 42/11). Marriage was declared to be a union of two souls to secure peace and reassurance to each. "He it is Who hath created you from a single person, and from him brought forth his wife that he might dwell with her" (Sura 7/189).

Then the marriage relationship was made to rest on the bases of love and affection: "He hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you" (Sura 30/21). God ordained amiability and good companionship: "But associate kindly with them" (Sura 4/19). Mutual responsibilities were enjoined upon each of the partners. "And it is for the women to act as they (the husbands) act by them, in all fairness" (Sura 2/228). Man is obligated to maintain his wife in accordance to his means, while she, on the other hand is not required or forced to suckle, cook or wash, unless she pleases to do so.

A married life built upon such foundation reflects a picture of happiness, bliss and joy.

Islam restricted man's latitude in marriage to four wives: "Marry but two, or three, or four; and if ye still fear that ye shall not act equitably, then one only" (Sura 4/3). And also: "And ye will not have it at all in your power to treat your wives alike, even though you fain would do so" (Sura 4/129).

Most commentators believe that what is meant by 'justice' in the first verse is equality in allowance and maintenance rather than in heartfelt affection, for equality in the latter case is not possible. As to the second verse, certain jurists believe that the concept of justice or equity here applies to human affection also; in other words, a husband should not be more attached to one of his wives than to another.<sup>1</sup> What is forbidden by the Qur'ān in this respect is the total attachment to one wife: "And ye will not have it at all in your power to treat your wives alike, even though you fain would do so; but yield not wholly to disinclination, so that ye leave one of them as it were in suspense" (Sura 4/129).

<sup>1</sup> Al-Zamakhsharī, *Tafsīr al-Kashshāf*, vol. 1 (Cairo, 1354 A.H.), p. 143.

Thus we see that the exercise of this right, namely, to have more than one wife at the same time, is hedged round by one stringent condition which is complete equity. If this condition is negated, then plurality of wives is prohibited. Even though certain jurists interpreted it as applying to equity in material things, this view remains open to question. For plurality is conditional upon equity, and equity in this respect is well-nigh impossible of attainment. Therefore, the least that can be said concerning the sanctioning of polygamy is that it is strictly limited by certain considerations which must primarily be observed.

#### DIVORCE

In authorizing divorce, Islam has its own justifications, particularly if the provisions, restrictions and obligations are to be observed.

Since marriage is the cornerstone of the family structure, the conditions for its success should be achieved. It should exist in an atmosphere of compatibility and well-being, for a happy and contented home means a happy and contented society. The importance of the family is stressed by both tradition and the holy scripture.

Hence, providing marriage life with all the conditions for success is necessary, on the social as well as on the religious level. These are the conditions which Islam seeks to ensure. But if these conditions are wanting or if they fail to function properly any longer, then the bitter pill of divorce must be taken — a step described by the Prophet as “the most hateful of permissible things to God”. “Get married”; the Prophet says, “but do not divorce, for when a family breaks asunder the very throne of God is jolted. But if there is no alternative to divorce, God Almighty is gracious.” “And if they separate, God can compensate both out of His abundance; for God is vast, wise” (Sura 4/130).

Certain people find pleasure, out of prejudice, to proclaim that Islam allows divorce, with no restrictions or limitations. To be sure, Islam allows it; but under certain rules which are meant to safeguard the rights of the wife and to ensure that the children are well looked after for their welfare which is to be given precedence over any other welfare conflicting with it. For what good could be achieved in a life full of strife and disaccord and in the midst of tension and strain? Better separation with goodwill than a life devoid of affection and warmth; either a contented life or separation without bitterness: this is the ideal concept of marriage. “Either retain them with generosity, or put them away with generosity” (Sura 2/292). Besides,

divorce was not a privilege to be exercised by man only; woman could obtain it provided a clause stipulating her right thereto is inserted in the marriage contract. This is an example of the guaranteed rights of both sexes in this most important matter. If the wife foregoes the use of this right, it is because she has trust in her husband. But if man proves unworthy of that trust, then all she has to do is to demand to be given that right. Moreover, she can ask the judge to grant her divorce on a number of grounds, which cannot be gone into now. Islam authorized divorce only in cases of necessity.

At any rate, divorce today does not reflect the need that prompted the legislator to prescribe it. Whatever the case, the fact remains that divorce, although allowed by the law is most abhorrent to it. "The most hateful of lawful things to God is divorce," the Prophet said.<sup>1</sup>

Having made divorce the last resort for settling disagreement between husband and wife, Islam lays down a condition before it allows it to take effect: the parents of the two parties together with arbiters should seek through counsel and advice to remove the sources of friction between husband and wife and to restore harmony and understanding between them. "And if ye fear a breach between man and wife, then send a judge chosen from his family, and a judge chosen from her family, if they are desirous of agreement. God will effect a reconciliation between them" (Sura 4/35).

Islam laid upon the husband certain obligations such as the payment of maintenance allowance, and paying her the balance of her dower; it is forbidden for him to take back any of the goods or property he had settled upon her or given her. "And if ye be desirous to exchange one wife for another, and have given one of them a talent, make no deduction from it. Would ye take it by slandering her, and with manifest wrong?" (Sura 4/20).

Divorce was therefore no trifling matter, but one of serious consequences. "Three things there are"; the Prophet says, "whose seriousness is grave: marriage, divorce and return of the wife (to the husband after having been divorced)." <sup>2</sup>

Islam conferred upon woman rights which women of other faiths seldom enjoyed, in respect of her exercise of financial rights. At a time when all other law codes cramped her, depriving her of the right

<sup>1</sup> Ibn Māja, *Al-Sunan*, vol. 1 (India, 1905), p. 4.

<sup>2</sup> *Ibid.*, p. 148; al-Alūsī, *Bulūgh al-Arab fī ma'rifat Ahwāl al-'Arab*, vol. 2 (Cairo, 1925), p. 55.

of action, making her dependent upon her father or husband in all things connected with the management of her fortune and property, Islam gave woman the right to administer her own financial affairs and to develop her own capital. In the exercise of that right she enjoyed perfect equality with man. She could oversee her business and manage her estate in person as well as attend to contracts of all types, her coming of age being the only condition for taking over the running of her own affairs from her guardian, a condition applying equally to the male. As soon as woman attained her majority, she had the full right, indeed as full a right as a man's, to buy and sell, endorse decisions, enter into associations, transact mortgages and, in short, to be party to any type of contract. Islam also gave her the right of management and trusteeship, there being no difference between her field of competence and man's in that respect. Neither her husband nor her father had the authority to prevent her from, or restrict her freedom of action in the exercise of any of the functions she felt inclined to undertake. "And make trial of orphans until they reach the age of marriage; and if ye perceive in them a sound judgment, then hand over their substance to them" (Sura 4/6). The word 'orphan' here in the text applies to males as well as to females.

When Islam came, Arab customs denied woman the right of inheritance, reserving it to the male offspring, the latter however, being obligated to support her until she was married, at which time her guardian would have right over her dower. Thus she was clearly deprived of the right of managing her own affairs. Islam saw to it that justice was done to her, assigning for her clear rights as to inheritance, whether as mother, wife, daughter or sister.

It also laid down that the dower belonged to her of right and not to her parent or guardian. "Give women their dowry freely" (Sura 4/4); concerning their share in the patrimony, we read in the Qur'ān: "Men ought to have a part of what their parents and kindred leave; and women a part of what their parents and kindred leave: whether it be little or much, let them have a stated portion" (Sura 4/7). Thus, in so far as the principle of inheritance as a whole is concerned, equality was established between men and women, a qualification being added however as to portions: "God commandeth you to give the male the portion of two females." The reasons for the above distinction are abundantly clear. The financial responsibilities imposed on man but not on woman, and his obligations towards his kinsfolk make this stipulation imperative. In contrast, woman could

enjoy her fortune freely, disposing of it as she pleases without having to account for that to anyone.

#### SENIORITY OF THE HUSBAND

The question of the husband's seniority occurs in one passage of the Qur'ān: "Men are superior to women on account of the qualities with which God hath gifted the one above the other, and on account of the outlay they make from their substance for them" (Sura 4/34).

Jurists interpret this verse as follows: Man provides economic support for the family; he labours to maintain the woman, be she mother, sister, daughter or wife; he pays a dower to his wife, a portion thereof prior to marriage and a portion in the event of its annulment; he pays a maintenance allowance to his wife and her young children in the case of divorce. Indeed he is under the obligation of supporting his female cousins if they have no closer relations to support them. This is the reason why man under these circumstances, has been given superiority over the wife in the allotment of inheritance portions.

#### ACTING AS WITNESS

"And call to witness two witnesses of your people: but if there be not two men, let there be a man, and two women of those whom ye shall judge fit for witnesses" (Sura 2/282). This may naturally be attributed partly to the fact that women had normally less opportunity to mix in the affairs of the public, and partly to their changeable nature owing to certain physiological factors peculiar to them, and these two considerations have necessitated a certain degree of caution in crediting their testimony. This should by no means reflect upon woman's worth; it was simply a necessary precaution in the interest of the accused and an equally necessary measure to insure the presence of all conditions conducive to the equitable execution of the law and the veracity of the evidence.

The above does not detract from the woman's rights, but is a safeguard to ensure the rights of others. There are numerous instances of greater significance where her interests are protected and her worth and human dignity confirmed: and where, moreover, she is granted perfect equality with man.

#### WOMAN'S PART IN PROPAGATING THE FAITH

The faith of Islam spread among people, men and women alike, finding supporters among both, at a time when it was still an innovation to be openly and strongly resisted. At first the Prophet began

to preach the word among his own kinsfolk. The first to believe in Muḥammad's message was his wife, Khadīja, who gave him much-needed encouragement and reassurance. She used to help him bear up the many wrongs and insults heaped upon him by his people and closest clansmen. Regarding Khadīja's part in the early days of the prophecy, Ibn Hishām says: "Khadīja, daughter of Khuwaylid, believed in him, accepted the truth of the message revealed to him by God and helped him with his cause. She was the first to believe in God, his Prophet and the revealed word. Thus God relieved the hardships and suffering experienced by His Prophet. For whenever the Prophet became aggrieved at hearing aught that was hateful to him — whenever he suffered scorn or was told 'liar' to his face — he would turn to her and find at her side solace and assuagement. Her faith in him never wavered and her moral support sustained him as long as she lived, may God have mercy on her soul."<sup>1</sup> And also, "Khadīja proved a "true right hand" for Islam, with whom he used to find tranquility".<sup>2</sup> Perhaps the phrase "right hand" was expressly used here, pointing to the significant role Khadīja played in the early course of Islam. Many other women embraced Islam in its early and uncertain days: Asmā', daughter of Abū Bakr; 'Āisha, also daughter of Abū Bakr, while still of tender years; Asmā' wife of 'Ayyāsh b. Abī Rabī'a, one of the emigrants to Abyssinia,<sup>3</sup> Asmā' daughter of 'Umais and wife of Ja'far, son of Abī-Ṭālib; and many others.

The Muslim woman, like her male counterpart, met with a great deal of harsh treatment and persecution on account of the new faith. She emigrated with others to Abyssinia, suffering the while all manner of hardship, resignedly and without complaint. In the first wave of emigration to Abyssinia 'Uthmān b. 'Affān was accompanied by his wife Ruqayya, daughter of the Prophet, and by Sahla, daughter of Suhayl Ibn 'Amr and wife of Abū Ḥudhaifa b. 'Utbah, and likewise by others.<sup>4</sup>

A shining example of Muslim women in the service of Islam with devotion and sustained effort, is presented by Asmā', daughter

<sup>1</sup> Ibn Hishām, *op. cit.*, vol. 1, p. 257.

<sup>2</sup> Ibn al-Athīr, *Usd al-Ghāba fī Ma'rifat al-Ṣaḥāba*, vol. 5 (Cairo, 1286 A.H.), p. 439.

<sup>3</sup> Ibn Hishām, *op. cit.*, vol. 1, p. 271.

<sup>4</sup> *Ibid.*, vol. 3, p. 344.

of Abū Bakr, during the journey of the Prophet and of her father when they were fleeing from Makka to Madīna. When they were on that journey and they lay in hiding from their enemies, Asmā', braving the danger and the wrath of Quraish, stole out to Ghār Ḥirā', their hiding place, with water and provisions, and adventure clearly demonstrating woman's participation in the early days of Islam. Later on, women took part in the wars and raids, exhorting men and urging them on to victory. Many a mother sent out her sons to the battlefield, exhorting them never to swerve from the path of duty and honour and to be ever ready to lay down their lives for the cause. She urged them on, knowing full well the probable fate that awaited them but comforting herself patiently with the conviction that in return for their lives they won everlasting glory, of which she would be very proud.

Nowhere is this spirit of total self-denial better illustrated than in the story of al-Khansā', daughter of 'Amr al-Salamiyyah, who attended the Qādissiyyah battle with her four sons. She spurred them on into the fight, urging them to fight bravely and stand firm and resolute. They threw themselves into the fighting defying death, falling one after the other as martyrs for the cause, reflecting upon their mother's words: "You have embraced Islam of your own accord and have emigrated of your own choice; you are the offspring of one father and one mother. I never played your father false nor tarnished the reputation of your maternal uncle."<sup>1</sup>

The role that woman played now was regarded in a far different light from that she was regarded in pre-Islamic times. She now took part in promoting the cause, working for it in various ways along with man, and even shouldering a certain responsibility, in the wars. Thus she gained entry to a realm that was closed to her. Islam placed woman on a footing of equality with man, by regarding her as an integral part of human society. The following passage from the Qur'ān, deals with the acceptance of women into the faith: "O Prophet! When believing women come to thee, and pledge themselves that they will not associate aught with God, and that they will not steal or commit adultery, nor kill their children, nor bring scandalous charges, nor disobey thee in what is right, then plight thou thy faith to them, and ask pardon for them of God: for God is Indulgent,

<sup>1</sup> Ibn Ḥajar, *op. cit.*, p. 67.



Merciful" (Sura 60/12). Women had just as much right as men to pledge their faith.

'Āisha is reported to have said: "If women-believers emigrated, they used to be tested by the Prophet with God's words; (in the verse already quoted); if they pledge themselves accordingly, he used to tell them, 'Go about your business; I have accepted your pledge'." <sup>1</sup>

The masculine gender used to be employed when referring to the community of Muslims. Some women protested against this, saying: "We have accepted Islam as our faith just as you have, and we have done all that you have done, but you are mentioned in the Qur'ān while we are not." <sup>2</sup> When referring to the body of believers in the Qur'ān, the term *al-Muslimūn* (*ūn* being the plural form of the masculine gender of *Muslim* as opposed to *Muslimāt* in the plural of *Muslima*) was used. When they emigrated the term *mu'minūn* in the masculine plural was used instead. Then the following verse was revealed: "Truly the men who resign themselves to God, and the women who resign themselves, and the believing men and the believing women ... for them hath God prepared forgiveness and a rich recompense" (Sura 33/35), to the end of the verse, thereby confirming equality between man and woman. All this makes it amply clear that the Muslim woman used to regard herself as having a status equal to that of man's, and that neither the faith nor the body of Muslims begrudged her, or questioned that right of equality. She bore her responsibility in full, entering the fold of Islam along with those who entered it and exerting herself for the cause and glory of God, even to the extent of joining the ranks in battle, undaunted and resolute, to revive the weakening spirits and to solace the weary.

We now turn to the veil. The wearing of the veil was a widespread custom that anteceded Islam by a considerable period of time. In no verse of the Qur'ān, nor in any tradition, was it imposed. On the contrary, Islam sought to limit and restrict it, tolerating its use only as a safeguard to protect woman from wickedness or immodesty. The Qur'ānic verse in which the veil is mentioned is explicit and clear on that head; it points to the fact that the veil was not ordained by Islam. It was only imposed by people upon women for their own protection.

<sup>1</sup> Ibn al-Hajjāj, *op. cit.*, vol. 8, p. 29.

<sup>2</sup> Ibn Sa'd, *op. cit.*, p. 145.



The veil did not however preclude all women from the exercise of their activities.<sup>1</sup> Woman worked for the cause, went on pilgrimage, fought in battle, travelled in search of learning and imparted it, frequented social and literary gatherings as well as the market-places (that served as forums to the ancient Arabs), discoursing, enquiring and exchanging ideas. Great credit is due to her for her services in preserving and transmitting the Prophet's teachings (the Tradition). The pages of history and tradition teem with the names of learned and worthy women who occupied distinguished positions in learned and social circles, and whose opinions on many religious questions were sought.

Two names shine forth in the poetical spheres: al-Khansā', daughter of 'Amr al-Sharīd and Layla al-Akhyaliyya. These two women poets, both of whom had seen the passing away of the old pre-Islamic era and the birth of the new Islamic one, ranked high among the best poets of the times. Of them it was said: The names of al-Khansā' and Layla shine with an especial lustre; they excelled many an illustrious man in poetry — and many a woman has surpassed man in achievement or accomplishment, though not so frequently.<sup>2</sup>

It seems that al-Khansā', besides being a poetess, was also a reputed authority on terminology, idioms and forms of diction, and used to be consulted on moot or obscure points. Her verse is too famous to be in need of eulogy, "Men versed in the poetical arts were unanimous in pronouncing her the most gifted lady poet that ever lived, before or after her."<sup>3</sup> Following her conversion to Islam, the Prophet used to like her poetry and used to ask her to recite it for him saying "Oh Khinās". The elegies written on her brothers are on par with the best poetry of that kind. Lamenting her brother, she cries out with heart rending sorrow:

Eyes shed your tears — awake!  
 Be patient awhile, if patient ye can be,  
 But full well I know that patient ye cannot be.  
 Speak! Say that the pride of the Bani-Sulaym,  
 Their fearless knight lies low beneath the desert sand.  
 O joyful time spent down by the bend of Shaqīq,  
 Wouldst thou not come back, Wouldst thou not come back!

<sup>1</sup> *Al-Mubarrad, op. cit.*, p. 736.

<sup>2</sup> *Ibid.*, pp. 129, 162, 422, 453.

<sup>3</sup> *Ibn Hajar, op. cit.*, p. 67.

From amongst us each day new warrior horsemen sally forth  
 when battle calls,  
 Undaunted by the whistling winds of the bleak desolate waste!  
 Proud and of noble mien there rides Mu'āwiya forth  
 On a she-camel of noble birth whose skin is a glossy white,  
 flecked with gold.

Woe to us that he has gone and bereft us —  
 He of the fair name, the trusted word, the honorable friend.  
 No, by God, I cannot forget thee —  
 I cannot forget thee, hadst thou been even ingrate or shameless.  
 But what doth avail us to shed tears?  
 'Twere better by far to mask our sorrows and bear up  
 Than to lament and manifest our grief."<sup>1</sup>

Al-Khansā's elegy on her brother Şakhr is too famous to be cited, of which the following two lines are quoted:

If they should ask who is the peer of the clan, who the chief,  
 Say it is Şakhr of the bounteous hand in time of dearth.

A leader among men — he stands like the lodestar, or a beacon  
 on the top of a mountain. By his light the guide is guided and  
 the way-weary traveller.<sup>2</sup>

Layla al-Akhyaliyya was no less eloquent or less a mistress of her art than al-Khansā'. She also won fame for an elegy she composed to mourn Tawbah b. Al-Ḥumayyir al-Khafājī, she was his lady love and she was made famous by poems composed by him. He was killed by the Banu-'Awf Ibn-'Aqīl. Among her best verses are the following:

Weep eyes for Ibn Al-Ḥumayyir  
 Weep with tears flowing like the gushing stream.<sup>3</sup>

It is not to be wondered at, therefore, if we see nowadays ladies of culture holding salons and literary circles attended by poets and intellectuals. Indeed, the Arab woman can boast of having contributed in no small degree to the spread and the encouragement of the arts, the most celebrated in that respect being Sukainah, daughter of Ḥussain. She held salons that were frequented by learned and literary figures from all parts. They came to confer, criticize and listen to

<sup>1</sup> *Al-Mubarrad, op. cit.*, pp. 740-741.

<sup>2</sup> *Ibid.*, p. 737.

<sup>3</sup> *Ibid.* p. 732.

poetry.<sup>1</sup> Literary books are full of anecdotes recounting her contribution to and influence on the course of literary life.

As an example of Sukaina's activities, it is related that some women wished to hear 'Umar b. Abī-Rabī'a recite some of his verse and to enjoy his company and conversation, for he was noted for his charm, wit and elegant love poems. They could think of no better way to achieve their end than by entreating Sukaina to help them with their design. Sukaina did not disappoint them; she sent after 'Umar, who came and conversed with them, "until the small hours of the morning when it was time for them to take their leave".<sup>2</sup>

We have seen how the Muslim woman applied herself to every branch of learning, distinguishing herself in many of these branches. Literature, poetry and oratory were natural to her, while martial enthusiasm runs in her Arab blood.

She also distinguished herself in religious lore, as attested by the Mothers of the Faithful who transmitted a great deal of the Prophet's traditions and teachings, thus proving themselves a reliable source on matters pertaining to religion, notably, 'Āisha, the Mother of the Faithful.<sup>3</sup> The great master, Muḥiyiddīn b. 'Arabī, notwithstanding his distinguished position in religious thought and Ṣūfis, mentions in the preface to his work, *'The Interpreter of Yearnings'* that he had heard the Prophet's tradition related by a certain lady, while he was staying by the Mosque in Makka.

Later however, woman did not enjoy equality with man except as regards matters of religion, particularly in Ṣūfi circles, where her standing was no less than man's. Indeed she was honoured for her sanctity just like her male counterpart. Thus, among men and women dedicated to the service of God, there was perfect equality.

The Ṣūfis, the mystics of Islam, chose Rābi'a al-'Adawiyya (died in 185 A.H.) as the symbol of their objectives and aspirations, deferring to her in matters of spiritual integrity. Rābi'a had many disciples whom she received in her house by night or day; there she guided them with her counsel and encouraged them with her moral exhortations. Her male disciples, it should be noted, were more numerous than the female ones.

<sup>1</sup> Al-Aṣfahānī, *op. cit.*, vol. 2, p. 127.

<sup>2</sup> *Ibid.*, p. 136.

<sup>3</sup> Z. Qaddūra, *'Āisha Umm al-Mu'minīn* (Cairo, 1947), pp. 128-137.

“She was one of the first Ṣūfis to teach the doctrine of pure love, the disinterested love of God for His own sake alone, and one of the first also to combine with her teaching on love the doctrine of *kashf*, the unveiling to the lover, of the Beatific Vision.”<sup>1</sup>

Jalāl-ad-Dīn al-Rūmī, the great Ṣūfi master, exalted woman to the highest level possible. In his view, perfect womanhood is the most perfect reflection or manifestation of the Beautiful as embodied in human form.

It is only fair to admit, after this brief survey, that Islam has dealt more than fairly with woman, giving her fuller rights, opening before her all manner of opportunity and allowing her to take part and distinguish herself in all fields and walks of life, as previously.

Can Islam be blamed if women as well as men have failed to avail themselves of these opportunities, consequently lagging behind?

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<sup>1</sup> *Encyclopaedia of Islam*, vol. 3, p. 1090.



## ISLAM'S VIEW OF THE FAMILY IN A CHANGING SOCIETY

BY

SHAIKH MOHAMMAD AL-FAQIH AL-TANJĪ

Islam is a creed, and as such, both in word and deed. It is social, civil and temporal, with basic principles which allow full scope to its followers to conform to the life of virtue, of moral values, and of justice and truth, in its brightest forms. These principles are meant for its own people in the first place, and in the second, to mankind as a whole, to define and regulate human intercourse and other relationships.

Let me begin by greeting this conference, held to discuss Islam's view of the family and to declare its attitude towards family planning with a view to safeguarding national interests and warding off corruption and deviation from the straight path of duty, particularly as regards the family and the family's needs and requirements. Having greeted this Islamic conference, let us next praise God for the interest shown by the leading men of opinion in the Islamic world in this important subject, which deals principally with one of the most important pillars of society, namely, the family, whose healthy welfare and development spell out the welfare and development of the nation; and whose decay, disintegration or lapse from virtue, produces reciprocal reflections in the whole nation.

The Holy Qur'an points to the social character of Islam, as is evidenced in the injunction: "Be helpful to one another according to goodness and piety, but be not helpful for evil and malice" (Sura 5/2). Cooperation cannot be achieved without close association. Islam is also a formative agent, directing man to populate the earth and fill it with civilized life. "He hath raised you up out of the earth, and hath given you to dwell there in" (Sura 11/61). In other words, God has empowered man to develop and populate the world, with the help

of his native faculties, abilities and powers, bestowed upon him by God for this end.

Islam also urges to work for the next world, through obedience to God and through faithfulness in carrying out his commitments in life; such as worship, justice towards his fellowmen, and charity towards the weak and the needy.

Since the core of society is the family, Islam is very much concerned to found it on sound, proper foundations. The Prophet called on Muslim youth saying: "O young men! Those of you who can support a wife should marry, for marriage keeps you from looking at strange women and preserves you from immorality, but those who cannot, should take to fasting, for it is a means of suppressing sexual desire." Marriage is, therefore, designed to protect one from sin and lewdness.

Islam urges men to marry pious women. The Prophet said: "A woman is taken in marriage for four things; her wealth, her family, her beauty and her religiousness. So get hold of the religious woman, and you will prosper." This tradition, *ḥadīth*, is cited by all *ḥadīth* compilers, except al-Tirmidhī.

The Prophet addresses the guardians of girls and women, saying: "If Someone with whose godliness and character you are satisfied comes to you as a suitor, then give him your daughter in marriage; if you do not do so, there will be trouble and great corruption."

This is the plan of the Prophet for the good family in Islam. The family is to bear the stamp of being impregnated with affection, love, sense of security and peace; harmony and oneness of feeling should prevail between husband and wife.

God said: "And one of his signs it is, that he hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you — Herein truly are signs for those who reflect" (Sura 30/21).

This is the Islamic view of the family, on whose basis the Prophet abolished other forms of marriage which had obtained in pre-Islamic times. These forms, nevertheless, are worth studying because, as a result, we shall be the more appreciative of the supreme contribution of Islam to the structure and improvement of the family. Even in its periods of decline, the family was not so corrupt as to allow natural babies to be abandoned in the alley ways or even killed as happens sometimes in these days, and during the period before Islam there were



special rules and conventions to regulate the question of deciding how a natural child could be assigned to a father by the then known system of attachment (*ilhāq*).

Al-Bukhārī and Abū Dāwūd relate (on the authority of 'Urwa who had it from 'Āisha) that marriage in the pre-Islamic era was of four kinds. The first was identical with the one practised today, i.e., a man is asked for the hand of his ward or daughter, the dower is paid and the girl is then given away in marriage. The second was that a man would tell his wife, when her menstrual period was over, to send for such-and-such a man and sleep with him as man and wife, her husband refraining in the meantime from having sexual intercourse with her, until she was pregnant; then he could sleep with her if he so wished. This type of marriage was temporary, and was resorted to only for the purpose of both the husband and the wife getting a thoroughbred child by some body other than the husband. It was known as the *istibdā'* marriage, or marriage of solicitation. The third kind was concluded as follows: a group of men, not more than ten in number, would cohabit with a woman and have sexual intercourse with her. If she became pregnant and was delivered of a child, she would send for the men a few days after her delivery, which summons none of the men could refuse. When they were all gathered in her house, she would address them thus: "You are aware of the circumstances; I have given birth, and the child is yours." She would then designate one of them as the father, and her child would become automatically sired by the specified man, who could not but accept the new relationship. A fourth type of marriage was one which could be the same as prostitution. Many men of unspecified number, would visit a woman, a prostitute by profession. Such prostitutes used to fly, for identification, flags over their doors, or put up signs. If any such woman got pregnant, and gave birth to a child, the men who were known to have had sexual intercourse with her would assemble, and identifiers would be asked to determine who the father of the child was. The finding of the identifiers would be final, and the child would be attached to him, and he could not refuse.

When Muḥammad was sent with the Truth, he did away with all the modes of marriage save the marriage that is practised today. This is as reported by al-Shawkānī in *Nail al-Awtār*.

ISLAM AND PLANNED PARENTHOOD, OR RECIPROCAL RIGHTS AND RESPONSIBILITIES BETWEEN HUSBAND AND WIFE ON THE ONE HAND AND BETWEEN THEM AND THEIR CHILDREN ON THE OTHER

It is obvious and perhaps natural that the good, pious family will beget children who will copy praiseworthy dispositions from their parents, through constant inculcation and training by their parents, who would spare no effort in this direction, and thus ensure that their children are of such moral character and God-fearing attitude as would meet with their own approbation.

The Prophet said: "Every child when born is the child of nature; and it is his parents who turn him into a Jew or a Christian or a Magian." In other words, in the above-stated cases, the parents would turn the child away from the religion of nature and convert him to a religion of their own choice; whereas the Muslim parents, would keep their children on God's religion; the religion of nature and of sound instincts. In this way, the offspring would be nurtured on good principles and brought up in the pure Islamic faith, so that the Muslim community would be expected to live up to God's lofty standards set for all and particularly for the true representatives of the Muhammadan belief amongst our righteous ancestors: "You are the best folk that hath been raised up unto mankind, ye enjoin the just, and ye forbid the evil, and ye believe in God" (Sura 3/110).

SOCIAL AND ECONOMIC RIGHTS IN THE FAMILY

An Islamic marriage carries with it its legal obligations, such as the maintenance of the wife and the children by the husband as well as the obligation that he should provide them with clothing and shelter until such time as the male child becomes capable of earning his own livelihood and the female child is married.

Again, if the husband dies, the wife inherits a share of the patrimony left by the husband if she is of the same faith, and he also inherits from her if she dies. There is no need here to go into the question of the permissibility of divorce, abhorrent as it is in Islam, and of the vesting of this right in man. Of course, the situation can be adjusted in favour of the wife by the wife insisting that a clause should be inserted in the marriage contract to the effect that she has the right to divorce her husband, if she so wishes. In the past and for a longtime, Christians and others who used to criticise this aspect of Islam have now come round to the idea and have themselves adopted the practice, and with vengeance. Of the joint responsibilities

consequent upon marriage, there is the paramount duty incumbent upon the parents of properly educating the children, male and female alike, with the idea that the children will grow up well equipped and qualified to occupy in their varied careers suitable positions and avoid being relegated to the ranks of the ignorant and the illiterate; on the understanding that their education should be Islamic in its core. This is in so far as the well-to-do parents are concerned. The poor parents should fall back upon the goodwill of the government which should provide schools for the education of their children, with funds allocated by the Islamic competent authorities out of special credits or grants earmarked for public projects, among which education stands supreme, so that, when sufficient funds are available, the education of all, poor and rich, could be coped with and equal opportunity would then be the rule for the acquisition of modern skills and disciplines, most essential for the rising generations in our present time. It is out of love and charity that this should be done, for the Prophet says: "One is not a believer until one likes for one's neighbor what one likes for one's self." But this love is not to be verbal, in word only; it should be coupled with deeds, lest we commit a breach of a divine injunction enunciated in the Qur'anic verse: "Believers! why profess ye that which ye practise not? Most hateful is it to God that ye say that which ye do not" (Sura 61/2, 3).

Any default in this area is to be blamed on people of authority before anybody else, for it is those at the helm who are to be taken to task in case of default like this, in the light of the following fiat by the Prophet: "Each one of you is a shepherd and each is responsible for his flock."

Similarly, the wealthy members of the community must bear this share of the blame for their failure to contribute a portion of their wealth towards educating the children to develop into new generations which would preserve for the nation its distinctive cultural identity, Islamic character and its respectable status among advanced nations, with a serious endeavour to spread the Islamic message among the members of the community and to explain it to them as well as other people outside, especially because God ordains that struggle for the cause of God (*jihād*) is one of the channels into which alms-money is to be directed. Children inherit from their fathers and mothers, in accordance with the rules of inheritance prescribed by Islamic law. But children are to honour their parents and to maintain them when they grow old and become too weak to earn their living.

On the social and political side, Islam has on the whole enhanced woman's position be she married or single. It set her legally on equal footing with man, as his peer and close associate save in those things which are exclusively her own. She is given precedence over man in the care of her babies. She may undertake any ordinary job not dishonourable to her. She may, for instance, take up a job in agriculture, sewing or the textile industry. She can seek employment suited to her capabilities in clerical or administrative posts, with her husband's consent, provided however, her modesty and reserve do not suffer. She can also take up a trade or have a power of attorney for others or be appointed as guardian over orphans. She has absolute control over her goods and property with complete freedom to dispose of them the way she likes, without even consulting her husband, if she has one.

Woman has the right to vote at elections, for she is a full member of the society and it is expected that she will represent her electors in the state advisory councils. Even the Prophet himself sought the advice of his wife Umm Salama at the time of al-Ḥudaibiya — a well-known fact in the Prophet's Life.

Woman has a share in the inheritance left by a father, or by children or brother if there is no male survivor, and also a share in that of a sister likewise.

She is required to worship at the mosque, although her presence there is not as obligatory as that of man.

Now, this is a survey of Islam's view of the family and of its attitude towards planned parenthood, given very briefly, within the limits set generally for talks on the subject.

This subject of family planning will no doubt be also dealt with by others. I wish all Muslims success in achieving that which is to their own best interest and that which ensures the restoration of glory and honour to their nations.

## ISLAM'S VIEW OF THE FAMILY IN A DEVELOPING SOCIETY

BY

SHAIKH ḤALĪM TAQIYUDDĪN

It is an auspicious occasion that this select group of Muslim leading figures and learned men should meet in Rabāt in the Moroccan Kingdom, in answer to a kind invitation from the International Planned Parenthood Federation to participate in a general conference on 'Islam and Planned Parenthood'. This conference, as we know, is to study important contemporary problems essentially connected with 'Islam's View of the Family in a Developing Society' — its attitude to abortion and sterilization — with the object of producing thereafter a document having authoritative force to be a guide in the Islamic World. "Be good to parents" (Sura 4/36). "Moreover we have enjoined on man to show kindness to his parents" (Sura 46/15).

The legal principles and social objectives involved in the subject of parenthood are of vast importance. Parents are mentioned in the Holy Qur'ān in 18 verses, mothers in 28 and fathers in 112.

In these noble verses are manifested the essential legal principles defining the institution of marriage, and hence the fundamental rights and responsibilities of married life, both of which form the base of the family as regards its structure and the principles of kinship and its ramifications, its scope, whether wide or narrow, and the kind of contents in this scope, and finally as regards functions and tasks it performs for the individual and for the society. Therein are also reflected Islam's views on planned parenthood — the subject under discussion — as a whole, irrespective of different schools of Islamic thought and different ways of interpreting the revealed word — views which are closely associated with Islamic beliefs, traditions, history and social concepts — due note being taken of the changing needs of the environment and times, and of the laws of evolution.

If in discussing the subject of the family in society or that of planned parenthood I touch on marriage from the Druze standpoint, it is because both subjects are closely inter-connected, and to talk of one is to talk of the other.

The Unitarians (*al-Muwaḥiddūn*), i.e., the Druzes are, as is well known, a sect that have formulated special opinions concerning the interpretation of certain Qur'anic verses. Consequently, if I take part in shedding new light upon certain specific aspects of the subjects to be discussed at this conference, I would be lending a hand towards the attainment of the desired objectives, namely, the production of an original and authoritative manual on Islam and Planned Parenthood, which can serve as a reliable source of reference in the Islamic world.

Before we present the Druze point of view on this subject however we should state the following general self-evident truths:

*Family and social system*

1. The family in the Islamic society, in as much as it is a social institution which social reasoning approves of and whose religious, political, economic and juristic affairs are watched over by the society and in so far as it constitutes in its entirety the collective moral identity, as spelled out by the unity of faith, traditions and history, is subject to the operation of evolution and development. It also tends increasingly and generally towards an organizational pattern more congenial, more close-knit and healthier, in response to the requirements of the age and in keeping with the general trend and development, without surrendering, however, certain essential characteristics based on true moral, social and religious principles that are more congenial to the national character, temperament, history and time-honoured customs and traditions.

2. The family, in Muslim society as in all other societies, is going through a difficult phase, both as to rights and as to responsibilities. The extent of the present problems of the family cannot be fully appreciated however, unless they are viewed in the true perspective of marriage, and unless the true concept and effects of family responsibility are understood.

This appreciation must emanate from man's inner nature, in his attitude towards his wife and children, and from woman's inner nature, in her attitude towards her husband and children. Thus orientated, both husband and wife should exert themselves towards a higher and more comprehensive perception of this socio-

economic responsibility, which is to reflect a spirit of mutual respect and appreciation, affection and love, as well as a decent life and upbringing within the framework of clear and explicit rules and regulations. Guided by these rules and regulations, the family would grow and develop, thereby ensuring the well-being of society and safeguarding the individual's security, life and rights, keeping pace with the procession of human civilization in its progress through the centuries.

This is the highest degree in the scale of moral, social and religious values, constituting the most noble principles and objectives of the family, which, if attained, would herald into the Islamic world the ideal society, enabling it thereby to occupy a dignified place in the long pageant of human civilization, a pageant renewed year after year and generation after generation.

The Druzes have endeavoured to establish a modern code of personal status on the basis of their religious concepts, defining therein the rights and responsibilities of the family in marriage and in divorce, together with their concomitants. In this legislation were taken into account the general principles emanating from the canon law of Islam and from the time-honoured Druze traditions, since the latter form an intrinsic part of the life as well as the personal and social character of the Druze people. In the absence of the relevant legal text in either of these two sources, the provisions laid down by the Hanafite school of Islamic law are to be observed.

The Unitarians (the Druzes) have their own special interpretations of certain verses in the Qur'ān notably Verse 3 of the chapter 'Women', contained in their Personal Status Code. The verse in question says: "Then of other women who seem good in your eyes, marry but two, or three, or four; and if ye still fear that ye shall not act equitably, then one only" (Sura 4/3). Equity is taken here to mean the absence of bias or discrimination in treatment — which is however not practicable or possible. The possibility of impartiality moreover, has been refuted in Verse 129: "And ye will not have it at all in your power to treat your wives alike, even though you fain would do so" (Sura 4/129). Consequently, the Unitarians restricted themselves to one wife — a practice hallowed by long usage and consecrated in their Personal Status Code in the following positive legal injunction: "Prohibited is the plurality of wives. A man cannot have two wives simultaneously; if he does so, his marriage to the second wife is null and void."

This is considered to be in keeping with the spirit of the revealed word, because in the Unitarians' view, equity to more than one wife is not possible. Moreover, they believe that the married couple should find it possible to share a common life together, in which human dignity is respected and confidence as regards the present and the future is assured. They also disapprove of plurality on account of the children — the fruit and ultimate end of marriage and the kernel of the family and society. For how can children grow into sound, well adjusted members of society in an atmosphere of discord, jealousy and hostility? Brother would grow to hate brother, let alone the position of the wives in such a conjugal situation, and the effects, direct or indirect, which it would have upon society with all its political, economic and social consequences.

A number of other harmful effects are incurred, moreover, among which man's self-indulgence and the resultant weakening of his intellectual and physical powers as well as his distraction from his obligations towards his maker, his family, his society and his country. We may recall here the famous speech of the Fāṭimite Caliph, al-Mu'izz-li-dīnillāh, addressed to his followers and transmitted to posterity. Al-Mu'izz said:

“Keep to one (woman) only, who is (legally) yours; do not seek through covetousness to possess more, or to desire them overmuch, for you would only succeed in filling your life with vexation and in bringing harm upon yourselves, enfeebling your bodies, dissipating your strength and blunting your powers of discrimination. It suffices one man to have one woman only.”

As for the non-Unitarians, they have assumed the possibility of equity, and therefore allowed themselves more than one wife for reasons of their own and on the strength of their own interpretation of the text. However, a realistic and practical approach to the question as well as the numerous social problems resulting from plurality, have prompted certain Islamic countries, such as Egypt, Syria and Tunisia, to reconsider the matter, adopting in consequence the Unitarians' view-point of restriction to one wife by enacting certain positive laws and through instructions issued recently.

In the Druze modern Personal Status Code, the Unitarians' traditions and interpretations of the revealed word have taken formal shape in clear explicit rules, such as the stipulation of fitness for marriage before a valid contract can be concluded; namely, that



the man is to have completed eighteen years of age and the woman seventeen, in accordance with Article 1 of the law which states:

“The suitor becomes qualified for marriage when he completes eighteen years of age, and the fiancée when she completes seventeen years.”

Similarly, the law prohibits the marriage of an underage girl who has not completed fifteen years of age, even though she may have attained puberty and obtained the consent of her guardian, in accordance with Section 1 of Article V, which states:

“It is not lawful for anyone at all to unite in marriage a boy who has not completed sixteen years of age or a girl who has not completed fifteen years.”

The Druzes' argument is that marriage is a contract of assent and acceptance; upon it depends the destiny of the family and consequently the nation's. One of the conditions of its success is the wife's assent and a willingness on her part to enter into the married state, provided she has reached both physical and mental maturity. If however, she has not reached physical or mental maturity, that is, if her rational faculties and power of discrimination have not become fully developed, her assent, if obtained, is of no effect.

Marriage is a contract from both the legal and the religious points of view. To be valid the contract must stipulate and ensure that the two contracting parties are fit for marriage and that it must be exempt from legal faults. Without being fully qualified for entering into a marriage contract, a woman will run the risk of her assent being declared null and void. This consequential point was taken care of by the code of the Personal status, in Art. 52:

“If either of the contracting parties lacks the requisites of fitness when drawing up the contract, that contract is null and void.”

A young person, if lacking the power of discrimination, is denied the right to dispose or to assent, and on this score, any proceedings on his or her part are null and void. Similarly, any contract whose proper conditions are unfulfilled is unsound as well as null and void, both by canon and by civil law.

According to the legal concept of the Unitarians, marriage is not merely for purposes of gratifying the senses or of indulging the desire. It is a law of nature sanctified by God to preserve the human species. It is authorized by religions so long as it conforms to the religious law and prohibited if it runs counter to it by indulging natural cravings and passions.

Those, on the other hand, who hold a contrary opinion to the above, authorizing the marriage of minors and neglecting to observe in the case of such marriage the proper conditions applicable to contracts — using as pretexts the Prophet's tradition and formulated legal opinion — those, from the Druze standpoint, are sorely in error.

Uniting the minor in marriage is tantamount to an admission of his competence to head the family and to have guardianship over his own children, which virtually means that he is released from the tutelage placed over him. It follows therefore, that the girl who is given in marriage when nine years of age, in accordance with Article VII of the Family Rights Law, has legally become competent to manage her own affairs. She who is free to dispose of her own person is free to manage her financial affairs and can in consequence enter into contracts, in accordance with the rule which says that he who possesses the more comprehensive right possesses the less comprehensive one. This is a marked departure from the fundamental rule which declares the minor to be legally incompetent, one who has no right of taking direct action or of concluding contracts.

Abū Ḥanīfa said: "To declare a man incompetent as regards his person is of greater harm than debarring him unfit to dispose of his fortune. For in the former case, the humanity residing in him is held in contempt and human competence is God's greatest gift to man."

To warrant the marriage of female minors, but not to grant them the right to dispose of their own fortune involves a manifest contradiction and a circumvention of the sacred law, besides contradicting the precepts of the Holy Qur'ān, The two Imāms, Ibn Shubruma and Abū Bakr al-Aṣamm disallowed marriage before maturity. For if it were to be allowed, then it would run counter to the relevant verse which presumes maturity: "And make trial of orphans until they reach the age of marriage; and if ye perceive in them a sound judgment, then hand over their substance to them" (Sura 4/6).

According to Unitarian legal practice, whether deriving from unwritten common laws — laws based on individual discretion or interpretation of the revealed word — or from instituted laws, the marriage tie cannot be dissolved by divorce except through a decision pronounced by the judge of the Druze sect. Moreover, no one can take back his wife once she has been divorced, and even more, a man cannot ever remarry a woman he has divorced, after the judge's decision dissolving the marriage has been pronounced. This negates

absolutely the possibility of her return to him or his contracting a new marriage with her, either during the *'idda*<sup>1</sup> or thereafter, or following her marriage to, and divorce from, another man. Moreover, the marriage known as *mut'a*<sup>2</sup> is prohibited, being absolutely disallowed for numerous and varying reasons and considerations, both religious and social.

In conclusion, the Unitarians, that is, the Druzes, in matters pertaining to life, ideologically or socially, are not among those who hold that man's inclinations and instincts should in any way have prevalence over the sacred law.

Abortion and sterilization for purposes of birth control are not in principle authorized from a religious standpoint. Needless to observe, procreation is necessary for the preservation of the species, while reproduction is an instinctive human need; man is a being capable of civilization and betterment, able to exercise control over his instincts and urges and to channel them towards rational action. Nature intended procreation, rather than mere pleasure, to be the end of sexual relationship.

As the Druzes see it, a lesser number of children, especially in the case of the needy, is more akin to righteousness and godliness.

God says: "And let those who cannot find a match live in continence till God of His bounty shall enrich them" (Sura 24/33). We may also cite the following saying of our ancestors: "Whoever has fewer children, will have less to reckon with in the Hereafter."

And according to individual judgement based on interpretation of the revealed word, it is recommended: "The poor should restrict themselves to two sane and sound children, and the well-to-do to four; and number in excess of that is superfluous."

There is also the admonition implied in the following saying by a worthy ancestor: "He who has fewer children, stands a better chance of being saved in the Hereafter."

These are some of the legal principles, instinct with the spirit of law as presented in the Holy Qur'ān, whose lofty precepts and teachings are worthy of serving as guidelines for all humanity in its cultural development.

<sup>1</sup> *'Idda*: legally prescribed period of waiting during which a woman may not remarry after being widowed or divorced — Wehr.

<sup>2</sup> *Mut'a*: temporary marriage, contracted for a specified time and exclusively for the purpose of sexual pleasure. — Wehr.

To sum up, I would like to say that this Islamic sect has been for the last thousand years or so, faithfully consistent in adhering to, and applying, the rules of the Holy Qur'ān in matters relating to the good aim of these rules and their adaptability to human progress and the evolutionary changes in marital relationships. During all this time, the sect has been eager to adopt what ideas there are in that source, which have the effect of doing justice to woman and honours to motherhood and of prohibiting the plurality of wives as enunciated in the verse: "And ye will not have it at all in your power to treat your wives alike even though you fain would do so", and of warning men: "If ye still fear that ye shall not act equitably, then one only." The sect also regards as unlawful to have more than one wife at the same time, the reason being that such an act would not help protect the family from disturbance and dissension and would not ensure that the children are well brought up and suitably educated. The rule here is to be fair to the wife, to protect the mother and to see to it that the family has its rights and is functioning properly in a developing society.

In all these principles, the sect seeks, in the verses of the Holy Qur'ān, to discover God's aim and counsel in matters relating to ever changing circumstances, the advancement of knowledge and the most desired development of the Muslim peoples in the direction of abandoning the practice of polygamy, a practice which has been discussed during the last thousand years by this sect, erroneously called the Druzes, of whom I am proud to be a representative in this conference to expound their view on the subject of "Islam and the Family".

## MUSLIM OUTLOOK ON THE FAMILY IN A CHANGING SOCIETY

BY

ABDUL SALAM AZEMI

There is no doubt that God — exalted be He — created man to be His regent on earth. To be worthy of the task entrusted to him, man must be able to assume a moral character and to have the ability to shoulder the burdens of the great task. To fulfil His purpose, God created everything for man and made the task easy for him. God says in the Qur'ān: "He it is Who created for you all that is on Earth" (Sura 2/29). God even created the celestial bodies such as the sun and moon for the sake of man.

All by himself, however, man cannot undertake that task. He must have partners and helpmates. Now marriage, as has been proved socially and morally, is the most convenient way for the propagation of the human species and for the provision of such partners and helpmates. That is why Islam instituted marriage, and forbade any practice in conflict with it, such as adultery, and laid down rules for punishing adulterers with extreme severity. Islam thus considers marriage as the foundation of the family, and the family as the basic unit in the structure of society.

In instituting marriage, therefore, Islam aims at ensuring humanity, happiness and prosperity, against misery and hardships which may otherwise afflict man in his life. That is why marriage is not an obligation except on those who are able to meet its liabilities and to fulfil the duties expected from a married man. This means that Islam requires Muslims who are not qualified for marriage to refrain from it on the grounds that marriage, as is obvious, under unfavourable conditions, will defeat its purpose.

Islamic legislation laid down the requisite rules for ensuring the validity of betrothal as a prerequisite for the validity of the marriage

contract. This arrangement would give enough time for both men and women to realize the seriousness of the engagement and would thus reinforce and confirm the contract. Man is also allowed before the engagement to see his future wife in order that he may be fully acquainted with her, as regards her personality and appearance, and thus be saved any disillusionment later on.

This, however, does not mean that Islam tries by these restrictions to put obstacles in the way of married life. Marriage is natural, and is therefore enjoined by divine law because, apart from being natural, it also ensures stability. But all that Islam wants is to render marriage happy and secure. I believe that any prospective couple seeking marriage would more likely enjoy happiness in their married life if they were to adhere to the Islamic way, and society would be better off for it. Married life would certainly be more pleasant and dignified, and the offspring will grow strong and proud, ready later in life to enjoy happiness all around, in both home and society.

With such foundations laid for marriage, Islam naturally tries to safeguard it from abuse with all possible means and to give it permanency whenever possible. This explains why Islamic legislation provides the means for its continuity, and urges mutual affection and good treatment, and calls on married people to be compassionate and friendly. To break marriage by divorce is, according to Islam, most hateful to God. It, therefore, instructs people who contemplate breaking their marriage to refrain from taking this dire step and to seek, instead, other remedies, such as the following:

1. The husband must try to keep the marriage union in harmony and amity in spite of oppressive difficulties. God says: "For if ye are estranged from them, haply ye are estranged from that in which God hath placed abundant good" (Sura 4/19).

2. If the husband fails in his attempt to keep the relations with his wife as cordial as possible, God says: "And if ye fear a breach between man and wife, then send a judge chosen from his family, and a judge chosen from her family: if they are desirous of agreement, God will effect a reconciliation between them; verily, God is knowing, apprised of all" (Sura 4/35).

If however discord between husband and wife is aggravated beyond the hope of reconciliation, and beyond remedy either by arbitration or by any other means, then divorce becomes inevitable. It should then be allowed, because, as is obvious the continuation of

marriage under these circumstances can only lead to further exacerbation and bitterness, when life becomes unbearable, like hell.

Here, Islam allows the annulment of the marriage contract; but this dispensation is an act of wisdom, in the last resort, and only when all other resorts have failed. Till the end, and throughout all the critical stages of this sort of matrimony, there should be a genuine desire on the part of the husband in particular to save the union from dissolution. The husband however, should, if divorce proves unavoidable, be careful not to put away his wife during her menstruation period. This safeguard means that the divorce takes place when the wife is physically fit for sexual intercourse and when, in this circumstance, the husband has an opportunity for taking his wife back to him and thus resuming married life, before the expiration of the *'idda* or "waiting period". Otherwise, in the case of delay beyond the *'idda*, the husband, if he wants to take back his wife, must pay another dowry and go through the formalities and with new witnesses.

Islam is greatly concerned about the children who are the fruit of marriage and the real bond between wife and husband. It enjoins parents to take good care of them, to provide for their up-bringing and education. For this purpose Islam had laid down rules for expenditure, fostering, suckling, and kinship, as fully stated and explained in books of jurisprudence. Since the family, according to the Islamic law, is wider in extent than the circle of parents and children, Islam requires that good care should be taken not only of wife and children but also of other kinsmen and relatives. These should be helped when necessary, and should be visited frequently to enquire from them and find out about their circumstances, as a gesture of family solidarity. The rules of inheritance in the Islamic law does reflect this solidarity, and that is in allowing the owner of property to bequeath by will one third of his wealth to any relative whom he chooses. Moreover, one's heirs must give voluntarily to those who are not entitled to inherit. God says: "And when they who are of kin are present at the division, and the orphans and the poor, let them too have a share; and speak to them with kindly speech" (Sura 4/8).

So far, in the preceding one or two pages we have most briefly presented the Islamic view of the family and of its foundations. It can easily be seen that Islam does not care to see the family made up of weak, miserable and unhappy, let alone destitute and wretched, people. Therefore, Islam wants the family to be protected against causes of weakness and disturbances to save it from disintegration.

Islam is characterized by vitality and flexibility, and is adaptable for any time and place. The solutions it provides for all social problems in the life of man, the accord between principles and the scientific discoveries and inventions in the present civilization, the freedom accorded by it to the human mind and thought, its insistence on the need for reflection as stated in many verses in the Holy Qur'ān on the system of creation and the structure of the world, the firm foundations laid for social justice and the emphasis that every rightful person must have his due right inspite of all this, there are still some prejudiced propagandists who, in their ignorance, apart from their bigotry, have made it their business to attack Islam and to imput to it all sorts of shortcomings of which it is entirely free.

One of those charges, made by people who have no real knowledge of the religion of Islam and its overall philosophy, is that it is opposed to the modern ideas and arrangements for family planning by competent authorities in different parts of the world; opposed to their services and ideas for that purpose and opposed to what these planners are doing in leading human societies to follow the right way for progress towards happy and decent life.

Those fanatics and prejudiced critics, however, can achieve nothing. Islam, thanks to its positive teachings, has throughout the ages proved that it keeps pace with progress in every field of civilization and is favourable to what is useful to humanity. Islam, in addition, fights openly and with courage all the negative aspects of civilization detrimental to human society.

The Islamic view of the family is extremely simple and clear. Marriage involves a practical philosophy of life and as such it was fully systematized with specified duties and responsibilities, both personal and reciprocal. Consequently, though marriage is viewed as a practical part of the philosophy of life it, as has already been mentioned, is not allowed at all times or to all and sundry. And since the establishment of a family cannot be left without restrictions, it is the more reason that the begetting of children should not be different.

Our Prophet — upon whom be God's blessing and peace said: "O young men! those of you who can support a wife should marry, but must do so and those who cannot should take to fasting, for it is a means of suppressing sexual desire." This noble tradition is pregnant with Islamic thought on the family and its establishment. The word "*bā'a*", used in the Arabic version of the prophetic tradition and rendered into the English phrase "can support a wife" carries



with it the meaning of marriage in all its aspects. Without this ability, or virility, marriage is a hazardous undertaking, and it is regarded with disfavour from the religious point of view.

In the Qur'ān, the point is set forth very clearly. God says: “And let those who cannot find a match live in continence till God of His bounty shall enrich them” (Sura 24/33). This means that Islam denies marriage to those who cannot cope with its responsibilities. But, on the other hand, if marriage takes place, both husband and wife should fulfil their duties and carry out their responsibilities. They must also take good care of the children who are the most important end of marriage, by protecting them against poverty, ignorance, disease, weakness and humiliation, and by teaching them to read and write, and by bringing them up according to the teachings of Islam, and also by helping them develop their physical strength.

The Prophet said: “To leave your heirs rich is better than leaving them dependent upon people’s charity.” He also said: “God will ask everyone of those entrusted with the task of protecting others, whether he has protected or neglected them; even He will ask him in this respect about his own family.” In a third tradition, the Prophet says: “The right due to the child from his father is for the father to teach him writing, swimming, archery, and to provide him with nothing but what is wholesome.”

Such are the Muslim ideas and such are the sound teachings of Islam. God — most high — says: “And one of his signs it is, that he hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you” (Sura 30/21).

Is not all this sufficient for us to draw all the concept on the question of how the family should be looked after, to ensure happiness and tranquillity for it all its life?

Does not all this flow from the meaning of the phrase “That ye may dwell with them”? “To dwell with them” in this context points to heartfelt confidence, spiritual calm and perfect affection, all pervading the life of the family; and of course there can be no confidence, calm or affection in a house in which live a crowd of children with no shoes or clothes and with very little to eat. How can tranquillity and peace, essential for the family as they are, ever exist if the members, especially the children, have not the slightest opportunity for education and culture?

Nor can there be such tranquillity and peace in a house where there are so many children afflicted with all sorts of diseases or in a house where criminality and shameful conduct mark its life; or where children find no mother strong and solicitous enough to bring them up well and guard them with loving kindness.

What we should gather from the idea of "dwelling", as given in the previously quoted verse, is that the context reveals to us the philosophy and wisdom of marriage, and it suggests to us that this "dwelling" in marriage means the establishment of a healthy, strong and cultured family.

To be sure, our Prophet said: "Marry among yourselves and multiply," but we must bear in mind that he added: "For I shall make a display of you before other nations on the Day of Judgement." This concluding part of the tradition explains and clarifies the former part. This is most logical because one cannot boast merely of numbers however large they are. But he has reason to boast of those who are fit — those who are pious, honest, educated and with understanding. The one son who has got education and good character is better than many who have got none.

We can also cite the following verse from the Noble Qur'an: "Wealth and children are the adornment of the present world" (Sura 18/46); though this verse is usually understood to mean that we must multiply without limit or restriction, yet I understand it differently. The interpretation is that God, in speaking of wealth and children as the ornament of life, is obviously using the word 'ornament', not in its actual and concrete sense, which is sheer beauty, as a physical quality, but in its metaphorical sense. For when would a child be an ornament and when a beauty?

My answer is that the son is a beauty and an ornament when he is a good member of his nation, society and family, good to his parents and to himself. The son is also a beauty and an ornament when he serves as a solid firm brick in the structure of society and not a fragile one which may cause the collapse of the structure.

The son is a beauty and an ornament when he is strong, educated and learned.

If the son is not all that, then he is nothing of an ornament and a beauty. That is why Islam has allowed the planning of parenthood so that the family might lead a better life. Birth control in accordance with the noble prophetic tradition which allows coitus interruptus

as a contraceptive may be somewhat contravening the spirit of religion which enjoins Muslims to multiply and may be inconsistent with the idea that man is God's regent upon earth. Because of this variance in the question of allowing or disallowing multiplication of progeny or birth control, religion has laid down certain conditions to determine exactly the extent of permissibility, and the first condition for the planning of parenthood was that the planning should be by the agreement of both husband and wife. Reasons of health such as fear for the wife's life which may be threatened by pregnancy and nursing may be taken as justification for this planning. Similarly economic reasons such as the inability to meet the expenses for any number of children, have the same effect in this respect. In other words the planning of parenthood is allowed in Islam only to prevent pregnancy completely or to stop getting more than the desired number of children. In the absence of such reasons, however, the rule of the multiplicity of off-spring as a desired aim, applies.

In all this, we sense flexibility and adaptability in the Muslim law, and this makes it applicable for all occasions. My plea to the organizations concerned with family planning is that they should direct their greatest efforts, when necessary, to the prevention of conception in order to prevent people from resorting to other unorthodox methods such as abortion, sterilization or something of the same sort, when they feel that they do not want any more children.

I would also like to say that in accordance with the spirit of Muslim law it behoves the nation of Islam to adopt the principle of planned parenthood which means that the special circumstances and requirements of each nation and family should be taken into consideration. But birth control as a system to be applied by the government in the case of all families, irrespective whether in need or not, is unacceptable, as was declared in the resolution of the conference held in Kuala Lumpur in 1968, which resolution demonstrated that it was made possible for Muslim scholars from all parts of the Muslim world to have a unified point of view on such a crucial matter. That conference, however, was preceded by the conference of the Academy of Islamic Research in Cairo which adopted resolutions on this and other subjects.

This is only a bare outline of the subject. It was not my intention to give a wide-ranging survey of the Islamic law and its rulings on the issue, simple and elaborate as they are, particularly on such questions [as marriage, contraction of marriage, dowry, divorce,

maintenance, inheritance, will and others. Rather it was to give a general and brief sketch of the attitude of Islam vis-à-vis family planning.

I am confident that this conference will achieve a great deal and will produce good results. It suffices to say that it has been convened to discuss a noble humanistic idea, namely, family planning, which has a close bearing on the happiness of all humanity — men, women and children alike. Actually the happy family is the real foundation for a happy society.

I hope that the discussions and recommendations of this conference will go beyond the stage of just expressing good wishes and stating desired goals and from there proceed to the stage of implementation. Each of us should do what he can in the way of giving guidance and making the necessary effort for family happiness not only in the Muslim countries but also elsewhere. This is because the religion of Islam enjoins us to work for the welfare of all human beings, irrespective of creeds or nationality, without discrimination. God says in the Qur'ān: "O man! verily we have created you of a male and a female; and we have divided you into peoples and tribes that ye might have knowledge one of another" (Sura 49/13).



# ISLAM, POLYGAMY AND FAMILY PLANNING IN NIGERIA

BY

ISMAIL BALOGUN

Islam gives much weight to high fertility and Muslim social structures universally support high fertility, as substantiated by the experience of a number of Muslim societies. For example... using the Lebanese experience... even with urbanization there was no sign that Muslim fertility was affected... Among Muslims the difference between urban and rural fertility was small in both generations, nay, so small, that it could be attributed to chance... Further, the influence of Islam is such that the effect of better economic status on rural fertility... has proved to be conducive to high fertility.<sup>1</sup> This reference aptly represents the common opinion about Islam and the Muslims in relation to marriage and the procreation of children.

In point of fact, the preponderant number of Muslims in Nigeria<sup>2</sup> makes it necessary for a consideration of the Islamic teachings on subjects like polygamy and family planning in a conference like the one for which we are at present gathered.

In our discussion, it is not only the sheer number of a country's population that should concern us, but more important also is the rate of growth of the population. It is certainly in this respect that the

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<sup>1</sup> R.A. Henin, 'The Need for a Population Policy in the Sudan', *The Role of Family Planning in African Development*, Proceedings of a seminar held at University College, Nairobi, Kenya, December 13-16, 1967. Published by the International Planned Parenthood Federation, Stephen Austin & Sons Ltd., Hertford, England, 1968, p. 15.

<sup>2</sup> According to Sir Rex Niven, *The War of Nigerian Unity* (London: Evans Brothers Ltd., 1970), p. 56, the last census in Nigeria recorded 71 % Muslims in Northern Nigeria, and 43 % in the Western State. This works out to some 25.6 million Muslims in the country, excluding those in Lagos, Mid-Western and the three Eastern States.

current matrimonial practices among Nigerian Muslims should be considered alongside the real teachings of Islam on the subjects already mentioned.

There is a current notion that Islam enjoins its adherents to be polygamous and thereby, indirectly, requires them to be in favour of the procreation of children who, in their turn, become a liability on the economic and social resources of their countries. This notion does not only occur among non-Muslims who are comparatively unenlightened about the real teachings of Islam, but, unfortunately, it is even a prevalent erroneous view of the generality of Nigerian Muslims who think that, in order to be sincerely faithful to their religion, they must practice polygamy. Before going further into the subject, it is necessary to get our terms right. The word 'polygamy' is often regarded as the practice of a man having more than one wife simultaneously. This is only half the truth. The word also includes the practice of a woman having more than one husband concurrently. Strictly speaking, the correct term for this practice in the case of the man is *polygyny*; while it is *polyandry* in the case of the woman. Polygamy, therefore, covers both polygyny and polyandry. Islam rejects the latter and reforms the former.

It is necessary to consider briefly certain aspects of matrimony as practised in the pre-Islamic Arabian society, in order by contrast, to clearly understand the teachings of Islam on polygamy, bearing in mind that Islam arose as a specific religion in Arabia.

In that society, both polygyny and polyandry were recognized and practised. There was no limit to the number of wives a man could marry: a husband often possessed ten to twenty wives simultaneously. Also in the pre-Islamic Arabian society, a woman could concurrently have up to seven recognized husbands. If the woman had a child by one of the husbands, expert physiognomists would find out who the father of that child was among the husbands.<sup>1</sup> These were accepted practices.

On the advent of Islam, a taboo was placed on polyandry. The plurality of marriages by a woman became impossible and she was obliged to be recognisably married to only one man at a time.<sup>2</sup> In the case of polygyny, however, it was stipulated that a man could marry up to four wives simultaneously, on condition that he would

<sup>1</sup> A.A. Fyzee, *Outlines of Muhammadan Law* (O.U.P., 1964), pp. 7 & 8.

<sup>2</sup> R. Levy, *The Social Structure of Islam* (Cambridge, 1965), p. 102.

act justly and impartially to his wives, otherwise he should marry only one. This injunction is contained in the Qur'ān as follows: "And if ye are apprehensive that ye shall not deal fairly with orphans, then, of other women who seem good in your eyes, marry but two, or three, or four; and if ye still fear that ye shall not act equitably, then one only" (Sura 4/3).

Even though this Qur'anic verse is self-evident in making polygyny an exception based on the ability of man to maintain justice among his wives, yet so many Muslims have misconstrued it to mean that a Muslim must marry at least two wives simultaneously, and at most four. In point of fact, Muslims in Nigeria, and elsewhere, who consider it incumbent on themselves to have more than one wife concurrently are simply displaying their ignorance of Islam. And to debit this erroneous belief against Islam is another display of ignorance.

There are certain conditions under which polygyny could be practised in Islam. If, as a result of a war, the male population of a country has been drastically reduced, thus creating a serious imbalance between the sexes, a resort should be made to polygyny in order to prevent a widespread sexual laxity which may eventually become detrimental to the progress and stability of the nation. Sterility of a wife or a chronic disease which renders sexual union with her impossible is a sufficient reason in Islam for a man to practice polygyny. Furthermore, it should be pointed out that the Qur'anic directive on polygyny specifically aims at the care of orphans. Thus it begins by saying: "And if ye are apprehensive that ye shall not deal fairly with orphans..." The idea is that if the mothers of orphans were married, such orphans would be provided with both love and protection which derive from family security.

Two examples may be given here to illustrate the reason why Islam considers both sterility and impotence as sufficient grounds for polygyny. According to the Lagos Weekend<sup>1</sup>, of 31 January - 2 February, 1969, a government official confessed to having illegal marital relationship with another man's wife who, as a result, gave birth to three children by him. The report indicated that the official had been forced to this act because his own wife had failed to provide him with a child even after about seventeen years of their marriage. This wife got a court decision for divorce quashed on the ground that she still loved her husband. Under such a circumstance, Islam

<sup>1</sup> This is a weekly newspaper published in Lagos, the capital city of Nigeria.

allows that the man should practise polygyny, thereby ensuring protection to the first wife, while procreating through the second wife and thus meeting the attendant responsibilities. Unless a man is himself sterile, Islam reckons that by the time he marries up to four wives he should have become a father. He is, however, not compelled to become polygynous solely for procreation.

As for sexual inability or impotence the story contained in 'Lady Chatterley's Lover'<sup>1</sup> is a good example. In this story a newly-wed bridegroom, on the honeymoon with his bride, met with an accident which paralyzed his lower limb and caused him a complete loss of any sexual urge. The wife was hale and healthy and full of life. She was forced to commit adultery with the game-keeper. The point here is that the accident could have occurred to the bride with identical effect. In this case, Islam recommends that the man could have another wife and continue to have charge of the first wife.

As for the actual story itself in which it was the husband that suffered the damage, the wife, in Islam, is given an option of divorce as against adultery or polyandry. In the event of divorce, it is the responsibility of the man's blood relations to help him and provide him with security and comfort.

## II

Even though polygyny is an exception in Islam rather than the rule, it must be pointed out that many, perhaps most, Muslims who practise it, especially in Nigeria, have grossly abused it largely because of their ignorance of the relevant Islamic injunctions. For example, more often than not, we find a polygynous husband in our Nigerian society packing his wives and children together in one room while he occupies another room in the same house, and the wives take turns in going to him in his room for conjugal relations.

Worse still, there are polygynous Muslims who share only one room with their wives and children. In this case, the members of family lack adequate attention from the husband and father. More often than not, the wives have to fend for themselves in order to live and, more especially, the children suffer greatly from lack of care. They are often denied education and care, which usually results in

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<sup>1</sup> D.H. Lawrence, *Lady Chatterley's Lover* (Penguin 1960) complete and unexpurgated, passim.



poor health. All these sufferings happen among Muslims in spite of the clear Islamic injunctions about the proper treatment of the family. For example, the Prophet Muḥammad is reported to have said: "The best of you is the best to his wife."<sup>1</sup>

By the Qur'anic injunction which enforces justice among the co-wives in a polygynous home is meant the equal provision to them of adequate food, clothing and comfortable separate accommodation. The ideal arrangement envisaged by Islam is that the wives should not have anything in common other than their husband who should himself go round the wives in turn and without discrimination. By Islamic reckoning, it is only the wealthy person who can indulge in polygyny, however limited.

Furthermore, in the matter of dealing justly with the wives, Islam recognizes that this can affect only the outward treatment in so far as material things are concerned such as the provision by the husband of maintenance and accommodation as stated above. As regards the feelings of love and tenderness, the Qur'ān declares: "And ye will not have it at all in your power to treat your wives alike, even though you fain would do so; but yield not wholly to disinclination, so that ye leave one of them as it were in suspense; if ye come to an understanding, and fear God, then, verily, God is forgiving, merciful" (Sura 4/129).<sup>2</sup>

In point of fact, because of this Qur'anic statement in conjunction with the directive contained in the injunction on polygyny already explained, modern Muslim theologians and scholars are of the opinion nowadays that in Islam "Monogamy is the general rule, while polygamy is contemplated for abnormal circumstances..."<sup>3</sup>

"Islam permits a plurality of wives, not exceeding four, but only on condition of strict equality of treatment among them... The permission may be availed of in a national or domestic emergency, *or where circumstances make it desirable that the ordinary rule of monogamy be departed from*, (italics mine) but in every case, whatever the degree of affection that the husband may have for one wife as compared with another, his treatment of every one of them must be absolutely equal. He must make identical provision for each of them and spend the

<sup>1</sup> Fazlul Karim, *Al-Hadīs, An English Translation and Commentary of Mishkāt-ul-Maṣābiḥ*, Book I (Dacca, 1960), p. 167.

<sup>2</sup> M.M. Pickthall, *The Meaning of the Glorious Qur'ān* (New York: Mentor, 1960), p. 91.

<sup>3</sup> Fazlul Karim, *op. cit.*, Book II, p. 680.

same period of time with each. There are detailed regulations and instructions which show that he who avails himself of the permission must submit himself to a severe discipline.”<sup>1</sup>

From the foregoing, it becomes manifest that as far as Islamic teachings are concerned, monogamy is the rule, while polygyny is the exception.

Nevertheless, it is mostly among Muslims that polygyny is practised in Nigeria. In point of fact, so many of these Muslims consider it to be pious to be polygynous. There is no gain-saying the fact that population growth can be greatly increased by a widespread practice of polygyny in a society. Where economic growth fails to catch up with population growth within reasonable limits, the danger of national insecurity leads to possible disaster. In order, therefore, to counteract the polygynous tendency prevalent among many Nigerian Muslims, it is necessary to be aware of Islamic teachings on polygyny. If the religiosity associated with polygyny is removed, the way can then be clear for further efforts in consciously beating down our population growth. We would then have reached a stage when family planning could be understood by the generality of Nigerian Muslims.

### III

Unlike the case of polygyny, opinion is sharply divided among Muslims over family planning, and both sides to the argument derive support for their views from the Qur’ān and the *ḥadīth*.<sup>2</sup> The Arabic term for family planning itself is misleading. *Taḥdīd al-nasl* is often used, and this literally means ‘the limitation of offspring’, whereas the literal Arabic translation of family planning is *tanzīm al-usra*. The first term, with its meaning, is certainly obnoxious to Muslim pietists, and it, therefore, presents some difficulty of understanding to them.<sup>3</sup> It is even interesting to note that in certain cases, the same verses of the Qur’ān and similar traditions of the Prophet Muḥammad are used by both sides with different interpretations and

<sup>1</sup> M. Zafrulla Khan, *Islam, Its Meaning for Modern Man* (London: Routledge and Kegan Paul, 1962), pp. 143-144. See also, Muḥammad Quṭb, *Islam the Misunderstood Religion* (Kuwait, 1967), p. 223.

<sup>2</sup> Tradition of Prophet Muḥammad which serves as the second source of guidance for Muslims, after the Qur’ān.

<sup>3</sup> For example, see M. al-Sharqāwī, *al-Islām wa-taḥdīd al-nasl*, *Majallat al-Azhar*, vol. 35, No. 5, December 1963, p. 545.

emphasis. A mention of a few of such quotations would not be out of place here.

For example, the Muftī of Jordan approved of family planning on the basis of the Qur'anic verse which says: "And let those who cannot find a match live in continence till God of His bounty shall enrich them" (Sura 24/33). He argued that delay in marriage is a form of reducing population growth, and, therefore, a kind of family planning. In support of the same argument, he quoted a *ḥadīth* which says: "O young men, those of you who can support a wife should marry, for marriage keeps you from looking at strange women and preserves you from immorality; but those who cannot should take to fasting, for it is a means of suppressing desire."<sup>1</sup>

He was quickly opposed by the Deputy Vice-Chancellor of the Islamic University of Madīna in Saudi Arabia who argued that the Qur'anic quotation was taken out of context. He claimed that the verse should be read along with the verse just preceding it, which says: "And marry those among you who are single, and your good servants, and the handmaidens. If they are poor, God of His bounty will enrich them. God is all bounteous, knowing" (Sura 24/32).

In his own argument, the Deputy Vice-Chancellor claims that the emphasis of the two quotations read together, is that a Muslim should marry, and that if he is poor, God would enrich him and make him free from want. As for the second verse quoted alone by the Muftī, its emphasis is that a bachelor should always exercise restraint and remain chaste at all costs. The Deputy Vice-Chancellor, therefore, concluded that both the Qur'anic reference and the quoted *ḥadīth* are meant to stress the importance of marriage which encourages chastity and the procreation of children.<sup>2</sup>

Another Qur'anic verse which favours either side, according to interpretation, says: "Wealth and children are an adornment of this present life: but good works, which are lasting, are better in the sight of thy Lord as to recompense, and better as to hope" (Sura 18/46). In opposition to family planning, the argument is that since the Qur'ān rightly declares children as being part of the adornment of life, their possession is a favour and grace from God, and to deliberately prevent

<sup>1</sup> Al-Bukhārī, *Kitāb kaffārāt al-'aymān* (*ḥadīth* No. 15). See also Fazlul Karim, *op. cit.*, Book II, p. 633.

<sup>2</sup> 'Abdul 'Azīz b. Bāz, *Hawl taḥdīd al-nasl*, *Majallat al-Ḥajj*, a monthly Islamic magazine, Makka, Vol. 19, No. 2, December, 1964, p. 75.

them from coming or curtail their possible number is tantamount to rejecting the grace and favour from the Almighty. For family planning, however, the supporting argument lies in the second part of the quotation rather than the first. It is that even though children form part of life's adornment, the Qur'ān declares some other things as being better for gaining a reward from God: these are 'the ever-abiding good works'. In point of fact, the attainment of these ever-abiding good works could be made impossible by unplanned procreation of children. Exponents of this view quote other Qur'anic verses in support of it:

(a) "O ye who believe! Verily, in your wives and your children ye have an enemy: wherefore beware of them.... Your wealth and your children are only a source of trial! but God! with Him is the great recompense" (Sura 64/14-15).

(b) "And know that your wealth and your children are a temptation; and that God! with Him is a glorious recompense. O ye who believe! if ye fear God He will make good your deliverance, and will put away your sins from you, and will forgive you. God is of great bounteousness!" (Sura 8/28-29).

Some other arguments often put forward by Muslim scholars in opposition to family planning are as follows: —

1. That procreation of many children is among the good things of life which bring strength and happiness to the community; unlike 'family reduction' which weakens the community and leads to its eventual extinction. Thus the Qur'ān says: "God, too, hath given you wives of your own race, and from your wives hath He given you sons and grandsons, and with good things hath He supplied you. What, will they then believe in vain idols? For God's boons they are ungrateful" (Sura 16/72).

2. In support of unchecked procreation, a tradition of the Prophet says: "Marry among yourselves and multiply for I shall make a display of you before other nations on the Day of Judgment."<sup>1</sup> It should, however, be pointed out that this *ḥadīth* is considered weak according to the monumental work *Iḥyā' 'Ulūm al-Dīn*.<sup>2</sup>

3. As for the argument which based itself on population explosion to justify planning, the Muslim opponents of the idea reject the

<sup>1</sup> *Ibid.* See also M. al-Sharqāwī, *op. cit.*, p. 549, cf. Fazlul Karīm, *op. cit.*, Book II, p. 637.

<sup>2</sup> Al-Ghazālī, *Iḥyā' 'Ulūm al-Dīn* (Cairo: 1289/1933), p. 20.

argument out of hand because, they claim, God is the Provider of sustenance to His creatures. After all, the Qur'ān speaks in many places of the providence of God. For example: "How many animals are there which provide not their own food! God feedeth them and you. He heareth, knoweth all things" (Sura 29/60); "God lavisheth supplies on such of his servants as He pleaseth or giveth to them by measure. God knoweth all things" (Sura 29/62); "Verily, thy Lord will provide with open hand for whom He pleaseth, and will be sparing. His servants doth he scan, inspect" (Sura 17/30).

In support of this view, attention is often called to the Prophet's tradition that when pregnancy is a hundred and twenty days old: "God sends an angel with four things already preordained (for the child to be born): its sustenance, its term of life, and whether to be fortunate or unfortunate."<sup>1</sup>

Furthermore, the Muslim opponents of family planning take up an attitude, firmly opposed to it on the basis of the Qur'anic verse which says: "Kill not your children for fear of want: for them and for you will we provide. Verily, the killing them is a great wickedness" (Sura 17/31). The same precept is contained in Sura 6/152. Such Muslims contend that to practise family planning, through whatever device, is an indirect way of killing children, thus committing 'a mortal sin', sternly condemned by the Qur'ān. Moreover, these Muslims stick to their guns on the basis of another *ḥadīth*. When his companions asked the Prophet whether or not they should practise 'azl (coitus interruptus), he replied: "There is no reason why you should not do so. No soul fated to come into being till the Day of Judgment but comes into (actual being)."<sup>2</sup>

#### IV

It is appropriate to begin the arguments in support of family planning with the answer to the last quoted *ḥadīth*. Muslim supporters of the practice confirm the truth, as they understand it, of this saying of the Prophet, but argue that conversely since all lives up to the Day of Resurrection have already been created, then it stands to reason that lives which do not come to the world as a result of family planning

<sup>1</sup> A.M. Abū al-'Aṭā, *Sharḥ al-nabrāwī 'alā al-'arba'in al-nawawīyah* (Egypt: Manṣūra, 1960), pp. 27-35.

<sup>2</sup> Fazlul Karīm, *op cit.*, Book II, p. 674.

are not among those already created and, therefore, they are not predestined to come to the world. In support of this argument there is this other *ḥadīth*:

A man came to the Messenger of Allah (i.e. Prophet Muḥammad) and said: "I have a maid with whom I practise *coitus interruptus*." The Prophet said: "What is preordained for her will certainly befall her." The man came later to the Prophet and said: "The female slave has conceived." The Prophet said: "I told you that what is preordained for her will certainly befall her."<sup>1</sup>

It must be mentioned that those Muslims who favour family planning nowadays are largely influenced by the current outcry of the great powers including the United Nations Organisation against the dangers involved in the world's population explosion. Consequently, among the arguments put forward by such Muslims in favour of family planning are the common ones which speak of the advancement in technology and preventive medicine which nevertheless, has failed to stem the rise in population growth estimated to reach six billion by the end of the 20th century.<sup>2</sup> Having stated these reasons, a writer in Arabic concludes:

"The consideration, therefore, for the happiness of the individual, the security of the family, the safety, strength and comfort of the government is not in 'how many' but in 'how healthy'. According to the United Nations report for 1962, the country with the highest rate of births was the Ivory Coast, and the one with the lowest rate was Sweden in Northern Europe. It cannot be said that the individual persons, the families as well as the government of the first country were happier, more secure, more satisfied, stronger and more comfortable than the second."<sup>3</sup> This is indeed meant to serve as a fitting reply to those who consider prolific procreation of children as a source of strength to the community.<sup>4</sup>

<sup>1</sup> *Ibid*, p. 35.

<sup>2</sup> M. al-Sharqāwī, *op. cit.*, p. 545. Cf. *The Role of Family Planning in African Development, op. cit.*, p. 3, where it is said *inter alia*: "It took mankind all of recorded time until the middle of the last century to achieve a population of one billion. Yet it took less than a 100 years to add the second billion, and only 30 years to add the third billion. At today's rate of increase, there will be four billion people by 1975 and nearly seven billion by the year 2,000. The increase in numbers is unprecedented in human history and poses a problem that grows more urgent with each passing day."

<sup>3</sup> *Ibid.*, p. 547.

<sup>4</sup> For example, 'Abdul 'Azīz b. Bāz, *op. cit.*, p. 76.

Even though the customary reasons, already mentioned normally adduced in support of family planning, including the obvious economic reasons against prolific procreation, may sound intelligently acceptable, notwithstanding that they will count for very little indeed to the ordinary Muslim unless they are supported by the Qur'ān, the *ḥadīth* or some sayings of renowned Muslim scholars of high standing. Consequently, Muslim supporters of family planning had to dig into these sources in order to find what may convince their opponents.

We have already noted how different verses of the Qur'ān are differently interpreted and pressed both against and in favour of family planning. Concerning the *ḥadīth*, it is reported that one of the companions of the Prophet named Jābir said: "We used to practice coitus interruptus during the time of the Prophet while the Qur'ān was being revealed."<sup>1</sup>

Asmā' b. Yazīd related another tradition in which she said: "I heard the Prophet say: 'Do not kill your children under false pretences, for the suckling of the child while the mother is pregnant (*ghīla*<sup>2</sup>) has the same effect as when a horseman is overtaken (by an opponent) and thrown off the horse'." <sup>3</sup>

From these traditions, two things emerge:

(a) That Muslims at the time of the Prophet were faced with the problem of unwanted children, either during the suckling period of a previous child or when the couple did not feel like having children yet.

(b) That the only known preventive at that time was coitus interruptus or the withdrawal method, and that the Prophet condoned it.

The question, therefore, that arises because coitus interruptus was the only contraceptive known by the Prophet's companions, and which practice the Prophet condoned, is this: Can Muslims of today practise any other method? The answer can only be in the affirmative, as long as the other methods are not injurious, either to the man or the woman. The question, appropriate as it is, is tantamount to asking whether a Muslim can today wear clothes different in shape from

<sup>1</sup> Fazlul Karīm, *op. cit.*, Book II, p. 673.

<sup>2</sup> *Ghīla* in this context means sexual intercourse of husband and wife when the child is suckling.

<sup>3</sup> Fazlul Karīm, *op. cit.*, Book II, pp. 675/6.

those ordinarily worn by the Prophet and his companions during their time. As long as the clothes satisfy the functions for which they are meant, the answer can only be in the affirmative.

Moreover, coitus interruptus has its strains and stresses; fear of failure, abrupt stoppage of the woman's enjoyment and the mess it can cause. I have no doubt whatsoever that if the Prophet were familiar with a surer, safer and neater method than coitus interruptus he would have approved of it.

Muslim jurists recognize and approve of certain conditions during which birth control should be practised. These include:

- (i) when the father experiences difficulty in maintaining the family;<sup>1</sup>
- (ii) destitution;
- (iii) fear for the wife's health; and
- (iv) fear of the woman for her beauty even if the couple could afford more children.<sup>2</sup>

The governor of Egypt, during the Umayyad period of Islamic history (661-750 A.D.), 'Amr b. al-'Āṣ is reported as saying during a Friday sermon in his mosque on one occasion: "O assembly of men, beware of four things which cause fatigue after rest, want after plenty, and lowness after eminence: beware of a large family, easy life, prodigality and gossip."<sup>3</sup>

## V

### CONCLUSION

It may interest many Nigerians to know that polygyny is now dying out in many Muslim countries even without its being directly prohibited by law.<sup>4</sup> The practice is still obtaining nowadays in countries like Egypt, Pakistan, Indonesia, Malaysia, Morocco and even Saudi Arabia, only among the elderly, and no one would indulge in it except the really wealthy person. It is not at all considered to be a practice of joy except perhaps by the Nigerian Muslims. It

<sup>1</sup> Maintenance under Islamic Law comprises the provision of food, clothes and accommodation to all members of the family.

<sup>2</sup> M. al-Sharqāwī, *op. cit.*, p. 549.

<sup>3</sup> *Ibid.*, p. 550.

<sup>4</sup> Both Turkey and Tunisia are exception. They have made 'polygamy' illegal.



is indeed regarded as an exception to the rule; and in certain Muslim countries, before a husband can have a second wife, he must consult with, and get the approval of, the first wife.

In Pakistan, for example, written permission must be given by an Arbitration Council which 'shall record its reasons for the decision' before a man can contract another marriage 'during the subsistence of an existing marriage'. When the man applies for permission, he 'shall state the reasons for the proposed marriage, and whether the consent of the existing wife or wives has been obtained thereto'.<sup>1</sup>

By this exercise, I do not mean that all Nigerian Muslims should become monogamous. Rather, everyone would have to weigh and consider his/her own circumstances in the light of genuine need. To prohibit polygyny by law would certainly bring hardship in one way or another to some people whatever religion they may profess, at least, within the Nigerian context. My emphasis is that it is certainly wrong to say that Islam enjoins polygyny on its adherents willy-nilly. On the contrary, Islam has left the practice open to be adopted in case of emergency whether by the individual or by the society.

As for family planning, a number of Muslim countries have introduced family planning programmes. For example the Tunisian Government has encouraged the use of contraceptives and allowed sterilization. The Pakistani Government officially accepted family planning in 1958; and the U.A.R. Government followed suit in the early sixties.<sup>2</sup> Muslim countries like Turkey, Iran, Indonesia and Malaysia are no exception in encouraging contraception. "Even in Mecca (Saudi Arabia) Family Planning services are available in many clinics and it is known that Saudi Arabian medical officers have plans to expand the programme for the benefit of the poor people in that country."<sup>3</sup>

Among the Muslims, the greatest stumbling block in the way of family planning is the groups of *alfas* and *mallams*<sup>4</sup> to be found all over the place. A good number of them have to be re-educated about

<sup>1</sup> Government of Pakistan, Ministry of Law, Ordinance No. VIII of 1961, Rawalpindi, the 2nd March, 1961. See A.A.A., Fyzee, *op. cit.*, p. 473.

<sup>2</sup> R.A. Henin, *op. cit.*, p. 18.

<sup>3</sup> Alhaja Kaosara Akesode, "Islam has nothing against family planning", *The Nigerian Islamic Review*, July-August, 1970. Al-Ameen Publications Ltd., Lagos, p. 18.

<sup>4</sup> These are the *'ulamā* in Nigeria.

Islam. A mother of six children whose husband's income was £12 a month was asked sometime ago why she did not stop child bearing. Would her husband object to it? She replied that both of them had agreed to stop it but the *mallams* raised objection to it. So they had no choice but to continue. For a family planning worker to deal successfully with the *alfas* and *mallams* he/she needs to be familiar with Islamic precepts on subjects like polygamy and family planning. The pros and cons of such courses of action are discussed in the preceding pages of this article. "May peace be with those who follow the guidance" (Sura 20/47).

## ISLAM'S VIEW OF THE FAMILY IN A DEVELOPING SOCIETY

BY

SHAIKH 'UMAR AḤMAD 'ABDUL RAḤĪM AL-KHAWWĀD

Every known religion or every philosophical or social system of life has its aims, ideals and goals which are regarded as the culmination of human perfection in all aspects of life. After the definition of these values and aims, rules are formulated, laws are made and principles are established in such a manner as would contribute to their realization or attainment.

When Islam appeared in the *jāhiliyya* (pre-Islamic) society, it applied its aims and ideals to all the spiritual, social and material aspects of the life of that society, approving all that was compatible with its norms and rejecting all that was directly or indirectly opposed to them.

In matters of worship, for example, Islam repudiated all the imperfections that had vitiated the monotheistic creed of Abraham, but reaffirmed the other aspects of Abraham's religion and made of them an essential part of the rites and ceremonies of pilgrimage.

In business transactions, Islam sanctioned many such practices as were not incompatible with its aims, designed as they were to ensure the constancy of transactions and their freedom from all the *jāhiliyya* practices of usury and excessive exploitation in every form. In social life Islam approved and encouraged every social and moral virtue subscribed to by the *jāhiliyya* society, but criticized and discouraged its opposite.

Islam spoke in glowing terms of the nobility of character, not only to exalt it but also to make it the pivot of its mission. The Prophet, summed up his entire mission in this statement: "I am sent to consummate the noble traits of character." The Qur'ān, testifying to the Prophet's statement, says: "Thou art of a noble nature" (Sura 68/4).

The Prophet himself said: "God has taught me, and has taught me well."

Although the mission included a comprehensive creed and a law with fundamental principles, elaborations and rules regulating all the affairs of life, the fact that it was summarized in the Prophet's saying: "I am sent to consummate the noble traits of character", and the Qur'ān's attestation of the Prophet's noble character — this very fact indicates that morality is the centre of legislation in the fundamental principles, elaborations and rules of the Islamic law. The view that morality is the basic foundation of Islam is more clearly brought out in the reply made by Ja'far b. Abī Ṭālib to the delegation of Quraish in the presence of the Negus, the Emperor of Ethiopia.

According to Ibn Hishām biography of the Prophet Muḥammad, it is reported that, in the early period of his mission, he ordered his followers to emigrate to Ethiopia. That was after Quraish had intensified its campaign of persecution against the Muslims. Quraish, to outmanoeuvre the enemy, sent a delegation to incite the Negus, the Emperor of Ethiopia, against the Muslims and turn them over to Quraish. The Negus listened to the arguments of both sides, the delegation of Quraish and the Muslim emigrants. Here is how Ja'far b. Abī Ṭālib addressed the Negus on that occasion:

"O King, we were a nation living a life of ignorance. We used to worship idols, eat dead bodies and commit monstrous crimes, be unkind to our womb-relations and behave inconsiderately towards our neighbours. The strong used to usurp the rights of the weak. We remained like that until God sent us a Prophet from our own people and well known to us by his descent and by his truthfulness, honesty and virtue. He called us to the one God and urged us to worship Him and believe in his unity. He called upon us to repudiate the stones and idols which, we and our ancestors used to worship. He ordered us to be truthful, and honest, to be dutifully kind to womb-relations, to be neighbourly and to cease committing unlawful acts and shedding blood. He forbade us to perpetrate monstrous crimes, to commit perjury, to despoil orphans of their money. He ordered us to worship God alone and to associate no other deity with Him; and ordered us to worship, to give alms and fast. We believed in him and had faith in him, and we followed him in what was revealed to him from God."

Hence the revolution caused by Islam in the *jāhiliyya* society was first and foremost, a purely moral revolution, in values and ideals, and the uplifting of man's status from the lowest level of worldly

covetousness and bestiality to a status which befits his dignity and his status as the regent of God on earth.

It was the noble parts of the Prophet's character that made the Muslims receptive of his call to Islam because they knew his truthfulness, honesty and virtue. Such was the faith of the early believers in Islam and its values. What Ja'far b. Abī Ṭālib preached as virtues is the basis on which the call to Islam, both inside and outside the Arabian peninsula rested and which paved the way for its spread and opened the hearts and minds of people to accept it and embrace it.

These are the norms in the light of which Islam proceeded to reform society and to found its legislation on man and his dignity. The Qur'ān enshrined these norms, considered as the greatest blessing, as testified by the Qur'anic verse: "And now have we honoured the children of Adam" (Sura 17/70).

Good society must consist of good individuals, considering that the individual in society is like a brick in a structure, if it is sound it will sustain a society in strength and durability.

Accordingly, in order to reform society, it would be necessary first to care for the individual and then for the community as a whole. Care for the individual implies care for the family, viz, the first environment in which the individual is brought up. It is, therefore, necessary for us to acquaint ourselves with the conditions of the family in the *jāhiliyya* society at the time when the call to Islam began and then to proceed to review the reforms which Islam effected in the family institution.

#### THE FAMILY IN THE JĀHILIYYA PERIOD

The child is the fruit of sexual intercourse between man and woman. The question which immediately poses itself is: how was the relationship between man and woman in the *jāhiliyya* period at the beginning of the call to Islam?

Al-Bukhārī reports the following statements ascribed to 'Āisha: "Marriage in the *jāhiliyya* period was of four kinds. The first is of the kind that is practised today, i.e., a man asks another man to give him in marriage his daughter or another girl under his guardianship. Upon approval the suitor pays the bridal dower and marries the girl. In the second kind the man used to tell his wife, after menstruation to ask another man to have sexual intercourse with her. During that period her husband kept away from her and refrained from touching

her until she became pregnant as a result of her intercourse with the other man. Once her pregnancy had been confirmed, her husband resumed his sexual relations with her. He resorted to this practice in order to have a son bearing his name by another man. This kind of marriage was called *istibḍā'*, namely an arrangement made by the husband and his wife for the purpose of having a child through the wife's intercourse with another man. In the third kind, a group of men, less than ten, would cohabit with a woman, and have sexual intercourse with her. If she became pregnant then she, a few days after giving birth to a child, would invite them to a meeting at her place. All the men had to obey the call and assemble at her house. During the meeting she would say to them: 'Well, you all know what has happened. I have given birth to a son'. She would then designate one of them as the father and address him by his name, saying: 'The child is yours'. Thereupon the child would be attached to the man, who in his turn, could not refuse. The fourth kind was similar to prostitution. Men would visit a prostitute. Such prostitutes used to hoist flags over their doors. If one of them got pregnant and gave birth to a child, the men then would be summoned to a meeting at her place where experts would also be called to try and father the child on one of them. On the basis of the decision of these experts, the child would be attached to one of the men, and the man could not refuse." Another form of marriage was *al-shighār*, whereby a man changed one of the women under his guardianship for another woman under the guardianship of another man, without either of them paying any bridal dower. This form of marriage was like barter in trade.

In one of the forms of marriage based on exchange, a man used to say to another: "You give up your wife and I will give up mine." The purpose of this form was simply to satisfy lust. Another form of marriage was *al-mut'a*, a temporary marriage, contracted for a specified or unspecified time and exclusively for the purpose of sexual pleasure. A man used to say to another: "I give this woman or that woman in marriage for a month as from today, or until such-and-such a person returns with a dower of a specified amount." The other used to accept the offer. If the month expired or the person returned, the two were separated and it was not possible to renew the contracts before the expiry of the specified period. The purpose of this form of marriage, as is evident from its name, is merely to satisfy the temporary sexual desires of men.

With the exception of the first form of marriage, it can be said

that the implication in all the above-mentioned marriages is that woman was made light of and relegated to a second-rate status in society. In particular, this was most evident in the form of marriage known by the term *istibḍā'*, whereby the woman was treated as though she was a domestic female animal whose owner chose for her a strong stallion of noble descent. There is no doubt that the primary purpose of all such marriages was merely to satisfy lust, as was the case with the aims of the other forms of individual behaviour in pre-Islamic society which were all centred on pleasure, comfort, material profit, arrogance and domination. Such behaviour was only natural in a society whose leaders are quoted by the Qur'ān as having said: "There is no life beyond our present life; we die, and we live, and we shall not be quickened again" (Sura 23/37).

#### HOW ISLAM TACKLED THE PROBLEM OF THE FAMILY

Islam prohibited all the above-mentioned kinds of marriage with the exception of the first one which it sanctioned, thus according woman, whether a virgin, a widow or a divorcee, priority in the choice of her husband. Islam also prevented her guardians from objecting to her marrying the man of her choice, thus confirming and reinforcing her freedom in the choice of her husband. God defined the aims of marriage in the Qur'anic verse which runs as follows: "And one of his signs it is, that He hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you. Herein truly are signs for those who reflect" (Sura 30/21).

Dwelling with them which means here stability and peace of mind, love and tenderness are all humanitarian principles which Islam aims at realizing in the marriage contract. These indeed constitute the blessing which God bestowed on people.

Islam stressed this humanitarian aspect in regard to woman's status, not only by establishing the general principle of equality between men and women in rights and duties, but also by conferring on her special rights in her capacity as a wife and in accordance with the provisions of the marriage contract. This freed her from the contemptible status assigned to her during the pre-Islamic period, raised her level and made her truly and rightfully a partner to her husband in their conjugal life. Her husband's seniority over her within the framework of the family's institution does not detract from her status as a partner, nor does it belittle her established rights in social

life. No man has any power over her in her private affairs, for she can acquire any right of ownership and dispose of it as she chooses, and no man, even her husband or father, has the right to control, or interfere with her business activities. This status has never been fully enjoyed by women in the European society except as late as the twentieth century.

In his statement on the objectives of marriage, the Prophet said: "Marry among yourselves and multiply, for I shall make a display of you before other nations on the Day of Judgment." The following saying was also attributed to the Prophet by Abū Dāwūd: "Marry the affectionate and prolific woman, for I shall make a display of your multitude before other nations." When asked which woman was the best, the Prophet replied: "She who would be pleasing to him to look at, would obey him if he commands, and would not forbid him herself or her property in a way disagreeable to him." This saying was ascribed to the Prophet by Abū Dāwūd, al-Nasā'ī, and al-Ḥākim in his authenticated version of his collection of the Prophet's traditions. The Prophet's purpose behind this saying which he addressed to women was to ensure the continuity of smooth relationships between husband and wife and to overcome any difficulty which might spoil the intimacy of their association.

In similar terms the Prophet addressed men saying: "The best of you are those who are best to their wives." This saying was attributed to the Prophet by al-Tirmidhī, and here again its purpose is to encourage intimacy in the association between man and wife.

Islam, however, does not stop in its call only at preaching friendliness and sociability in conjugal association so long as marriage continues, but it also preaches tolerance and kindness even in cases of separation between man and wife and after the termination of marriage by divorce. In this connection God says: "But when ye divorce women, and the time for sending them away is come, either retain them with generosity, or put them away with generosity" (Sura 2/231). He also says: "But if ye divorce them before consummation, and have already settled a dowry on them, ye shall give them half of what ye have settled, unless they make a release, or he make a release in whose hand is the marriage tie. But if ye make a release, it will be nearer to piety. And forget not generosity in your relations one towards another; for God beholdeth your doings" (Sura 2/237).

It is part of piety that a man should treat his divorced wife with forgiveness and charity. Islam has made the husband responsible for



his wife because she is the centre of the household and the mainstay of the family, and because the welfare and failure of the family depend to a great extent on how good or incompetent the wife is. The Prophet was reported by al-Bukhārī to have said: "Every one of you is a shepherd, and every one of you is responsible for his flock. Hence the Imām is in charge of his subjects and is responsible for those in his charge; and the husband is in charge of his household, and responsible for those in his charge; and the wife is in charge of her husband's household, and responsible for those in her charge." This saying by the Prophet emphasizes man's seniority as established in the Qur'ān, and determines his responsibility for taking care of the family. His care of the family includes the extension of guidance and good advice to his wife and of teaching her the religious duties prescribed by Islam and its moral precepts in case she is ignorant of them, provided he does all this gently, wisely and discreetly so that his guidance, instruction and advice can achieve the desired effect. In this connection, the Prophet said: "Be good to women. For they are created out of a crooked rib of which the most crooked part is its top; and if you try to unbend it you will break it." This saying was ascribed to the Prophet by al-Bukhārī and Muslim.

Man's responsibility in this respect is confirmed by the praise bestowed by God on his Prophet Ismā'īl when He said: "And he enjoined prayer and alms giving on his people, and was well pleasing to his Lord" (Sura 19/55). Scholars maintain that whatever is mentioned in the Qur'ān in the way of praise or commendation should be interpreted as divine ordainment. This meaning is expressed clearly in the following Qur'anic verses: "Enjoin prayer on thy family, and persevere therein. We ask not of thee to find thine own provision — we will provide for thee, and a happy issue shall there be to piety" (Sura 20/132); "O believers! save yourselves and your families from the fire whose fuel is men and stones" (Sura 66/6). These two verses point to the need to teach both the wife and her children matters relating to their religion and pertaining to what is allowed and what is prohibited.

In brief, it can be said that men have responsibilities towards their wives, and that God will hold them accountable, for them, as to whether they have observed or neglected them.

The presentation given in the preceding paragraphs sheds light on the true meaning of the idea of seniority vested in the husband. It is not a guardianship based on domination, humiliation and harm,

but it is one that involves responsibility and liability within the context of guidance and advice in order that the family can play its role in building a good society.

Concerning expenditure the Prophet says: "A dinar you spend in the way of God, and a dinar you spend to free a slave, and a dinar you give as an alms to a poor man, and a dinar you spend on your family — the most worthy of God's reward among them is the one you spend on your family." Of the various members of a household, a man's wife and his children should naturally come first.

Islam safeguarded the interests of the family through this solid system of noble moral virtue, through the responsibilities assigned to the husband and the duty enjoined upon him to guide his wife, treat her with cordiality and give the expenditure incurred in her favour preference over all other known kinds of charity. The purpose of all this is to provide a healthy environment and a suitable atmosphere for bringing up children to have faith in God and in the virtues He has prescribed.

The change introduced by Islam into the status of the family in the *jāhiliyya* period was not a process of gradual evaluation. In the *jāhiliyya* period the wife was like an heirloom of a chattel transferable by inheritance and was treated like a female animal which could be subjected to barter or temporary marriage arrangements. The changes introduced by Islam involved a transition into a new status whereby the wife began to be honoured as a human being with a personality independent of her husband in social life, and with a role as a partner in conjugal life, and as a mother entitled to be obeyed, honoured and treated with consideration a duty which is one of the most important duties next to belief in the unity of God, as expressed in the following Qur'anic verses: "Thy Lord hath ordained that ye worship none but him; and, kindness to your parents" (Sura 17/23); "Worship God, and join not aught with Him in worship. Be good to parents" (Sura 4/36).

This is Islam's view of the family in general. In order to describe its view of the family in developing societies, it is necessary to know something about the development which has occurred in modern societies, particularly the conditions of this development as affecting the family institution and then to proceed to discuss the principle underlying Islam's attitude towards development.

### ISLAM AND DEVELOPMENT

Islam is the seal of the revealed religions. People do not expect further divine revelations to explain to them the rules governing the new developments which occur in society. How then can this need be met? This question becomes particularly relevant when we take into account that the mission of Islam appeared in a primitive society and it might be claimed that the rules which governed the conditions of that society could not be expected to govern the changing conditions of developing societies right up to the last day of life in these societies.

The purpose of the Shari'a (canonical law of Islam) is primarily to create good individuals and good societies, and an ideal state in an ideal world. That is why its precepts and laws were nobler and loftier than the level of social order in the entire world at the time of their revelation to the Prophet and have continued to maintain this level up to the present time. The Islamic law introduced principles and theories, where wisdom did not become recognized and accessible to the non-Muslim world except several centuries afterwards. God revealed to His Prophet the Shari'a as a model of perfection designed to guide people to obey noble precepts and virtues and encourage them to seek sublimity and perfection. Hence the values advocated by Islam are the acme of human perfection and as such are permanent and unchangeable. It is a beacon which guides the Muslims in their behaviour whatever changes or developments occur in thoughts, opinions or social conditions. What is subject to change and development is the methods or means by which the human values are realized, for methods change in the wake of changes in thoughts and opinions. If the values advocated by Islam were subject to change, then its basic principles would also change; faith in God would turn into polytheism and all the virtues established by Islam would turn into their opposites, while Islam itself would eventually become like a positive or conventional man-made law where a new legal basis is not related to a former one, but is laid to meet the need to be adaptable to changing social conditions.

Since the means for realizing values and ideals are subject to the process of evolutionary change of ideas, scholars have determined the legal bases of development, which are: Consensus, analogy, application of the principle of public interest and the principle of convenience. All these are related to, and derived from, the basic principles established by the Shari'a and the light of the principles of Islam, and according to the bases of legislation just mentioned, it is possible to

arrive at decisions to deal with new developments as they arise, or with events which are not covered by the existing provisions of the Sharī'a. The rule approved by scholars that laws change according to the changing times applies to discretionary judgements based on convention. These may change following the change of conventions or of public interest. But the rule approved by scholars does not mean departure from a fixed ruling established in the Qur'ān or the Sunna (the Prophet's tradition) nor does it mean the suppression of a basic principle of the Sharī'a.

We now proceed to discuss the developments in the family institution in European societies.

#### THE FAMILY IN MODERN EUROPEAN SOCIETY AND THE STATUS OF WOMAN THEREIN

These are the principles of Islam regarding development and in the light of these principles, it will be possible to determine the outlook of Islam on the family in a developing society.

In an attempt to find a solution to the problem of the shortage of labour in industry, modern society has allowed women to work, or rather induced them to work, by facilitating their entry into factories, offices, business firms, transport etc., where there are openings for her. Shortage of labour, however, was not the only reason which made capitalist countries provide opportunities of work for women. Another important reason was the lower wages paid to women as compared with men, which resulted in a decrease in the cost of production and a consequent increase in profits.

In communist countries, on the other hand, women are obliged to work so as to assist in securing an acceptable standard of living for their families with a view to realizing the principle of equality between man and woman and to enable the state and the party to guide children from early infancy in the nursery schools up to the upper grades of education to ensure allegiance to the communist creed.

The many facilities of work made available to women and the lucrative wages paid to them, have in their turn, encouraged married women to be independent of their families, parents, brothers and sisters, and of their husbands and children.

As a result of this development, women began to neglect their duties as wives and mothers, and as housewives in charge of their

homes. Consequently, homes began to lose the atmosphere of love and affection necessary for the upbringing of children, as well as the atmosphere of security and stability which men used to enjoy after having gone through the hardships of their daily work. In an attempt to solve this problem as far as it applies to children, nurseries began to be established by the state in communist societies, and in capitalist societies by companies, societies and individuals as a profit-making concern.

Nurseries have thus been sharing with mothers the responsibility of nursing children, caring for them and guiding them through a critical stage of their life, when the child needs his mother's affection most, because it is one of the basic factors which help ensuring him sound education. The high percentage of adolescent crimes is attributed to the fact that mothers go out for work and do not have sufficient time to look after children.

One of the problems consequent upon women's participation in outside work is the great number of illegitimate children in modern European societies. This phenomenon has led sociologists in communist countries to propose that children should be called after their mothers in order not to feel any inferiority complex and thus drift to crime and revenge on society.

It is worth noting that there has been a tendency in modern societies to try to find a remedy to the problems resulting from licence or permissive personal freedom rather than try to limit licence and its serious consequences by applying established standards of moral behaviour.

If we reject the use of moral standards as checks for human behaviour in society, and if we give rein to animal instincts to have their desires fully satisfied, then ignorance will be on a par with knowledge, and nomadism with civilization, a state of affairs witnessed in contemporary societies although civilized and at the peak of scientific progress.

As in the case of society, the relationship between man and woman, the corner-stone of the family institution, has also suffered, on the individual level, from moral downfall. It is very likely that the deterioration of society itself has resulted originally from chaos in the relationships between men and women. In addition to the increase of the percentage of moral crimes among adolescents, we find, in the modern European society, centres of moral degeneration even approved by the society and protected by the law, such as:

Clubs for homosexuals.

Clubs for the exchange of wives in America or the extended family system in Sweden.

Companies for the management of bawdy-houses, run most efficiently and on the basis of the most modern systems of administration.

Spread of artificial insemination and the establishment in America of a bank, similar to the blood banks, and known by the name of 'sperm bank' for storing sperm for use in the case of need.

Incestuous marriage, as in the case (now under consideration in Swedish courts) of a man who married his sister. This may prove to be a new development in the anarchy of sexual relationships which we witness today.

Abortion centres which can be described as mills for the destruction of human lives in their embryonic stage.

Such is the present state of development in civilization and in scientific technique. There may be certain points of resemblance and comparison between the present times and the *jāhiliyya* (pre-Islamic) period. But it seems that individuals in the *jāhiliyya* period did not sink below such level in their endeavour to satisfy their instincts in a natural way, whereas the modern age has gone down below the level, even below that of beasts which, to their credit, refrain from homosexuality, and in the case of many species, refuse to indulge in incestuous practices. It is no wonder that the *jāhiliyya* period should have many features in common with the modern age of civilization and intellectual progress. The nature of the human soul is the same, and has not changed since the creation. It always incites to evil and always tends to satiate its instincts if it is left completely out of the control of the restrictions imposed by the norms of moral and humanitarian behaviour.

#### ISLAM'S VIEW OF THE FAMILY

Islam's mission is divine, proceeding from God: "Our Lord is He who hath given to everything its form and then guideth it aright" (Sura 20/50). The Islamic Sharī'a is not the work of human society or the outcome of social convention, because its principles and foundations were not laid down as a result of social evolution and interaction as is the case with positive or conventional laws.

Islam's view of the family is an integral part of its view of society, and its organization of the family is an essential part of its aims

towards the organization of society. Any change or modification in the family status will inevitably impinge on society.

The validity of a positive or conventional legislation or status law cannot extend beyond one century at the most. This is true even if the legislator enjoys the highest degree of far-sightedness, goodwill and devotion to the welfare of society. A time will come when this kind of legislation will prove to be deficient in certain ways and fall short of serving the needs and interests of society; a fact which will require continued revision and amendment. This is due to an obvious reason, namely the imperfection of the human mind and its inability to have a complete and comprehensive insight into the circumstances and conditions of human society on which social organization and legislation are based.

Another fundamental reason is the tendency of social systems and conventional laws to neglect morals as a basic principle of legislation and to centre legislation on conventional customs, traditions and systems of social organization. In addition to being unstable and continually subject to change, customs and traditions vary according to place and time. Systems of social organization are more subject to the caprice and interest of those who established them than to the real interests of the communities for which they were devised. History is full of examples of legislations intended to serve the interests of kings and feudal lords.

Although contemporary legislations vary in their basic principles according to the ideologies on which they are based, e.g. communism and capitalism, they nevertheless converge in their tendency to neglect moral aspects as a basic principle of legislation, and also in the tendency to leave personal freedom completely out of control, thus contributing to the moral degradation from which modern societies are suffering.

Since Islam's view of the family is an essential part of the general aims it set for the organization of society, this view is bound to be fixed and not subject to change under the influence of contemporary opinions which have not yet reached, and are not likely to reach, a state of stability because, even though they may seem to be based on scientific theories, they are still only experiments whose success has not been verified by scientific testing. On the contrary they have proved to be a failure in so far as purposes and results are concerned. Anxiety, instability and lack of confidence in the future are some of the outstanding features of modern western societies which the specious

outward brightness of cultural progress cannot conceal. If legislators and societies are genuinely interested in exploring right ideas for the reform of contemporary society, it is not unlikely that they will revert to the Islamic Sharī'a and adopt its principles which were established at the time of revelation in the seventh century. In point of fact they have adopted some laws of the Islamic Sharī'a. Concerning the family institution, for example, the Islamic Sharī'a permits the husband to divorce his wife and permits the wife to go to court to ask for a divorce if it is proved that her husband has added a second wife to his household or has failed to carry out his marital duties and obligations as prescribed in Islamic law. Thirteen centuries have now passed since this law was established. At that time rash critics were quick to criticize the Sharī'a and to blame it for its affirmation of the right to divorce. It was only after the lapse of many centuries and after the advent of the age of science, progress and free thought that thinkers and scholars began to realize that the right of divorce is a great blessing for both husband and wife, that it is the only way of terminating an unsuccessful marriage and that divorce would bring happiness to both parties, so long as the marriage has failed to secure happiness to both without exposing either of them to the risk of aggravating their mistakes in trying to find a way out of their discomfiture in their married life. There is hardly any of the positive laws of civilized nations today which does not include a provision acknowledging the principle of divorce. The most recent and nearest to the Islamic Sharī'a is the English law which became effective as from 1971, and which almost sanctions divorce if both parties agree to it.

It can thus be seen that thirteen centuries after the revelation of the Sharī'a the world began to recognize and adopt the Islamic theory on divorce. In the present intellectual progress, it may not be long before sociologists and legislators adopt the entire outlook of the Islamic Sharī'a on the family.

The Islamic Sharī'a has turned out to be of durable nature, ever since its revelation. This is because it was revealed by God. God says: "There is no change in the words of God" (Sura 10/64). He alone is capable of prescribing for man laws which will remain valid for all time, until He chooses to reclaim the world and all that there is in it.



# ISLAM'S VIEW OF THE FAMILY IN A DEVELOPING SOCIETY

BY

SHAIKH 'ABDUL ḤAMĪD AL-SĀ'ĪḤ

## GENERAL PRINCIPLES OF ISLAM

In Islam, mercy and charity are regarded as the bases of all human relationships. All human relationships are seen as comprehended in the principle of goodwill — the bond that binds together all human beings, whether in marriage, kinship, as neighbours or through social contact, either on a restricted social scale or on the larger scale of human society as a whole. Hence the Prophet Muḥammad adopted as mottoes of Islam, security and peace, as well as charity to the needy and the rendering of assistance to fellow creatures. The Prophet was once asked which were the most meritorious aspects of Islam; he said: "That you should provide food and greet both those you know and those you do not know." Therefore, it is due from every Muslim that he should greet his fellow-men — those whom he knows, as an expression of friendship and goodwill and those whom he does not know, as a means of calling forth like feelings of friendship and goodwill. If this is the general principle governing the laws of Islam, it is all the more reason that it should constitute the basic element and the chief prop upon which the family rests.

## THE FAMILY DEFINED

By family is meant the social organization which produces the first social cell initiated by the husband and the wife and later extended to include sons and daughters, fathers and mothers, brothers and sisters, and all other relations.

## ISLAM'S CONCERN FOR THE FAMILY

Islam attached great importance to the family. It sought organizing it, defining its principles, giving it backing and support,

strengthening the ties binding its members together and safeguarding it against undermining influences; and all this in accordance with an evolving and developing system within the limits prescribed, and the legal frame established by Islam, and provided Islam's general principles are observed. Islam regulated the family by defining the rights and responsibilities of each of its members as well as each type of relationship in its structure. In legislating on matters pertaining to the family, it never lost sight of the fact that it was the family which constituted the broad fundamental base of the nation or larger community. It also sought to take into special account the right and duties of the family members, provided however, the exercise of those rights did not submerge the rights of the larger community or hamper it in the discharge of its functions. For it is in insuring the soundness of the base, i.e. the family, that the national entity is safeguarded and the national interests protected within the larger community of man.

#### MARITAL LIFE

The Romans defined marriage as a union of two souls and a permanent association between them based on affection and goodwill. In the Islamic Shari'a, or Law, marriage is a contract defining the new association — the community of husband and wife — and their close co-operation for life. Civil contracts and transactions of every nature are of interest only to those directly concerned, for their consequences are confined to the contracting parties. But in the case of the marriage contract, the consequences are not restricted to the married couple; they extend to their family and indeed to the whole community in which they live. That is why it is given great importance by the society, and why it meets with the special concern of all those whose lives are directly or even indirectly affected by it.

#### FREEDOM IN SELECTING A MATE

Each of the partners is to choose his mate while fully cognizant and certain of the choice he is making. Islam allows a man to see his betrothed and talk to her, and allows the same right to the woman, so that each might become acquainted with the future mate's characters as well as his or her temperament and tastes. Thus the contract would be concluded only when the couple are satisfied that there is nothing to obstruct this partnership and that they are ready to enter into it gladly and willingly — with love and affection.

## DISAPPROVAL OF TRAVEL BEFORE CONCLUDING THE CONTRACT

To be sure, Islam allows the prospective groom to see his betrothed and talk to her; but it does not however sanction today's permissiveness, i.e. unchaperoned association with the fiancée or travel with her as soon as the engagement takes place, before the contract is formally concluded to the satisfaction and with the assent of both parties. Travel in this case may be attended by serious consequences that far exceed the possible advantages to be obtained therefrom.

## DEPENDENCE ON INTEGRITY

In the choice of a partner, Islam stresses that material wealth and meretricious appearances should not be the first consideration. On the contrary, the chief consideration should be strength of character, kindness and moral rectitude. For therein lies the path to a happy, wholesome life.

The Holy Qur'ān says: "And one of his signs it is, that He hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you. Herein truly are signs for those who reflect" (Sura 30/21). The object of this verse is to show that among God's blessings to man is to give him a mate in whom he can confide and with whom he can enjoy a life governed by love, mutual affection and loving-kindness.

The Prophet is reported to have said: "Shall I tell you what is the best thing for a man to treasure up? A good woman who would be pleasing to him to look at, would stand up for him in his absence, and would obey him if he commands (her)."

## EQUALITY OF RIGHTS

The Qur'ān declares: "And it is for the women to act as they (the husbands) act by them, in all fairness" (Sura 2/228). In other words, women have rights over men just as they have responsibilities towards them, in accordance with accepted norms and customs and provided the exercise of such does not break any of the basic principles of Islam.

The religious doctor (Imām) Abū Yūsuf said: "I deck myself up for my wife just as I like her to deck herself up for me, pursuant to the noble verse." Some scholars are of the opinion that the verse referred to points to the reciprocity of obligations existing between

husband and wife in the way of obedience, good faith, loyalty, loving-kindness, affection, respect, trust, honouring, protection of interests, etc. The term "*bil-ma'rūf*" signifies all accepted and recognized rights, in accordance with the recognized convention and to the extent sanctioned by usage. This is not with reference to any particular custom and manner of a certain age or period, but on the understanding that change and development will be subject to conditions of life in an evolving society, with the general rule that anything which the religious law allows is not to be prohibited, and anything which it prohibits is not to be allowed. Commenting upon this verse, the savant Rashīd Riḍā said: "This phrase gives the husband a standard by means of which man can test his conduct in all his dealings with his wife in all circumstances."

#### SEEING THE BETROTHED

God says: "... of other women who seem good in your eyes, marry..." (Sura 4/3). The Prophet counselled: "If any of you proposes to marry a woman and can see for himself what induces him to marry her, then let him do so."

Another tradition relates that al-Mughīra, who became engaged to a certain woman, was asked by the Prophet: "Have you had a look at her?" The man said: "No" the Prophet then counselled him saying: "Have a look at her, it is more worthwhile that you should be known to each other."

Khansā' al-Anṣāriyya, previously married and divorced, was again given in marriage by her father. She disliked the match, and reported to the Prophet. He nullified it. Another woman, the daughter of Bakr, told the Prophet that her father had given her in marriage against her wish. The Prophet gave her the option; to proceed with the arranged marriage or to go back on it. Thereupon the woman declared that her only object in protesting the match was to show that fathers do not have any control over their daughters' affairs. Then she assented to her father's arrangement.

All this goes to show that if the woman is not satisfied with the husband proposed to her, either in the way of looks or general behaviour, then no one can force her to marry him.

#### NUBILITY

The various schools of theology in Islam accorded to the fathers the right to marry their children, male or female, if still young, and

to conclude the marriage contract on their behalf which contract will remain binding even after the couple attain majority and grow older. However, increasing marriage responsibilities and the greater obligations to be borne by each partner, towards their children as well as towards their community have shown that the marrying of young people is fraught with hazards. One of the chief points of criticism levelled against early marriages is that both husband and wife cannot exercise the right of choosing their partner.

When they grow up, they discover that they have been saddled with a mate who might be incompatible with them in character, habits or inclinations. This state would in all likelihood lead to differences and complications, resulting either in the breakup of the marriage relationship or continued strain and tension since the relationship lacks the requisite ingredients of affection and trust. The problems of such a married life would keep on growing until they reach alarming proportions, leaving their mark upon parents and children as well as upon the society. Another unfavourable aspect of early marriages is that the too young wife might be exposed to danger as a result of early pregnancy, while the newborn child would be more vulnerable to disease and illness.

These and other hazards have led men of learning and understanding to seek a way out, in the light of the general principles and rules of Islamic law. The first to deal with this problem was the government of the Ottoman Caliphate, just before the First World War in 1914, when it laid down a law known as the 'Law of Family Rights' in accordance with which the age of fitness for marriage for the husband was fixed at eighteen and that of the wife at seventeen. This law was based on the interpretation by certain authorities of Islam of the following passage of the Qur'ān: "And make trial of orphans until they reach the age of marriage; and if ye perceive in them a sound judgment, then hand over their substance" (Sura 4/6). Puberty was seen as a prerequisite of marriage, and according to Abū Ḥanīfa, man attains puberty at eighteen and woman at seventeen.

This law was promulgated in all the countries that were subject to the government of the Ottoman Caliphate among which were most of the Arab countries such as Palestine, Syria, Lebanon and Iraq. The same idea adopted by the Egyptian government, which issued a special law thereon in 1929. Other countries followed suit, with slight variations. Laws pertaining to the family in Islamic countries

developed in accordance with the conditions and circumstances prevailing in each Islamic state. The Jordanian government enacted the 1951 Family Law No. 92, which marked a great improvement upon the Ottoman Family Law. Similarly, each of the following countries: Syria, Lebanon, Iraq, Egypt, Sudan, Tunisia and others instituted special laws of their own, reflecting a distinct improvement upon preceding laws as well as an attempt to solve the problems of the family, with the interests of all members of the family in mind. These laws were based upon the studied opinions of the responsible authorities in those communities, who were mindful of the conditions of the peoples living there and were guided by the precepts of the Muslim schools of theology as well as the sanctioned legal opinions of the Muslim jurists. Jurists and thinkers have not ceased to look into the conditions and problems of married life. They increasingly tend nowadays to incline towards the more progressive and reform-minded elements seeking throughout to fulfil Islam's aim of assuring an honourable, happy married life based on true partnership, spiritual trust and confidence.

#### DIVORCE

Although Islam's prime concern was to insure an enduring and a contented married life, it nevertheless realized that there might arise causes for the discontinuity of marriage, when it would be futile to insist on its preservation. In such cases, dissolution is more desirable than its continued existence; hence Islam's institution of divorce, which, of all lawful things, is declared to be the most abhorrent to God, thereby placing a check on it. According to a tradition related by 'Umar, the Prophet was reported to have said: "The most hateful of lawful things to God is divorce."

In another tradition related by Abū Mūsā, the Prophet said: "Women must not be divorced save for a scandal." In a third tradition, related by Thawbān, the Prophet said: "Any woman who asks her husband for divorce without real grievance shall be denied the delight of Paradise."

If it be conceded that marriage is one of the society's chief worries and concerns then it must be granted also that the dissolution of marriage and the increasing number of unjustified divorce cases are sufficient cause for its equal worry and concern, since they undermine it and impair its stability and cohesion. Islam was criticized for allowing divorce, but before long a great many states realized

Islam's underlying wisdom, and proceeded to enact special laws to allow divorce, hitherto anathematized and for so many centuries. The last country to enact a special law for authorizing divorce is Italy, following a hundred years of deliberation and indecision, an indication that numerous societies in the world have finally awoken to the fact that the dissolution of marriage in certain cases is in the interest of all concerned.

#### MAN'S SENIORITY

Islam has made the wife mistress in her husband's home, to take charge of its affairs and look after the upbringing of the children; a role she is most fitted for by reason of her tender heart and affection. The Prophet said: "The wife is in charge of her husband's household and responsible for those in her charge."<sup>1</sup> But it has given supreme headship over this little society to the husband, by reason of the responsibilities imposed upon him, financial or otherwise, with a view to giving him the opportunity to be interested in the continuance of married life and to protect it from danger and collapse, this guardianship having absolutely nothing to do with the wife's absolute right over her own property or fortune, whether proceeding from an inheritance, or from the dower paid her by her husband or from her own exertions and work. With this principle in mind, Islam has placed divorce in the hands of the husband which the law empowers him to avail himself of it in cases of absolute necessity.

Since however, certain husbands might act irresponsibly, availing themselves of that right through whim or caprice, or through cruelty and unfairness to the wife, either with the intention of squeezing her fortune or for personal designs, Islam has allowed the wife to insist on her right to divorce in the marriage contract, allowing her also to appeal to the judge in numerous cases, to have her marriage dissolved. In Jordan, for instance, marriage may be dissolved through:

i. Inability on the husband's part to pay the dower agreed on, or due for payment, prior to the consummation of the marriage (Article 55 of the Law).

ii. Harm done to the wife in consequence of her husband's absence without valid reason for a one-year period (Article 89).

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<sup>1</sup> This does not mean that woman is precluded from undertaking any other task, so long as her marital duties and responsibilities do not suffer as a result.

iii. The husband being sentenced to a three-year prison term, having spent one year of the term in prison (Article 93).

The law cites other causes which entitle the wife to be released from her husband, e.g., cruelty or unfairness.

Other Muslim countries, such as Egypt, the Sudan, Syria and Iraq have adopted similar legislations, indicating the development of legislation on family affairs and highlighting the serious attempts made in solving family problems relying on Muslim juristic opinion as well as deferring to what is more favourable to the times and to circumstances.

The development of a spirit of public responsibility and the march progress as well as the abuse by certain husbands of their divorce right have led the Tunisian government to take a bold step, namely, a reinterpretation of the laws on divorce, based on the spirit rather than the letter of the law. Chapter 30 of the Personal Status Code lays down that divorce can only take place in a law court. This is on the assumption that divorce is a remedy and not a malady.

Consequently, both man and woman have the opportunity to resort to the courts when seeking a divorce, should either of them feel there are justifiable grounds for that step. The court decides on each particular case; it also designates the injured party in the divorce suit and decrees a suitable compensation to be paid to him (or her) as shown in the last clause of Chapter 31 of the Personal Status Code.

Many leading authorities believe in the advisability of adopting such a measure to restrict the rashness of either partner in bringing about a divorce for no valid reasons.

All the same, a statistical study, carried out ten years after this legislation was first put into effect, shows that divorce cases have increased, showing thereby that the legislation was not instrumental in reducing divorce. Recently, a broad social investigation, the first of its kind in the world, was undertaken. It took the cases of 30,000 men and women from Belgium, West Germany, Poland, Peru, Yugoslavia, the U.S.A., Bulgaria, Czechoslovakia and Hungary. Leading sociologists participated in analyzing the results obtained, particularly the Hungarian Professor Caroli Varga. Results showed that in the countries in which husbands were away from their wives for a longer period, divorce cases were greater and that the best way to establish harmony and compatibility between the couple is to have more give-and-take and discussion at home, etc.



The study also showed that the industrial nations are gradually shifting away from the old pattern of male superiority to the modern pattern of 'equality between the sexes' and that this concept of equality has become one of the factors of the breakup of marriages. So long as man in the older societies enjoyed a status of superiority over woman, and so long as he felt morally obligated to protect and guard her, he used to hesitate a great deal before he ventured to dissolve marriage through divorce.<sup>1</sup>

### PLURALITY OF WIVES

There is no doubt that the best and ideal marriage is one in which man restricts himself to one wife, with whom he shares joys and sorrows — a marriage in which the couple join in managing the affairs of the family, solving its problems, bearing and bringing up children and preparing them to be good, responsible and helpful citizens of tomorrow.

When Islam arose, plurality of wives was prevalent, among Arabs as well as among other peoples. It was not limited to a fixed number. Islam decreed a maximum of four, which was not to be exceeded. But did that mean that husbands were to indulge their whims or passion by taking any number of wives or was it not rather for the purpose of treating an abnormal social situation? There can be little doubt that Islam in its legislation sought to resist indulgence of passions and to remedy social situations in the best manner possible. There are two verses in the Holy Qur'ān related to the question of plurality, the first in the context of dealing with the subject of orphans: "And if ye are apprehensive that ye shall not deal fairly with orphans, then, of other women who seem good in your eyes, marry but two, or three, or four; and if ye still fear that ye shall not act equitably, then one only" (Sura 4/3). The second verse is on the reconciliation between husband and wife should difference arise between them: "And you will not have it at all in your power to treat your wives alike, even though you fain would do so" (Sura 4/129).

Commenting on the two verses, Sheikh Muḥammad 'Abdō said that whoever reflects upon these two verses would know that plurality is not countenanced except in cases of extreme necessity, and for good reasons to justify it.

<sup>1</sup> *Al-Dastūr* (Jordan), September 8, 1971.



### GROUNDS JUSTIFYING PLURALITY

Let us bear in mind that the Islamic law was prescribed for all kinds of people and races, the red, the black, the white and others; some of these people are swayed by their passions and sensual desires who, if deprived of their freedom to marry more than one wife, will be driven to seek satisfaction by having extra marital relations with other women, against the law — a situation of far graver consequences and attended by greater dangers. There are besides emergency situations in which the numbers of women far exceed that of men, particularly in the wake of wars. So what do we do with this surplus number? There are cases in which women are sterile owing to an inherent physical defect, but the relations between man and wife are good. Yet the husband would be forced to divorce his wife if the alternative of plurality is blocked, and if the husband wants to have children. We know of several instances in which women placed in such a predicament try to persuade their husbands to take another wife, to save their own marriage. I recall that in Ghana, where there is a law authorizing plurality, the Government in power there a few years back sought to restrict this plurality or prohibit it altogether by passing another law to that effect. The bill was submitted to the National Assembly; surprisingly, the women-members in the Assembly proved to be the stoutest opponents to the bill, insisting on the retention of the system of plurality as a remedy for the extra number of women.

Several years ago also, a delegation came from Western Germany to meet the head of Al-Azhar to discuss with him the system of plurality of wives in Islam with a view to applying it in Germany in an attempt to solve the problem of the surplus of women resulting from wars. Similarly, the well-known social reformer, Herbert Spencer, after understanding Islam's real view of the plurality of wives, gave it due credit and appreciation.

The idea that the plurality of wives should be restricted and made subject to conditions arose in the Islamic countries around 1926, and it was felt that the decision thereon should be left to the judge. The judge would only allow plurality if he were convinced that there were justifiable grounds for the step and that the husband was capable of treating equitably his wives and of maintaining both adequately. The Tunisian government adopted the principle of restricted marriage and made it compulsory, while Syria adopted it on a voluntary basis in the Personal Status Code. The Egyptian government, however,

as well as other Arab governments have not yet made a move in that direction.

What is important however, is the fact that the practice of plurality of wives has greatly lessened as a result of the spread of education, a greater sense of religious perception and an increased appreciation of conjugal responsibilities and of the evils resulting from plurality. Consequently, cases of polygamy have become relatively rare. In short, it has generally become accepted that plurality should not be ventured upon unless there are occasions for it, for such a step would be unfair to the first wife and would expose the children to a situation of discord and strife — all of which is directly opposed to the teachings and general principles of Islam.

#### THE MANDATORY TESTAMENT

The text of the mandatory testament as it occurs in the law is an innovation in modern Islamic jurisprudence on the part of legists to deal with one of the problems of the family — a problem which, according to most opinions, should be remedied. This problem is that of the grandchildren whose father or mother dies while their grandparents are still living, and then either of the grandparents dies later on. According to the laws of inheritance in force in most Islamic countries, these grandchildren have no testamentary right to any share of the inheritance left by either grandparent, if they have uncles or aunts still alive, although these grandchildren may happen to be indigent and their uncles and aunts on the other hand may be well-to-do.

Legislation on this question was instituted for the first time in Egypt in the 1946 Law No. 71, which declared that the child whose father or mother died while either of their parents are still alive is to be granted a mandatory testament, to have legal force without right of appeal, giving the child a portion equal to that of his father or mother. The Syrian Personal Status Code later followed suit, with a similar law in 1953, slightly different in some of the provisions and with a statement to the effect that the mandatory testament is not unrelated to the Islamic jurisprudence, but that it rests on a Qur'anic principle and on the collective opinion, of jurists.

The Qur'anic principle invoked here is: "It is prescribed to you, when any one of you is at the point of death, if he leave goods, that he bequeath equitably to his parents and kindred. This is binding on those who fear God" (Sura 2/180).

Certain jurists are of the opinion that the testament is mandatory in the case of the parents and the relatives who do not inherit in accordance with the Qur'anic verse; others feel that it is mandatory unconditionally in the case of parents, relations who do not inherit, and others. Moreover, this testament is mandatory from a religious point of view; if a person neglects to leave a testament, he will have to account for his remissness to God in later life and pay due retribution. His heirs however, are not obligated to leave a portion of their inheritance to them.

The Imām Ibn Ḥazm, however, was of the opinion that it was not only a religious but a judicial obligation. If no portion of the inheritance is willed, then his heirs or the administrator of the inheritance should allow a proportion of it for them.

At any rate, the fact that this idea took practical shape and that a way out based on Islamic jurisdiction was found to solve this particular problem is a clear proof of the development of Islamic jurisprudence, its wide scope and flexibility and its suitability for all times and places.

#### OTHER RIGHTS

Islam assigned for each member of the family rights over the others, to be determined by the degree of closeness of kinship. Each member of the family has to give aid and assistance to any of his needy relatives, so that the group may have full co-operation and harmony. The Prophet said: "The best of you is the best to his wife and I am better than you to my wife." "And to him who is of kin," the Qur'ān enjoins; "render his due, and also to the poor and to the wayfarer; yet waste not wastefully" (Sura 17/26).

#### RIGHTS DUE TO THE PARENTS

Islam abounds with instances enjoining respect and obedience by the children to their parents, on account of the great benefits they conferred upon the children. Numerous passages in the Qur'ān and numerous sayings of the Prophet seek to impress it upon the mind. The Holy Qur'ān says: "Thy Lord hath ordained that ye worship none but him; and, kindness to your parents, whether one or both of them attain to old age with thee: and say not to them, 'Fie!' neither reproach them; but speak to them both with respectful speech; and

defer humbly to them out of tenderness; and say, 'Lord have compassion on them both, even as they reared me when I was little' (Sura 17/23-24).

A man asked the Prophet: "Who is most deserving of friendly care (from me)?" he replied: "Your mother, then your mother, then your mother, then your father, then your nearest relatives in order."

#### RIGHTS DUE TO THE CHILDREN

1. They should be provided with food, shelter and clothing.
2. They should be provided with the proper medicaments and treatment if they fall sick.
3. Means of education should be made available to them.
4. They should be properly brought up and disciplined and taught to do good and be of good morals.
5. They should be treated equally, no distinctions being made between the males and females.
6. The parents should set a good example to the children to help them better to understand their duties.

God says: "O believers! save yourselves and your families from the fire..." (Sura 66/6); for only through discipline and good upbringing can one escape divine punishment, as Imām 'Alī said.

The Prophet said: "He who has a female child and does not bury her alive, nor does he oppress her or give preference to his son over her, will be admitted to Paradise by God." The Prophet also said: "Lend your aid to your children to do good."

Al-Nu'mān b. Bashīr's father wanted to confer upon his son a portion of his fortune as a special gift. When the Prophet was asked concerning this, he turned to al-Nu'mān saying: "Did you deal equitably with all your children?" Al-Nu'mān said: "No"; and the Prophet then said: "Fear God and deal equitably with your children. Wouldn't you want them all to show filial kindness to you equally?" Al-Nu'man said: "Yes." Then the Prophet advised: "Then no."

Islam enjoined charity to relatives; it urged that they should be helped, visited and kept in contact with — duties imposed upon us by what the Prophet called the 'kindness to womb-relatives'. Responsibilities towards kinsmen are not to be based on the principle of reciprocity; on the contrary the initiative should be taken in doing good to our relatives. Not only that, but should any of them abuse us

or bear us malice, we should reciprocate with kindness. Hence the Prophet said: "He is not truly kindly to his womb-relationships who does kindness only in return; rather, he is the one who joins ties of womb-relationship (on one's own initiative) if ever they come apart."

#### CONCLUSION

Just as Islam has laid reciprocal responsibilities on kinsmen, it has similarly enjoined them to deal kindly and charitably towards one another, stressing in particular the spirit of friendship and neighbourliness, for only thus can the good society come into being.

The Prophet said: "By God, he cannot be a believer (three times)." He was asked: "Who, O Prophet of God?" The Prophet answered: "He who does not let his neighbour be safe from his evil deeds." The Prophet also said: "The merciful will have mercy from God. Have mercy on the people of this world, and you will have mercy from Who is in heaven."

The rights due to kinsmen, however, should not be such as to encroach upon the rights of others, or be observed in fanatical blindness to those rights. The Prophet advised against bigotry and clannishness, though he showed that to do good to one's own people in proper measure is not clannish. The Muslim, however, has to reach out beyond the clan and be ready to do good to all people, to deal fairly with others and to respect their rights, even though they be the rights of enemies. The Qur'ān says: "O believers! Stand up as witnesses for God by righteousness: and let not ill-will at any, induce you not to act uprightly. Act uprightly. Next will this be to the fear of God" (Sura 5/8).

The Muslim cannot commit perjury even against his enemy, nor encroach upon someone else's right, nor help others in transgressing the rights of others. The Prophet said: "All creatures are God's charges, and he who is dearest to God is he who is most useful to His charges." Another tradition says: "The best people are the most useful to people."

The Prophet also said: "Every good turn (done) is a charity." "Supposing a person has nothing to give, O Prophet of God?" the people asked; the Prophet answered: "He would work with his own hands, benefit himself and give alms." "Supposing he cannot do that?" they asked. He said: "He would lend assistance to whoever

is in sore need of it." "Supposing he cannot do that either?" they asked. He said: "He would advocate the doing of kindness and counsel good action." "Supposing he cannot do even that?" they asked. He said: "He would forbear from doing evil; that would be a charity."

We may conclude that Islam sought to create small units of society such as the family. These units form the base and foundation of larger societies stretching degree by degree to encompass the whole society of mankind — a society where concord and goodwill would prevail, resting upon the firm basis of justice and observance of the public right, where the strong do not prey upon the weak and where each has access to his rights in an atmosphere of peace, security and mutual respect.





# MUSLIM OUTLOOK ON THE FAMILY IN A CHANGING SOCIETY

BY

MAFTUCHAH JUSUF

As I am not a sociologist or economist, excuse me if I am not going to be academic in my approach. My intention is only to give to the readers some background for understanding how we, Muslims in Indonesia, live. Indonesia is not a Muslim state. But with the rightly educated and dedicated Muslim leaders, both male and female, Islam can still become the inspiring and leading factor in the national development.

I do hope that other Muslim countries, which are fortunate in having special opportunities in developing Islamic concepts, can help Indonesian Muslim leaders to face their gigantic task; i.e. to keep intact and to maintain the Islamic law (Shari'a).

## PICTURE OF INDONESIA'S CHANGING SOCIETY

When talking about the changing society in Indonesia, we like to draw a distinction between two kinds of society, the changing agricultural society in the villages and the changing urban society in the cities. As agriculture occupies the central place in Indonesia, where 85 %-90 % of its population live on agriculture, the focus of this talk will be on the changing agricultural society to be found in approximately 60,000 villages throughout Indonesia.

People of the cities and urban population generally have undergone changes even more rapid and intensive as a result of their direct contact with modern political, social, technical and cultural influences.

But what are the changes that agricultural societies are undergoing and have so far undergone, from the *traditional society* in its fullest sense — a society dominated by traditional attitudes and superstition, strict religious laws and views, feudal social relations and

methods of agriculture — to a *modern commercialized* farmer's society, through a *transitional society* — a society where people already use the benefits of modern technology and economy but still hold fast to the traditional ways and values.

PORTRAIT OF TRADITIONAL SOCIETY AS FOUND IN INDONESIA (soon after World War II)

A portrait of traditional society as was in existence in many of the 60,000 villages in Indonesia shows a village society composed of Muslim peasant families who still live the lives of their ancestors of three hundred years ago, who from infancy have known poverty, misery, the harmful consequences of malnutrition and all types of diseases, who live in conditions lacking in comfort and sanitation of any form, people who probably have once in their lives attended an elementary or religious school for two or three years. These people have never seen a world other than their own, dominated as it is by traditional and orthodox religion as they understand it and social laws and customs, pervaded by superstition and occultism.

They belong to the national sector of orthodox Muslims who have learnt how to read the Holy Qur'ān parrot fashion without understanding what they are reading, how to pray, fast and to perform religious rituals, but who have not learnt that the Sharī'a prescribes directives for the regulation of people's individual as well as collective life. They have not been brought up with the belief that besides the performance of religious rituals and duties there are other important duties to be carried out, namely, duties relating to morals, customs, family relationships, social, cultural and economic affairs, administration, rights and duties of citizenship, judicial system, laws of war and peace and international relations, and still other subjects embracing all departments of human life. They have not been told that life-mundane, is as important as life-spiritual.

The society they know is the village society, isolated as it is culturally, socially and economically, and dominated by its traditional system of relationship and handicapped by the prevalence of fatalism, blindly believed in.

Half paralyzed by more than 350 years of colonial rule, which purposely kept these groups in this world of distorted fanatic isolation, the Muslim peasant families are brought up to believe that by performing the religious rites, paradise in the life hereafter will be awarded to them. They are happy and content with a life at starvation level,

without any prospect for political, social and economic improvement. Until today this way of thinking is still predominant among Muslim families. Together with the prevalence of fatalism, this way of thinking has moulded many of the Indonesian Muslim village-families into becoming passive, ignorant, fanatic and isolated individuals and groups. But there is also a positive side of this kind of upbringing; i.e. the great patience and endurance together with the highest sense of family and social solidarity, the virtuous obedience concerning hierarchical relationship, dignity, and pride and the disposition to feel happy and contented; virtues which are not easily to be found in modern societies.

#### THE PICTURE OF A TRANSITIONAL VILLAGE SOCIETY

To this kind of village society, change has come variously. Especially after the proclamation of Indonesia's independence in 1945, village societies were introduced to the various aspects of modern technology, in the form of railroads, motorcars, radio-transistors, fertilizers and to different kinds of political, cultural and economic patterns of life. Their so-long preserved isolation was broken; modern life with all its aspects started to change the village society's pattern of life.

This change has come in some villages slowly, but in most of them rapidly. The village family conservatism has been penetrated and this change has brought about various types of response, such as: the demand for better food, housing, clothing, health care and better education, insistence on equal rights, women's emancipation, better recreation and other enjoyments of cultural life.

These transitional peasant families now become strange mixtures of the new and the old. They live in a society which is aware of the modern world, of elections, newspapers, cinemas and tractors; but they are trying to hold firmly and tenaciously to traditional attitudes and strict religious laws and views. They want to maintain the security of their farmer's isolated and traditional life, but want at the same time to benefit from modern life. As a result, a young village generation has sprung up seeking other social, religious, political and economic opportunities.

For such village-families as have left the secure life of the village for a better living in the cities, these changes are more intensely felt. These urbanites, now counting millions in the cities are originally

the village people who, because of the shortage of labour opportunities in the rural area, the parcellation of available land, the absence of any form of recreation, now crowd the slums of the cities. These migrants who left their relatively secure village life for the prospect of a better and richer city modern life have already become, on top of unemployment, frustrated and depressed. They feel they have been led up the garden path. They are people without any technical skill of any use for employment, with nothing to recommend them except their bare hands and their eagerness for work, almost without the least comprehension of what the urban housing problems and social relations involve. They come to the cities, complete still with their traditional attitudes, values and religious norms and concepts, only to find out that in the cities all is vain and worthless and what a shock! What is most adversely affected is their religious way of life. Being confronted with and exposed to the city's wiles and deceptions the religious ex-villager tries to hold on to his orthodox religion, as for instance, in the case of marriage and women. Shocking obscene cinema advertisements which, in the villager's minds, are Satan's work, trouble their peace of mind. William McCord, in his *The Springtime of Freedom*, maintains that in the Middle East polls indicate that 50 % of young urban migrants abandon their Islamic beliefs. In Indonesia these urbanites belong to the group of Muslims who are only Muslim in name, but who in their way of life, do not subscribe to any rule of the Islamic Shari'a. It should be noted here that 85 %-90 % of the Indonesian population are Muslim, of varying degrees of faith. In Indonesia, with the 'Pantja Sila', the Five State Philosophical Principles, belief in God is the first principle and no one can call oneself an atheist.

In short the changes both in the rural, as well as the urban family life in the social, religious and traditional values together with political, educational and administrative implications have gradually, but in cities drastically, altered the Indonesian's attitude and behaviour towards the traditional pattern of life, a change which if well-channelled can benefit the country, but if left adrift can destroy the nation's sense of dignity and pride.

#### THE MUSLIM OUTLOOK ON THE FAMILY IN A CHANGING SOCIETY

As these agricultural and urban families, go through the transitional stages of changes with their psychological and material

frustrations and disturbances, as a result of these changes, one wonders what the Muslim outlook really is on these phenomena. A brief explanation will suffice to understand the situation. As stated above, the majority of Indonesians are Muslims. Islam was brought into Indonesia by peaceable merchants from India, and through evolution it has become the religion of the majority, though Hindu influence is still noticeable. During the Dutch colonial rule, the Muslim religion was allowed to remain passive, the Dutch benefitting from the Muslim conservatism and fatalism in their policy of 'divide et impera'. Religious schools, distinct from the public elementary schools, taught Muslim youth to believe that Islam consisted only in how to perform religious rites in order to be rewarded with paradise in the life hereafter. Those educated in public schools became the intellectuals, but without the fundamental religious mental and moral outlook. The mosques became only symbols of these hollow rites, with religious *khuṭbas* or sermons read out in Arabic, incomprehensible to the people. The position of the *'ulamās* or religious leaders became most dominant and decisive in the isolated society, but unable to stand up to the challenge of modern times, or to confute the wrong interpretations put on Islamic teachings. Islam in Indonesia in 1900 was reduced to a static, orthodox, passive ritual religion. The development in other Muslim countries, however, helped a little in enlightening the Muslims, as in the case of mission from Cairo. Some enlightened leaders then established the modern Muslim organizations like that of the Muhammadiyah, the Aisjah and other organizations which aim to purify the Islamic religion and try to make Islam into a dynamic, all-embracing religion. Schools teaching subjects of public interest but with an Islamic bias were opened, religious *da'was* or campaigns were carried out to tell Muslims what to do in holding on to the *'amr bil ma'rūf wal nahī 'anil munkar* way of Islamic life. Hospitals and orphanages were founded. The Qur'ān and the *ḥadīth* were taught with explanations in the Indonesian language, mosques were built, and the *'khuṭbas*', after the prayers were given in the vernacular. This movement met with vigorous opposition from the orthodox *'ulamās*, who accused those enlightened Islamic leaders of trying to pervert the Qur'ān and the *ḥadīth*. Thus quarrels among Muslim groups started, with signs of disintegration in Muslim communities. After the proclamation of Indonesia's independence, attempts were made to unite these groups again, but without success. And because of this disintegration the position of the Muslim groups now has been

reduced to one with too little say in the political, social, economic and cultural development of the country. The majority of the Indonesian Muslims do not see any longer that Islam can bring to them the so much desired improvement of living, the enjoyment of living in a modern world, education for their children and security for old age.

This short explanation is needed to understand now what the role should and could be of Islam in these changing societies, but this role seems to be reduced in Indonesia to a cry in the wilderness.

Muslim groups and organizations, having realized the dangers of complete secularization, have come to see that to challenge this danger can only be done by unity and by a systematic and scientific approach in reviving the basic concepts of Islam in the political, social, educational and cultural fields of the country. This is too gigantic a task to be undertaken. Internal and external opposing factors are innumerable, but without these attempts, Islam faces a bleak prospect in Indonesia.

In the Islamic social order, the family unit forms the most fundamental institution of human society. The family, consisting of husband, wife and children is the institution which will provide human society with the rising generations for the maintenance and development of human culture.

The family is the source of progress and prosperity and the mainstay of human civilization. Hence intensive and most extensive attention is devoted, to the protection of the family, by having it founded on solid and durable foundations. God's laws on marriage, which regulate divorce, and the husband's and the wife's rights and their duties and responsibilities, are clearly set forth in the Holy Qur'ān and in the *hadith*. The observance of these laws is a must for a good Muslim family.

But what happened was that through ages of external and internal influences and through misconstruction, most of these laws have become distorted and perverted. A good example is the laws of divorce and the rules relating to the position of the husband as to the authority assigned to him, which should be used in the context of love and affection, and not on the basis of tyranny and oppression.

In these transitional stages of family life, modern social, technical and cultural influences have shaken the very foundations of this institution with regard to morals, habits, family relationships, and rights and duties of family-members. To mention only a few examples: the urbanization evils in the cities with all their demoralizing effects

on people's characters, the shortage of housing resulting in open clashes between parents and grown-up children, the temptations offered by pornographic pictures and literature, gambling and striptease shows and all these are open to the youth who have no means of recreation or entertainment in their one-room homes and face temptations of some well-paid public jobs etc. etc. Fortunately these influences have not yet reached the village Muslim society, but it will not be long before this happens. The Muslim organizations, thanks to their leaders, have taken steps to put a stop to all this; but instead of the evil, being on the decrease, it seems that it is always on the increase in spite of all protests.

They should combat it not with protests but with positive steps, and show that the Islamic concepts are still better and that all social, economic and cultural development without a firm religious moral foundation will only destroy the highly appreciated and desired sense of dignity, pride and happiness.

#### THE ROLE OF ISLAM IN THESE CHANGING SOCIETIES

The first sphere which demands immediate attention is that of urbanization, created by the village population explosion and migration to the cities. The Muslim attitude towards human reproduction must be altered and this is a duty laid upon the shoulders of Muslim leaders. By attacking the urbanization problem only from the moral point of view, and by the use of threats or promises, to avoid God's wrath or to gain His pleasure, and other forms or warnings and blandishments, the Muslim leaders will not alter or remove the evils of urbanization. Thousands will still continue their exodus to the cities, where they crowd in hovels in the slums and infest the gutters, with all the demoralizing consequences which shock the Islamic world and at a standard of living second to none in its depression. The Muslim leaders should find verses like verse 233 in al-Baqara, and explain these in a language easily comprehensible by the village people to show that Islam wants men to be responsible parents and to be able to know how they should behave in these changing transitional societies.

The facts show that the Muslim leaders are still opposing family planning, with the argument that it is against the will of God. If the Muslim leaders fail in these matters, the evils and demoralizing effects of population explosion will swallow up all that has remained of the known Muslim teachings. Even now leaders of Indonesian

Muslim women have to work very hard to combat the attraction of professions which are an open outrage to Islam's moral traditions. With what weapon can these women leaders then attack this evil if the number of unemployed keeps rising each year? If only these Muslim leaders could be fully convinced of the vital urgency of combatting the population explosion, the path for family planning as a prerequisite for better living would be smooth. Experience has demonstrated, that the voice of these Muslim leaders is still a decisive factor in matters of marriage and procreation.

The second step should be the education of these village-families to take into their own hands the responsibilities for ensuring the social and family welfare, and not submit to fatalistic views, taking vigorous steps to improve their own political, social, cultural and economic conditions. To achieve this, the Muslim leaders should come forward with a positive concept of village-development welfare programmes, on the basis of Islam's teachings, to guarantee in this way that modernization does not mean the destruction of religious and traditional culture. The traditional way of *da'wa* (preaching), stressing as it does achievement of paradise in the life hereafter and neglecting by that the significance of welfare in their life here and now should be immediately altered and made to accord with the demand of the people for better living. The failure of this will only swell more and more the numbers of the disappointed Muslim groups who find themselves compelled to abandon their religion.

The third step is to find the right means to achieve family and social welfare. The first to be thought of is to provide the necessary education both in school and out of school, an education which systematically and gradually changes the family's attitude and behaviour from its traditional outdated customs, views and values and replace them by suitable ones, favourable to progress in the political, social, cultural and economic fields, without at the same time disregarding the concepts of Islam. The awakening of these people and turning them into people motivated by a consuming interest in this world, with all its processes, laws and constructive movements, should be channelled through Islamic concepts and aimed at in educational programmes. The latest census data show that out of approximately 28 million school age children in Indonesia, only 13 million attend school. Because of the shortage of schools and the big percentage of dropouts, there are now millions of people approaching adult age or already adult, who have had no schooling at all. Muslim gatherings



for religious instruction are easy of access to villagers and with little cost. In their attempt to hold on to their religious conventions, these people attend voluntarily the religious gatherings. If these collective instruction efforts could be transformed into regular, systematic educational courses, where people can be taught to master one or two technical skills, like raising special crops or certain breeds of poultry, or handicrafts etc. etc., in association with special instruction in Islamic concepts of moral, social and economic advancement, then the role of Islam in rural development would be real and assured. Failing to do so, the Islamic concepts in the moral, social, cultural and economic fields will be shut out of the development process.

Another important feature to be noted also is the size of the female population. 52 % of the population of Indonesia is made up of women, out of which 85 %-90 % are Muslims. The Indonesian Muslim women are luckier than their sisters in some other Muslim countries. Their equal rights have been guaranteed under our constitution. They have voting rights to elect and to be elected; all schools are open for them; employment opportunities are equal with men; administrative occupations are open to women; they have the same rights and duties in defence; and so on.

But constitutional guarantees do not mean much if women are not educated to live up to those rights and duties. In Muslim rural families where the man is still the decision-making and dominating figure in family affairs, the role of the wife and the daughters is secondary and of no consequence grossly dissimilar to that of the husband and the sons. In addition, religious matrimonial laws have been distorted to suit the man's love of dominance, especially in matters relating to polygamy and divorce. This distortion has given rise to the impression that Islam allows wives to be treated capriciously by their husbands, which is not true.

If Islam is to play its role in the political, social, cultural and economic development of the country, and if it is to fulfil this role effectively, then the woman-factor cannot be ignored. For how could Muslim men and women leaders fail to include these 60 million Muslim women in the national development programme, considering that the Indonesian Muslim woman has already woken up from her long slumber of passivity and has passed over to an active role with insistent demand for permission to exercise her rights in equality with the man and to reap the fruits of these rights? In the last 10 years, Muslim women intellectuals have been trying hard to get a marriage

law passed by the Indonesian Parliament. It is hoped that this will come to pass in the near future.

As social and family welfare is the immediate concern of mothers, wives and daughters, the Muslim leaders should urgently come forward with educational and social programmes to protect Muslims against becoming an easy prey to the external enemies of Islam. Studies and observations for instance, have shown that, in matters of population growth problems, these programmes will be much more likely to succeed if the wives decide for themselves how many children they want and when they want them.

The problem of turning these female human resources into productive manpower should also be solved according to Muslim ideas, taking into consideration the Islamic laws on women labourers. To stop woman from working is not possible. The thousands of hostesses, beauty queens and so on have already given the alert to Muslim leaders to get ready and do something about it.

As the success of the country's development depends on the modernization of economic programmes, in Indonesia's National Five Year Plan, emphasis has been laid on:

1. The increase of production through intensive and extensive agriculture.
2. The use of modern technology and industrialization.
3. Migration from densely populated Java to the outer islands to ease overpopulation.
4. Family planning programmes to reduce the birth rate.

The Muslim communities, as represented by their leaders, being the ones to be affected by these programmes, should immediately come forward with positive programmes for farmer's co-operatives, savings projects, light, decentralized consumer-oriented industries and training centres. They cannot wait any longer if they want to be taken up as full partners. Wasting time and energy by promising a better life in the hereafter should be radically reversed, exchanged for a programme calculated to derive benefits from time and effort spent in carrying out a plan of national development inspired by Muslim ideas.

The last point I want to mention is cultural development in these changing societies. One of the disadvantages of direct contact with other cultures is that our transitional society will be susceptible to the influences, such as they are, of those cultures, particularly in so

far as their outlooks and ways of life. Addiction to drugs, pornographic literature and films, types of indecent dancing, other activities sometimes called collectively "artistic expression" or "hippy" fashion — all these involve social problems which daily confront the Muslim society. The thesis that modernization should go hand in hand with these modes of unbridled conduct is wrong, and will only be confuted by the Muslim society coming up with positive trends of thought capable of demonstrating how it is possible in practice to make available to all Muslims, including women, all means of comfortable and morally healthy life and of keeping pace with the ever mounting needs of the rising generations with their impulsive search for the amenities of the day.

As the Muslims in Indonesia are the majority, we, as Muslims, have not yet lost everything, and there is hope of real reformation. Although Indonesia is not a Muslim state, the top leaders there are almost all Muslims. The important and most difficult task for Muslim leaders now is for them to make their voices heard, not by lavishing promises of a hazy paradise said to be awaiting every Muslim in the hereafter, but rather by producing practicable ideas and plans. The royal road to this, and if it is to be achieved, is to coordinate the efforts of all Muslim groups, the creation of a corpus of experts — religious, economic, social, cultural, who are ready to provide our developing society, clamouring for a thoroughgoing reformation, with workable proposals needed for the attainment of a better life and in response to the desire expressed by the Muslims themselves for making life here and now worth living and fit for the performance of religious duties in the worship of God, giving in the meantime the concrete proof that through alms-giving it would be possible to collect a sum of money large enough to justify the initiation of development schemes which would produce positive results. Ideas based fundamentally on Islamic precepts must be practicable and amenable to coordination, with the following considerations to be taken into account:

- the available capital;
- the presence of unskilled, illiterate man-power;
- the available natural resources;
- the possibilities for small domestic industries in every district;
- the still existing traditional administrative hierarchy of relationships;
- the degree of influence that religious leaders still enjoy.

If these plans are to succeed, they should be easily carried out, in a simple and practical manner. For instance, if the first step should be the finding of a capital, the first aim should be a savings scheme, reinforced by a parallel scheme for systematic efforts to be exerted in educating people in the religious gatherings to realize that only through savings that they can, by investment in economic and productive projects, improve their economic conditions, and that this is what God wants them to do as part of their duties to God. The educational programme should aim at changing their attitude, from spending their money on jewellery or on displays like big expensive marriage feasts to an attitude of eagerness to save money for the creation of agricultural co-operatives, where a village can buy the necessary equipment or fertilizers or can build a bridge for the transportation of their products. Traditional customs and habits which hamper village development should be set aside. The planning of families should be encouraged. The aim of convincing the villagers that their place of happiness is in the village, not in the slums and gutters of a big city, should be given priority. To be successful, these plans should benefit when and where possible from the virtues of traditional village social and cultural life.

There are still enough dedicated village Muslim leaders who can prove that Islam is still dynamic enough to meet this tremendous challenge: the challenge of modernization. His Excellency, the new Minister of Religious Affairs, Dr. Mukti 'Alī has propounded this problem clearly in his question: "Why does it seem that all development plans in Indonesia for the betterment of people's lives do not come from Muslim groups?"

To prove that Islam as God's last religion can meet this big challenge, the Muslims should act right now. Time is precious.

# ISLAM AND THE FAMILY IN A DEVELOPING SOCIETY

BY

IMĀM MŪSĀ AL-ŞADR

## 1. DEVELOPMENT

Development is the result of constant interaction between man and nature, rather than a consequence of a new factor coming on the scene of life or of an old factor going off the stage.

Man investigates and explores. He comes upon new chapters in the book of the universe, discovering, possibly, a novel factor or force or virtue in the things within his purview. This newly acquired knowledge is turned to account, and man uses it to better his condition, to raise the standard of his life and improve the environment surrounding him, developing himself in the process. From this new vantage point, he launches forth to discover other new things, and so on.

Innovation in man's life spreads from one field to another, causing further interaction in the various areas of his life and creating further springboards for change and development.

## 2. ISLAM AND DEVELOPMENT

Islam is the religion of nature and the law of mankind. Basically, it is opposed to rigidity; nay it calls for development, integration and the attainment of perfection. Two roads lead to these desired ends: Firstly: the abidance amongst people of God's word (the Holy Qur'ān), the true revelation both in letter and spirit, means that any new understanding of the Qur'ān at any level whatsoever is to be taken as sound only if such understanding results from approved rules of theology and can be used reliably as a basis or a guide in regulating life's affairs.

This rule, however, cannot be used as a basis when applied to human speech, for man acts from a certain intellectual level which

he cannot transcend, and consequently, his sayings and ideas are not to be understood except within the framework of this cultural and intellectual level.

Permanence and change in Islam are contingent upon the divine nature of the Qur'anic utterances, which along with man and nature in interaction, afford definite guidance and direction as called for by the recurrent interaction of man with the world around him. The interaction between man and the Qur'ān, through its reinterpretation and renewed comprehension can continue in operation, along with the interaction between man and the universe, as expressed through change.

Secondly: there are at the core of Islamic teachings special rulings for the reformulation of contracts and legal decisions, such as the terms stipulated in agreements, whose forms change according to individual circumstances. We shall take up this point in detail towards the end of this study.

### 3. THE FAMILY AND SOCIETY

The family constitutes an important feature in the life of mankind. It interacts with society, in a reciprocal manner, and, in the process, gets affected by social development (in economics, or housing or the like) and in turn affects society, for what takes place in the family is reflected in the larger society. Consequently, a study of this question has two correlative dimensions, namely, the impact of the developing society upon the family and that of the family upon society.

### 4. ISLAM AND THE FAMILY

According to some scholars, society in the eyes of Islam consists of units, the unit being the family rather than the individual. At the same time, society is not a unit which may be divided into individuals or families or classes. In point of fact, the position which the family occupies and its influence in society are of considerable importance in the view of Islam, even also in the view of those who are not of the same persuasion.

Sufficient, as proof of this is the Prophet's saying: "No structure ever raised in Islam is more beloved of God than marriage."

### 5. THE FAMILY IN A DEVELOPING SOCIETY

The chief features of the family in present day developing society may consist in that the increasing needs in the various affairs

of life, for the meeting of which increasing efforts are required, and, in consequence, the man, who is to exert these efforts, has either to introduce improvements in the execution of his work or to develop and thus vary the work itself, or he has to move to the city or metropolis or emigrate abroad, or still, under certain circumstances, may find himself compelled to have his wife employed.

All these factors are apt to have a clear effect upon the life of the family and the familial relationships, besides the fact that increased needs bring about a change in these relationships.

The time needed for the increased activity, the absence of the breadwinner of the family, in cases of emigration or expatriation, and the changed conditions experienced by the family as a result of moving out of its native locality, and similarly the absence of the woman, occasioned by her presence at the place of her work, if she takes up a job, her economic independence, and other influences of the sort — all these have far-reaching influence on family relationships, whether directly or indirectly.

#### 6. FAMILY RELATIONSHIPS AND YOUTH MOVEMENTS

The parent-child relationship is now dangerously under strain, especially because of the conditions just stated. The child, who is naturally in need of the mother's care, is left to the care of a mother substitute, be it a person or an institution as a foster home, against certain fees or a charge. The care bestowed by the parents upon the child becomes perforce confined to certain few occasions and within certain fixed limits.

Under these conditions, the child misses the genuine parental affection which gives release in full measure, and consequently comes to feel that the scope of existence as a whole as manifested in the world of the father-child relationship is cramped, relatively limited and superficial.

The importance of the parents and that of existence as a whole diminishes almost to the vanishing point as viewed and felt by the child. The child feels that both the smaller and the larger worlds are limited and unstimulating. The parent-child relationship is disturbed, in the same way as the relationship between the generation of the child and the previous generation. Herein lies an explanation of the extreme and violent tendencies which are now openly producing disruptive movements among the rising generations, and causing

such havoc. This will be apparent if we remember that the successive generations of mankind have never been bound together by the same intellectual ties or by uniformity of mental outlook. There has never been such a thing. Diversity of outlook and variety of thinking and of ways of reasoning have ever been the determining factors in averting rigidity and stultification.

Rising generations, however, different as they are in outlook and thought from the preceding ones, are bound to older generations by strong sentimental ties, fostered by unstinted liberality. The mother was a living example of deep, all-embracing, inexhaustible passion for giving; and also the father, the teacher, the physician and others. The child used to grow amidst this pleasant picture of the present and the past full of joy and contentment. Its whole being would be pervaded by affection and lovingkindness and, in consequence, would be indissolubly linked by ties of loyalty and sense of responsibility.

This close and heartfelt sentimental affinity, irrespective of variety in outlook, serves to make out of the children a complement to the parents in the combined effort. Yet they are renovators, although, in their fresh starts, they only constitute a continuation or an extension of the preceding generations.

On the horizontal plane, of conjugal relationships, the problem observed on the vertical plane of parental relationships appears again.

Separation in time and in place, the absorption of each partner in his own work and his being restricted to his own sphere of action, the contraction in the extent of liberality in its full sense on the part of both husband and wife, and what goes along with these circumstances in the way of impressions and changes of sentiments and feelings impair the health of marital relations and render mutual confidence and understanding infirm and fragile.

The development of the individuals in the family, socially and intellectually, in isolation from one another, creates a wide disparity between them, and the gulf is calculated to grow deeper not only between the married couple themselves but also between parents and children.

## 7. THE ROOT OF THE PROBLEM

The fact is that this problem does not stop at the bounds of parental or marital relationships, but forces its way into the sphere



of social interrelationships, and thus produces a picture of the society with distinctive features, in which interrelationships among its members is founded on the basis of a liberality limited in its scope, with the interaction usually existing in the society as its kernel, transformed into a mechanical one, robbed of its humaneness and spirit.

The real reason behind this problem is the adoption of materialism as a basis for the social structure and the exclusion of metaphysical ideas from social life, in the way advocated by the framers and builders of modern civilization.

Matter cannot be absolute. Therefore, when man gives liberally, as is required of him in his social setting and in his relationship with other members of his species, and as it is the *raison d'être* of his society. This sort of liberality is material in its essence, and as such it is limited in extent and relative in its value, in view of the fact that it is materially inspired and determined. When a member of a social group contributes something to his society, his contribution is measured by the amount of the remuneration he receives for that contribution and proportionate to the degree of benefit accruing to the group.

In this type of society, every individual lives as an outsider, and is only bound to the others, in proportion to the interests and advantages he shares with them. Society is, as it were, a big business concern or a consolidated company embracing smaller affiliations, designated in society by such names as family or household, class, friendship, homeland and nation.

In this society, separation in time and place constitutes a threat to the family and is a disruptive influence fatal to healthy relationships in both the family and the society, because of the diminution of social fraternity and intercommunication, and of the contraction of the sphere of communal interests. [With increasing ground being lost to individual selfish interests.

#### 8. ISLAM'S VIEW HERE

The society recommended by Islam is the living human society, held together through a liberality, free and limitless, without the expectation of a price.

Work here is a mission which must be carried through with all the fervour and energy at the disposal of the individual, who, in this case, is a part of the human existence, having dissolved into work.

Work is a living thing like man — it is an act of worship which cannot be solidified or priced. A society of this nature is a living organism and is in the words of the Prophet, “as one body”.

Activity in this sense springs from a faith in absolute ideas and values, a belief which is inseparable from one’s faith in God.

A believer in God aims through his deeds and works at a higher objective, namely, the perfection of self. His work or action is an integrated movement towards man’s highest goal which is perfection rather than a means to the obtainment of remuneration. Remuneration is a token payment given by his society for his services — a social obligation rather than a price for his work.

Here may be discerned the picture of society as drawn by Islam. Society is an existing, living organism, a wholly integrated, cohesive unit, rather than a loose association, a partnership or a confederation.

In this picture of society and in the system of distinct roles of all its members, lies the role of motherhood and fatherhood in the absolute sense, and thereby learn how to deal with the problem laid before us.

The parents who fulfil their roles with a sense of mission and with idealistic zeal, and who sacrifice their all on behalf of the child — those parents satisfy this child’s yearnings for love and trust and supply its need of care and tender affection.

In this rich, fertile soil the sapling would grow into a robust tree of manhood, pervaded with trust and with a deep sense of obligation, taking over the mission of the parents, truthful in their self-abnegation and faithful to their own generation.

The husband and wife form together one integrated whole, with the absolute liberality and selflessness of each to the other and to the children.

The important thing is the quality of giving rather than its quantity or size. This is not in reality the real problem.

## 9. OTHER ISLAMIC MEASURE

To achieve this end, Islam devises a framework for family relationships, to ensure their continued existence and to safeguard the general social ideology which we have already discussed. It imposes upon the parents the duty of care of their children; the parents are to nurture their children, manage their affairs and educate them. The education of a child is equivalent in value to a man’s mission in life, since a person through the nurture of his child, forms another image

of himself which passes on his mission. It requires the child to act with charitableness and respect towards his parents. A woman's home is looked upon as her place of worship, and her being a good wife and a mother is her own way of discharging the task of *jihād* (fighting in the cause of God). Islam bestows on her housewifely duties and the services she renders to her husband and children a stamp of sanctity and superlative worth. Her service is seen as no less deserving of honour and credit than that of the warrior fighting in the cause of God.

Islam encourages and enhances a mother's giving and self-denial to such a degree that "Paradise lies at mothers' feet".

Islam moreover prescribes rules for regulating relationships and defining the duties of man towards woman, making it incumbent upon the husband to maintain the wife and upon the parents to maintain the child, and vice versa, if one should need the other.

#### 10. THE PROBLEM OF SEX

The desire to acquire more of worldly goods and comfort in modern societies urges men on to broaden their sphere of business, thereby accelerating the transformation of the society and of the family.

In order to gain more customers many of these varied business activities rely on the element of sex, using all technological means and knowledge to stimulate and develop it. Thus we see a marked emphasis on sex in films, plays, information media, and in many circulars and publications.

In many aspects of trade, sex is used to attract customers or for purposes of propaganda and advertisement. Also, present day fashions are fundamentally dependent upon sex.

All these media, which considerably affect family life in more ways than one, play havoc with the sexual relationship between husband and wife — their relationship which constitutes an important element in the family's life and its permanence and through which its integrated character may be preserved.

These disturbances seriously weaken family ties, undermining the family's existence to its very foundations. At the same time, this general atmosphere leaves its imprint upon children, whose sexual maturity comes at an earlier age; thus sexual growth is hastened, at the expense of other capabilities. This situation also produces its effect upon parental relationships and family harmony.

To it may also be attributed the practice of young men and women averting marriage. Many young men and women today are averse to marriage because of the heavy burdens it imposes, or because of the ample availability of means for sexual gratification, or because of the expending of a great deal of sexual energy, through transient sexual liaisons — all these factors weaken the desire for marriage on the part of young men and women.

The complexities of sexual feelings and relationships dependent thereon are aggravated through the ever-widening scope and opportunity of the meeting and the mingling of the sexes and the natural rivalries resulting therefrom.

## 11. ISLAM'S REMEDY FOR THE PROBLEM

Islam has laid down a comprehensive plan to meet this problem and deal with it effectively. This plan is capable of affording protection to the family within a developing society, preserving in the meantime its capacity for interaction with it.

This planning uses the following principles as a basis:

(a) Islamic education seeks to inculcate in the child from his tender years a love of beauty, to develop that sentiment within the child, and to direct it to be in line with universal beauty reflected in objects and natural phenomena and with the spiritual form of beauty manifested in service and self-denial. This is expressed as follows in the Holy Qur'ān: "Verily, we have made all that is on earth as its adornment" (Sura 18/7); and also: "We have adorned the lower heaven with the adornment of the stars" (Sura 37/6). This education would go a long way to keep the sexual instinct within its natural dimensions.

(b) It restrains woman from practising tricks for stimulating sensual passion through her speech, as enjoined in the Qur'anic verse: "If ye fear God, be not too complaisant of speech, lest the man of unhealthy heart should lust after you" (Sura 33/32); or by the manner of walking: "And let them not strike their feet together, so as to discover their hidden ornaments" (Sura 24/31); or by indecent exhibition: "And that they display not their ornaments except those which are external" (Sura 24/31).

(c) The setting of limits (*ḥudūd*) for man-woman relationships (man and woman unrelated by a degree of consanguinity precluding

marriage), such as averting one's glance and avoidance of too close an association, flirtation, sensuality, and scandal.

(d) The safeguarding of the family from the wanton frivolity or mischief-making of others, such misconduct should be regarded as one of the most objectionable offences.

A *hadith* declares: "No institution in Islam finds more favour with God than marriage." The opposite applies to whatever or whoever tends to undermine that institution.

(e) Urging people to waste no time in getting married. They should regard the contraction of marriage as equivalent to the fulfilment of half of the religious obligations.

## 12. ISLAMIC PRINCIPLES FOR DEVELOPING THE FAMILY

We have to mention here certain rules pertaining to the family that are conducive to its well-being and happiness within a developing society.

(a) There is nothing in Islam to prevent woman from holding a job.

(b) A woman is not obligated to keep house or to serve her husband or child.

(c) A woman cannot be forced to be married; she may choose public life instead, if she so desires.

However, if she chooses family life, she has to discharge her responsibilities satisfactorily, and to fulfil her mission, because she has committed herself to it. We may add however, that a woman may work when her job responsibilities do not interfere with her family responsibilities.

(d) One of the duties of the husband is to provide special lodging quarters for his family. This duty is considered as part of the maintenance obligation incumbent upon him. The effect of proper housing on the family's condition and development is well-known.

(e) Birth control may be adopted if husband and wife agree to it, for they are the only ones competent enough to determine the size of the family in this respect.

(f) The form which marriage is to assume may be modified, in respect of divorce, the nursing of children and details of married life —

all this can be modified and shaped in keeping with the conditions stipulated in the contract. The husband or wife may lay down their detailed specifications regarding housing, maintenance and different requirements of married life, commensurate with the needs, interests and the position of family as reflected in the wording of the contract.

The would-be wife may lay down conditions in the contract to limit the man's prerogative of divorce, by making the maintenance of the wife as a condition, or the payment of a sum of money when the man seeks divorce on unjustifiable grounds. A law court or an arbitrating committee may be resorted to, to determine whether the grounds for divorce are justifiable or not.

She can also demand full powers, authorizing her to ask for divorce under certain circumstances from a law-court or an arbitrating committee. Furthermore, she is also free to appoint a law-court as an attorney for her in a divorce case.

Care for the child in case of divorce can also be specified by the insertion of appropriate stipulations to that effect in the contract, to replace the traditional practice in this matter. All questions relating to property and the disposal of goods as well as the liquidation of financial joint endeavour may be similarly regulated.

To regulate all these matters, responsible authorities may undertake the study of different family situations and of ways of regulating them under different social conditions. These institutions can draw up model marriage contracts, to be read to the couple about to contract a marriage so that they may be cognizant of their own rights, and thus avail themselves of them when drawing up their own marriage contract.

Here we arrive at an important conclusion, namely, that the legal framework of the family, under whatever circumstances and conditions, may be regulated through Islamic juristic principles, thereby safeguarding the family from straying away from its proper sphere in this movement of social development and thus jeopardizing the rights of the parties concerned in the process.

### 13. THE *mut'a* MARRIAGE

The temporary marriage authorized by Ja'farite jurisprudence and based on God's book and the way of His prophet is, in our view, the ideal solution to all the problems of social development in family life.

The husband and wife, on the advice of a responsible authority, may frame a formula for the contract to be most suited to their own special circumstances and those of their society, and to deal with all contingent difficulties.

Temporary marriage is marriage in the full sense, save for the difference in duration. It is the Islamic legal substitute for the modern civil marriage resorted to by people in perplexity, who are in search of a formula for a marriage suited to the circumstances of a society that is developing at a bewildering pace.





## THE PLACE OF CHILD IN THE MUSLIM SOCIETY

BY

RAFI ULLAH

“(God) Who hath created death and life to prove which of you will be most righteous in deed” (Sura 67/2).

In these simple words the Holy Qur’ān signalizes the purpose of the creation of man and there is no denying the fact that this supreme purpose can only be achieved if there is a sound mind in a sound body. The Holy Prophet, as reported by Abū Huraira has emphasized this significant point when he said that the “strong believer” (*al-mu’min al-qawī*) is preferred by God to the weak believer. Such teachings of Islam require that every Muslim child should be properly brought up.

But it is a sad fact that in the present day Muslim society nobody cares about these teachings. Most of the parents do not feel that their obligations to their children go far beyond the guarantee of living at subsistence level. Hence no attention is paid to the education and proper training of most of the children. That is why they are not fully prepared for the present day complicated life. Instead, in our society, a strong kinship consisting of many individuals whether educated or not is still being considered a big asset. Not only this, everybody considers this type of family a matter of high social prestige. In rural areas the position is even worse than the one spoken of above. Far from giving proper upbringing to the rural child, he is put to work at an early age because he not only spares his parents the expense for his proper upbringing but also adds to the income of the family.

— Our society, whether urban or rural, has been content with this state of affairs and never cared about its backwardness. This situation has brought us to such a point that now we are unable to properly nourish the majority of our children. Even this sorry state of affairs has not persuaded people to change their condition,

but instead they justify themselves by quoting a *ḥadīth* of the Holy Prophet in which he is reported to have said: "For I shall make a display of you before other nations on the Day of Judgment." However, as we have shown from the Holy Qur'ān and the Sunna of the Prophet in the beginning of this article, the Holy Prophet surely will not be proud of such a majority, composed as it is of semi-starved weaklings, diseased persons and ignorant men and women. In the following lines we will try to set forth our view of the attitude of Islam towards the proper upbringing of children.

Since marriage is the base on which the birth of a new generation rests, we will examine briefly its legal position in Islam. Generally it is believed in our society that marriage is obligatory for every young man and woman. But actually its legal position is somewhat different. Our jurists have discussed this question in great detail. To be brief they have treated it in at least the following four categories:

1. *Obligatory*. Marriage is obligatory for those who have the necessary financial means to fulfil its obligations and who fear committing fornication if not married.

2. *Meritorious*. If a person has the necessary financial means but is not afraid of falling into adultery, marriage is not obligatory for him. But if he marries, it will be a meritorious act on his part.

3. *Prohibited*. It is prohibited for one who does not have the financial means and who also has no fear of committing fornication.

4. *Blameworthy*. If one is unable to carry out the financial obligations consequent upon marriage and is indifferent whether one commits fornication or not, marriage is disfavoured.

This is the brief summary of the Jurist's detailed discussion on the subject from page 4 to 7 in the IVth volume of the famous book of Islamic Jurisprudence *Al-Fiqh 'alā al-Madhāhib al-Arba'a* published in Cairo, Egypt. It appears from this summary that a person who desires to marry has to fulfil its financial obligations. These obligations are not limited to the guarantee of a subsistence level to his wife and children but has also to properly upbringing them by providing them with necessary education and training facilities etc. The Holy Prophet has stressed the proper upbringing of the child by giving it priority even over the meritorious type of marriage. We quote here under one of his pronouncements, reported in a *ḥadīth* on the authority of 'Auf b. Mālik al-Ashja'ī in the following words: "The Holy Prophet

is reported to have said: 'I and a handsome widow with browned cheeks who enjoys a good social status and who refrains from marrying again so that she may properly upbringing her children till they come of age or die a natural death, are on the Day of Judgment as these two first fingers of mine?' Then the Holy Prophet held up his first and second fingers."

Now this pious and sincere action of the young widow definitely does not mean that to have more children is to be preferred, even at the cost of the upbringing of the existing ones. If Islam really favours such plurality of children at all costs with no concern for their healthy upbringing, it should have encouraged this widow to remarry. But the Holy Prophet distinctly tells us that one of the paramount aims of marriage is the proper upbringing of the children, for which it is essential that one should be blessed with as many children as one can afford to properly bring them up. It is also implied in the foregoing saying of the Holy Prophet to the effect that to have children of small numbers, properly brought up, is definitely better than to have a large number of them with no proper nurture.

There is no denying the fact that for the proper nurture of a child, the health factor is of utmost importance. Ill-health in the early age even affects the moral development of a child later in life. The scholars of Islam have not left this point unattended to. The late 'Allāma Maḥmūd Shaltūt, Rector of the world famous Al-Azhar University, Cairo, dealt with this very point so aptly that we feel here obliged to give its English translation for the benefit of our readers. He says: "There is a *ḥadīth* relating to the health of the child. A mother while pregnant is discouraged from suckling a child. It is reported on the authority of Asmā' bint Yazīd b. al-Sakan that she heard the Holy Prophet say: 'The suckling of the milk of a pregnant woman by a child is detrimental to its health. On the part of the parents it almost amounts to killing their child'.

"It is an undeniable fact that the children who are nursed on the milk of a pregnant woman grow weak and feeble and this weakness continues till their old age, with the consequence that they are never able to withstand adverse circumstances in life. Medical experts hold the view that there is a kind of disease in the milk of the pregnant mothers which thwarts the proper growth of a child. In many cases we have ourselves witnessed the truth of this medical opinion and have observed that those children who are fed on the milk of pregnant

mothers grow generally weak and feeble and their moral behaviour suffers distortion.

“Children who are fed on their mother’s milk while she is pregnant live in danger of death.

“Not every father can afford to hire a non-pregnant wet nurse for the feeding of his baby for the duration of the suckling period. Only the rich can afford that, though they can arrange it only rarely, and therefore, it cannot be taken for granted.

“Muslim jurists have discussed this point in detail. They maintain that in a case where a wet nurse or a foster mother feeds a child on her milk on contract, and she herself becomes pregnant, the Islamic Law allows both parties to cancel the contract. The argument advanced in favour of this action is that the milk of the pregnant woman is harmful to the child as well as to herself. Therefore, to save the child and the pregnant woman from this contingent harm, both sides can cancel the contract.

“These eminent jurists have further ruled that, if necessary, abortion prior to animation is also allowed for the sake of the child still being fed on the mother’s milk.

“To achieve required results in upbringing the children, the jurists suggested proper spacing between the births of children so that the mother could nurse every child on her pure milk.

“The Holy Qur’ān extended this time-limit to two years (al-Baqara 233). In this way the mother, without pregnancy, will have ample time to regain her health which suffered during her previous pregnancy and will be fit to feed her child on her pure milk, uncontaminated with impurities of pregnancy. But if the duration between pregnancies is short with so many children, the mother will not be able to upbring her child properly.”

These are the views of one of the enlightened religious scholars of our present time on this important issue. He has rightly recommended the spacing of the childbirth suitably for the children’s proper upbringing. The statistical facts about the most highly developed countries of the modern world bear witness to this truth. We have before us statistics from the United States of America for the year 1973, in which it is remarked that about 70 per cent of Selective Services Mental Rejectees (those performing at fifth grade level or less), come from families of four children or more. (*Journal of Marriage and the Family*, U.S.A., November, 1964, p. 471).

No one can deny this fact that when most of the children in a locality or society are not properly nurtured and brought up, usually the environmental conditions become unhealthy and in such a situation it becomes difficult to save the other children from these deleterious influences. Our eminent jurists also investigated this problem and gave their verdict with regard to the advisability or otherwise of the adoption of family planning measures, with especial reference to the risk of children having to be brought up in uncongenial environments and atmosphere, and developing, in consequence, distorted characters. The famous Ḥanafī Jurist Ibn 'Ābidīn, in his book *Fatāwā Shāmī* an authoritative work in the Ḥanafite School of Jurisprudence, quotes Qohistānī as saying that a man can resort to 'azl (coitus interruptus) in his sexual intercourse with his wife, with her consent. But in case there is a risk that the children will acquire distorted characters owing to untoward social influences then the husband can use contraceptive measures even without his wife's consent.

It is high time that Muslim society assumed its responsibilities for the proper upbringing of children in the light of the teachings of Islam; and if, for this purpose, it is necessary to space childbirths suitably, Muslims should act accordingly. Proper upbringing of children will also help prevent infant mortality, diseases, poverty and delinquency in our society, and will eventually make the nation strong and healthy. In this way all individuals of the Muslim society will be able to perform the 'Best of Deeds' which is the *raison d'être* of their being in this world.



## MUSLIM OUTLOOK TO THE FAMILY IN A CHANGING SOCIETY

BY

SYED MUHAMMAD ZAFAR

The family is the basic institution of society. Modern sociology gives it pre-eminence in its studies, sometimes describing it as the most remarkable and fundamental social unit. Though it has been defined variously, the standard definition may run something like 'a group defined by a sex relationship sufficiently precise and enduring to provide for the procreation and upbringing of children'.

A family originally starts from husband and wife. It may then extend over to any number of members including children, parents, grandfathers and grandmothers, brothers, sisters, aunts, uncles and other relatives under the same roof. Such families were generally found before the industrial revolution. With the economic independence in the wake of modern industrialization a family today consists of a husband, a wife and the children.

The family in the past, before industrialization, was patriarchal and authoritarian. It was more stable, and gave little chance for divorce. It was of relatively large size, having many children and relatives under the same roof. It was stationary, changing its domicile very rarely. The housewife generally kept herself confined to the home, engaged in the housekeeping and childrearing. It was puritanical on sex matters, imposing strict taboos on sexuality, with the result that adultery was less frequent. There was relative homogeneity in the family type. It was multi-functional. In modern times a drastic change has supervened in family life in urban areas. The family is tending to become individualistic and democratic but there are many patriarchal survivals. Because of its frequent shifting it has become much less stable.

Cases of divorce have become more frequent because of the economic independence of women. It has become much smaller in

size, having fewer children. There is an increasing tendency towards begetting a limited number of children. As women are seeking jobs in offices and factories, the mobility has greatly increased and its domicile keeps on changing frequently. Women now do not remain confined to the home, but work outside the home for long hours. In the western society, people have become liberal on sexual matters and their sexual needs have been recognized. Sexual freedom is widely on the increase.

In modern family life questions are raised as to who should have the final say in domestic affairs like:

- a) When to have children?
- b) Where the family is to be located?
- c) Education of the children?
- d) Where to spend the vacation?
- e) How to spend family money?

The statistical data collected in western society with regard to these questions show the authority of the wife supreme in some matters and that of the husband supreme in others. Most of the points relating to these questions are settled amicably between the two parties, with their consent.

A wife in modern times is shifting in her vocation from 'wife and mother' to 'companion and home partner'. The function of a woman as a 'wife and mother' was to bear children early and to devote her full energies to nourishing them and to making the home habitable for them and for her husband. The 'companion and partner' wife has both 'come out of the kitchen and down off the pedestal'. She is less in domestic slavery on the one hand, and less an object of chivalry on the other.

The family, however, has always had a special position, almost co-ordinate with, rather than subordinate to, the community in the execution of social functions. The general view of the modern family is that it is not a highly ritualized and institutionalized entity. It is rather what Burgess has called a unity of inter-acting personalities set on a cultural framework, responsible for a limited number of social functions and for a biological function which it is more and more reluctantly performing but existing chiefly for the development of its members. The family is held together by internal cohesion rather than by external pressure; today it is more unstable than in the past and yet more flexible to fit the variations in human personality. This, in



brief, is a picture of the process of change from traditional family to modern family in western society.

However, the pendulum is swinging to the other extreme in the West where the family is rapidly heading towards disintegration, owing mostly to the economic independence of both the husband and the wife and to the freedom of sex enjoyed by women. The sexual freedom in the West is indeed a reaction against the stringent sexual taboos and injustice done to the women in traditional families in the past. There may have been very many other factors for this sexual aberration which are not to be discussed here.

No less is the phenomenon of the revolt by youth. The rebellion by the younger generation against the existing order is manifested now at a much younger age when he or she is still, as son or daughter, a part of the family; and this revolt is generally directed, *inter alia*, against the control and restrictions of the family as such. The youth in his teens is rebellious and this has equally disrupted families. I have met quite a few parents whose families have been reduced to just the husband and the wife because they have lost their teenage sons or daughters who have taken the path of revolt and left the family so that they might engage in an adventure, with their comrades the "hippies", or comrades of another similar fellowship.

## II

Let us see what Islam says about the family and how far it allows the family to shift from the traditional to the modern type — a process going on in family life in the whole world as an outcome of the influence of western civilization. We shall also note in due course that drastic reformation and changes have been affected in Muslim personal law or family law in almost all Muslim countries in the wake of the rapid change of circumstances. A Muslim family is a traditionally and legally regulated family. It, therefore, cannot shake off these limitations once and for all. It is being adapted to modern conditions by amendments, nay drastic changes, made in the traditional law, but still remains within the framework of law and tradition.

We have no term exactly equivalent to family in the Qur'ān or *ḥadīth*. We can take only the term *ahl* for 'family', as used in the Qur'ān and *ḥadīth*. Literally, it means the people of a house or a dwelling, and of a town or a village, and of a country, and also the family of a man. It stands for a man's cohabitants at one and the same dwelling or place or abode. Afterwards it was applied to man's relatives or

man's family or race. According to Imām Muḥammad b. al-Ḥasan al-Shaibānī, the word signifies a man's wife or wives together with his children and the household as a whole who are maintained by him. Thus, the term includes any brother or sister of paternal uncles and the cousins or distantly related children whom the man supports in his abode as his dependents. This term has been used in the sense of wife and children in the verses 5/89 and 66/6.

The fact that "family" means husband, wife and children is a modern concept which emerged after the spread of industrialization in the modern times and in the wake of the growing tendency to reduce the family in compass as much as possible. The traditional concept of Islam about family is not so narrow; it generally includes parents and grandparents; younger brothers and sisters, mostly when they are dependent.

What we derive from the overall teaching of the Qur'ān about family is that it aims at its stability, happiness, integration and smooth and cheerful life. It pronounces clearly: "And one of his signs it is, that He hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you. Herein truly are signs for those who reflect" (Sura 30/21). Islam gave a large measure of independence to woman and granted her rights and privileges which she even now could not get no matter how strenuous were her efforts or insistent her demands, and even with a movement of 'emancipation of women' such as the one long in operation in the modern western society. The following verse throws light on the interdependent life of the husband and the wife in a Muslim family: "O believers! it is not allowed you to be heirs of your wives against their will; nor to hinder them from marrying, in order to take from them part of the dowry you had given them, unless they have been guilty of undoubted lewdness; but associate kindly with them: for if ye are estranged from them, haply ye are estranged from that in which God hath placed abundant good" (Sura 4/19). It appears from a number of verses<sup>1</sup> that a wife is not only a mother, but also a partner. Nevertheless, a Muslim family is essentially a patriarchal

<sup>1</sup> These verses are: "Men are superior to women on account of the qualities with which God hath gifted the one above the other, and on account of the outlay they make from their substance for them" (Sura 4/34). "And it is for the women to act as they (the husbands) act by them, in all fairness; but the men are a step above them. God is Mighty, Wise" (Sura 2/228).

family, as the husband having been described in the Qur'ān as the manager of the affairs of women, "On account of the qualities with which God hath gifted the one above the other, and on account of the outlay they make from their substance for them" (Sura 4/34). This verse, in addition, clearly indicates that amongst the priorities, the first is that the wife should make a home for the family, look after the children and safeguard the property of her husband in his absence. But Islam does not prohibit a woman under the stress of modern life and the present economic conditions from working outside her home (if the income of the husband needs to be supplemented) for the maintenance of the family.

We find in Islamic history a number of examples of the women who worked outside their homes. Islam aims at a happy and cheerful life for a family. The Prophet is reported to have said: "The best of you is the best to his wife, and I am better than you to my wife." In another *hadith*, a man who is kind to his family is described as "the perfect believer". Divorce is considered by the Prophet as "the most hateful of lawful things". These teachings of the Prophet emphasize the fact that the family is an integrated association. Islam does not allow so much freedom to the wife and the children for fear that this may result in the disintegration of the family.

Islam neither encourages the joint family system nor discourages it. It leaves the form to be determined by circumstances. Some families can live jointly; others cannot. The Sunni and the Shī'a jurists are agreed that if the wife is ill-treated by the parents of her husband she can demand a separate home for herself. But, normally, a man keeps his parents with him under the same roof, especially when they are aged or destitute. The maintenance of the old parents has become a grave problem; sometimes they are given old age pensions by the government under social security schemes. Islam grants extensive rights to the parents which cannot be violated even if they live away from the family. Thus a Muslim family is not only traditionally but also legally a regulated family.

### III

As a result of the spread of modern education and western civilization, the Islamic society proved to be far from being immune from their influence. Muslim family grouping was naturally liable to be affected by the western norms of progressive family life. In

the East, the decline of the patriarchal authority in a Muslim family is already under way. The stability of the family too has been shaken, and the size of the family is gradually becoming smaller. There are even indications of a change of attitude about sex. There is a growing tendency for women to seek jobs outside the home. Social functions of a modern family in the Muslim countries are on the increase. Women are more reluctant to procreate. One could write a paper on the shifting role of the Muslim family, from the early traditional period to the modern age, if one had sufficient statistical data on different relevant points about modern Muslim families in the world. The effect of modernization has not been uniform. In some Muslim urban areas, modernization is almost thoroughgoing, but in others (and this applies to a larger part of the Muslim world) the effects are much less. Unfortunately, the Muslim family has not been studied as intensively and extensively as the family in western society. I am sure it would be a very fascinating story and I wonder why none of the Muslim trusts or institutions working on research have not undertaken this study so far. I recommend that co-ordinating units be set up in all the Muslim countries to exchange basic information about the modernization of Muslim families. This would not entail much expenditure but would require very dedicated and efficient team of a few scholars in each Muslim country. I am sure that the existing research institutes or the family planning organizations can provide the necessary manpower and the funds for this work.

The organizations for family planning, scattered throughout the Muslim world have created an awareness of the benefits of planned family life and of the evils attendant upon frequent births and large families in the Muslim society. The formula that "a few children if happy, healthy and educated are better than many if melancholy, sick and illiterate" is generally reflected in the Muslim families in urban areas. Although there is a constant conflict between the conservatives and modernists on the validity of family planning from the Islamic point of view, the benefits of a planned family life cannot be denied. Procreation of more or of fewer children in fact, depends on situations and circumstances. Sometimes, a certain population may have to be increased and sometimes to be decreased, to maintain a balance. We have rules for both situations in the Islamic legal code.

To make adjustments for the changing conditions under the impact of western education, radical reforms have been effected in

the Muslim family and personal status laws in the Muslim countries in recent years. It would provide a large material for research only if various Family Law Ordinances promulgated in the Muslim countries could be compiled and then examined from the point of view of the changes brought about by such legislation. To me, these enactments not only indicate the level up to which the society has already changed but also indicate the direction in which further improvements are likely to come. To give an illustration from the family laws in Pakistan, a second marriage is now permissible only after the consent of the first wife has been obtained and is registered with the council of elders. This is an example of a tendency towards having smaller families and can be given as evidence of a movement in the opposite direction. Similarly, there have been amendments in the legal rules. For example, under the group insurance schemes (subsidized by the Government of Pakistan) the law defines the family as children who are dependent on their parents; that is to say, grown-up children are no longer within the fold of the family. This seems to be opposed to the general concept of a family but the rationale of the insurance law, as applied through group insurance, is to provide for those who are unable to support themselves. This new definition of the family has been generally accepted for the purpose of insurance in Pakistan and there is no protest or complaint against it. Similar restrictions on the definition of family are to be found in the rules of the Provident Fund. There one can see a positive change. There has been no real dispute over such items and the concepts enunciated above have received general approval as being not un-Islamic. Thus, so long as the principles envisaged in the revelation are followed and are not negated, any adjustment for the good of the society, such as restricting the number of wives or providing maintenance to those who are left without support would be a valid adjustment, and when the society is ambivalent and affluent and requires greater manpower, again, by the amendment of the law, such obstructions (which did not neutralize the principle but only discouraged the raising of a larger family) can be removed and the society can provide for the new eventuality.

I maintain that the divine dispensation itself envisages a changing social order provided that change should not be by way of revolt or deviation but as an evolutionary process.

No doubt this would mean the emergence of a distinctly novel attitude towards the question of the role and the nature of the divine

dispensation. I am convinced that Islam is opposed to a static social order; therefore its outlook on the family also cannot remain static. Within the framework of the laws revealed by God there is scope for a system apt to achieve happiness, contentment and viability to the Muslim families in the present madding world.

*PART TWO*

ISLAM, SOCIETY  
AND DEVELOPMENT





# ISLAM, SOCIETY AND DEVELOPMENT

BY

SHAIKH MUṢṬAFĀ AḤMAD AL-ZARQĀ'

Human societies go through phase after phase of development and change, marching along in life's long procession, doffing one garb and donning another, adopting, rejecting, omitting, adding, and inventing one thing after another along the road of life. The question which poses itself here is how far Islam is prepared to go in agreeing to all these aspects of change and development? To what extent will it go in accepting new concepts, values and rules of behavior? What will earn its approval or disapproval? How far can it accommodate itself to new ideas, aims and purposes, ways and means? For all these are included in the term 'development' in current usage.

To give a sound, perceptive opinion of the attitude of Islam towards this development in all its trends, aspects and forms, requires that we must first agree on a few premises and conclusions. The aims of Islam as well as the special character and scope of its mission must be defined. This will help to clarify the path we are to follow and to highlight its chief features. Thus we shall be guided by the beacon of Islam and saved from going astray, departing from the way it has prescribed for us. Therefore, to come right from the start to an understanding about certain approved premises and principles, will result in that a great many obscurities and misconceptions would be cleared away, equivocal questions clarified, and much unseasonable discussion avoided.

## I. PRELIMINARY REMARKS

### *First Remark : The Aims of Islam Defined*

What are the aims Islam seeks to achieve from the rules and laws it prescribes? What is the goal of its mission?

Islam is a revealed religion, standing for a system of rules and principles designed to achieve the betterment of mankind. Its object is to steer aright the progress of the human race — the generations upon generations of mankind — along the long road of life, the end and the beginning of which are only known to us through the texts of the revealed religions. For it is only through these texts that we are able to catch a glimpse of that invisible world which, with our limited faculties in this phenomenal world, we are powerless to perceive. Human perceptive powers can only discern this visible world of ours here below; they cannot penetrate unaided through the screen veiling the great beyond.

In order to define the general aim of Islam, we must turn to the two archetypal sources of Islam, namely, the Qur'ān, and the Prophet of Islam. For instance, in defining the aim, the Qur'ān says: "O ye faithful! make answer to the appeal of God and his apostle when He calleth you to that which giveth you life" (Sura 8/24).

Several other similar verses in the Qur'ān have the same import: "But in this law of retaliation is your security for life, O men of understanding! to the intent that ye may fear God" (Sura 2/178).

And also: "God is the patron of the believers: He shall bring them out of darkness into light" (Sura 2/257). In the Muslim faith, life on this earth is transitory, not abiding. It is a place of passage leading to everlasting bliss or everlasting damnation in a future world. Whether one goes to the one or the other is dependent upon the nature of one's conduct in life, whether it was in obedience, or in defiance of, the commands of God, the Creator. For man's Creator, the Lord of the Whole Universe, knows best what is to man's advantage and what to his disadvantage. Hence, man must obey God, and follow the course God traced or marked out for him in all things not left to man's own discretion. For man's mind is too feeble to penetrate or fathom the reason or scheme of things: certain issues are too deep for him to probe with his limited, deficient perceptive powers.

"And (this is my right way). Follow it then; and follow not other paths lest ye be scattered from His path" (Sura 6/153).

"War is prescribed to you: but from this ye are averse. Yet haply ye are averse from a thing, though it be good for you, and haply ye love a thing though it be bad for you. And God knoweth; but ye, ye know not" (Sura 2/216).

According to an authentic *ḥadīth* (Prophet's saying) the Prophet is reported to have said: "I am only sent to consummate the noble traits of character."<sup>1</sup>

*Second Remark : Scope and Distinctive Features of the Islamic Mission*

(a) The Islamic mission is addressed to the whole of the human race, of whatever environment, and for all succeeding generations to the end of time. This is borne out by several passages addressed to the Prophet in the Qur'ān: "We have not sent thee otherwise than as mercy unto all creatures" (Sura 21/107). "And we have sent thee to mankind at large, to announce and to threaten" (Sura 34/28).

(b) The Islamic mission is endless. It is the seal (culmination) of the holy messages to mankind; superseding others but not itself superseded. The Prophet of Islam, Muḥammad, is the seal (last) of the Prophets. Wherefore God described him in the Qur'ān as "the Apostle of God and the seal of the Prophets" (Sura 33/40).

The Prophet said: "I am sent to the whole of mankind, and the prophets have ended up with me."<sup>2</sup>

*Third Remark : Contents of the Islamic System and What it Seeks to Reform and Regulate*

Islam is a system resting upon five pillars:

1. Creed, designed to improve and enrich the intellect and to rid it of idolatry, superstitious beliefs and illusions.
2. Worship, to reform the spiritual life as well as to keep watch over the soul, and serve as a constant reminder of the last reckoning, lest it be led astray by temptations, evil desires, and passions.
3. Obligatory law, to regulate human inter-relations, safeguarding rights and establishing justice.

<sup>1</sup> Sound tradition related by Aḥmad in his *Musnad* on the authority of Abū Huraira, and by al-Bukhārī in *al-Adab al-Mufrad*, and by others. According to another version, the tradition reads "sound morality". The first version is more well-known among scholars of the Prophetic traditions. See al-Manāwī's *Faiḍ al-Qadir*.

<sup>2</sup> Al-Mundhirī's Abridgment of Muslim's *Ṣaḥīḥ* — Book of Prayer — From 'Hadīth' 257.

4. Moral principles, to direct man towards the best of human accomplishments. Though strongly urged upon men, these are not binding or obligatory.

5. Sovereign authority to preserve and maintain the first four pillars, and to protect them from being infringed or tampered with from inside or from outside.

## II. CONCLUSIONS DERIVED FROM THESE THREE PRELIMINARY REMARKS

From the above three preliminary remarks, the following conclusions are drawn:

*First Conclusion.* The Lawgiver in the Islamic belief is God. "To you hath He prescribed the faith which He commanded unto Noah, and which we have revealed to thee, and which we commanded unto Abraham and Moses and Jesus" (Sura 42/13).

God's law is transmitted to us through His messenger (Muḥammad). Muḥammad in his turn communicates to mankind the things God reveals to him through two channels:

1. The Qur'ān, which is the word of God, both in letter and spirit. The Prophet had no part in it; but he was simply the vehicle by which it was conveyed actually as it was, in speech and order. The Qur'ān is the organic law of Islam according to which its fundamental principles are settled.

2. The Prophet's tradition or way (sunna) which is a collection of the Prophet's sayings and reports of his acts, with teachings and precepts, heard or/and witnessed by the 'companions' who lived with him and transmitted faithfully to succeeding generations through an unimpeachable chain of authorities traced back to reliable and trustworthy sources.

The Prophetic tradition in matters of legislation is the statements of the Prophet as spoken by him, both in their actual words and original meanings, under inspiration and guidance by God: "Neither speaketh he from mere impulse. The Qur'ān is no other than a revelation revealed to him" (Sura 53/3-4).

The tradition of the Prophet has three functions:

(a) To expound the Qur'ān and bring out its intent.

(b) To elaborate the circumstantial and practical rulings not to be found in the Qur'ān inasmuch as it is an archetypal organic law only in outline.

(c) To supply such rights, duties, commands and prohibitions as were left out by the Qur'ān, not in conflict with the fundamental principles laid down in the Qur'ān, and by authorization, as in the Qur'anic injunction. "What the apostle hath given you, take: What he hath refused you, refuse" (Sura 59/7).

The position of the Prophetic tradition with respect to the Qur'ān in Islam is as that of today's statute laws with respect to the constitution. The laws formulate in detail what the constitution has laid down in general terms. Thus the Prophet's tradition supplies all that has been left out in the Qur'ān, provided it does not conflict with it.

*Second Conclusion.* Any power in Islam (within its pale or under its sovereignty) is an executive, and not a legislative, power. Even the Prophet himself has been unequivocally designated in the Qur'ān as a mere transmitter and an executor, but not a lawgiver. Thus the Qur'ān says: "O Apostle! proclaim all that hath been sent down to thee from thy Lord" (Sura 5/67); and: "The Apostle is only bound to preach" (Sura 5/99).

If we do sometimes describe the messenger (Muhammad) as a lawgiver, we only do that in a metaphorical sense, considering that he is the instrument that God used in transmitting his law to mankind. This is also in conformity with the real sense of the 'lawgiver', which is essentially the original source or authority from whose will emanate the prescriptive legislation, inasmuch as the Qur'ān is Islam's organic law in the large, whose contents no one, from the Prophet down, can alter in any way, whether in the actual words or in the prescriptions enjoined.

This last fact exposes the error of those who describe Islam as a democracy, basing themselves on the freedom of opinion and latitude advocated therein as well as on Islam's respect for the humanity of man, no discrimination being shown as regards truth, justice, human dignity and rights between a Muslim and a non-Muslim, or on account of race, lineage, class or colour.

The point of error in describing Islam as a democratic institution despite all the features pertaining to a true democracy reflected therein lies in that democracy, as the term is understood today in its technical sense, invests the people of a state with absolute right to choose by itself and for itself through their representatives, the ideologies, code of law and social system they wish to choose. It also gives the individual absolute freedom in all things that do not encroach upon the rights of the group as a whole or the rights and freedoms of other

individuals. Thus if the people, of its own volition, wished for example to establish atheism or free sex as a fundamental principle in the constitution, this would immediately become perforce subject to implementation legally and administratively according to the democratic system. And vice versa, if the people wished to exclude that it would be excluded. The people may also, if it so desires, substitute one constitution for another.

In the Islamic institutions, however, this is unacceptable. The divine constitution of Islam is enshrined in the Qur'ān; no one has the power to introduce any change in it or replace anything by anything else. Whoever arrogates to himself such right places himself out of the pale of Islam. Worldly rulers as well as ruled (i.e., the authority in power and the people) are obligated to submit to the law of God and to live by it to the end of time, for it represents the will of God, from which there can be no appeal.

Islam is a self-contained system, all-comprehensive and all-embracing. It encompasses all aspects of human life, on the individual as well as on the collective level in matters of faith, worship, human relations, and in personal and public rights. All avenues of life, whether political, economic, or any other, fall within its sphere of jurisdiction, for Islam ministers to the whole man and sees to his material as well as to his spiritual needs. Islam stands in the vanguard of life, not in its rear as a follower. It leads men and is not led by them. "Let him then who will, believe; and let him who will, be an infidel" (Sura 18/29).

Islam has given enough latitude in the interpretation and implementation of its original texts. The road that it has outlined for men in this direction is broad and many-laned, the only condition being that the wide course outlined be not departed from or violated. Hence, to apply Islamic legislation, Islam must be understood in letter and spirit. This understanding requires *ijtihād*, i.e., reflection and the exertion of the mental faculties, on the part of qualified persons. This mental exertion or exercise of one's individual judgment in the interpretation of Islamic principles and fundamentals, although circumscribed by authoritative texts and governing rules, can produce agreement only in so far as general principles and broad outlines are concerned, for there are numerous ways of understanding the texts and the intent of the legislator. Moreover, there are just as numerous ways, if not more, of drawing analogies or of applying the rules of discretion and preference regarding points concerning which there is no fixed and clearly-defined text.

All that we have presented above is only a background, unavoidable in conducting our study. Without this groundwork no dialogue of any weight or consequence can be engaged in, since divergent points of view and outlooks would be the starting points.

Herein lies the crucial question before us. In other words, how are we to reconcile the basic concept of Islam which, as creed and institution, is to remain forever fixed and unaltered, with the fact that any authority professing Islam can only be an executive, not a legislative authority? Putting it differently, how can we reconcile this doctrine with the needs of human society, which is a developing society, where naturally life does not assume one fixed, unchanged pattern for all times and places, without change or evolution? How can this be upheld so long as man's life is one of thinking, creativeness and sensory experience, all of which are subject to development and change in every aspect of life: faith, concepts, values, the law of the fittest, desires, utilities, social norms and mores, scientific and educational theories, and innumerable other similar ends and means?

Will Islam adapt itself to the life of mankind in its evolution, and develop and change along with it so that it might keep pace with progress, or will it remain forever fixed, and thus cease to be man's eternal law, moving along with man and responding to his ever proliferating needs?

This is the real crux of the matter. To deal with this question adequately, we need a big tome to incorporate our study. In this brief survey however, all we can do is to point out the main landmarks and outstanding or prominent features.

### III. DEFINING THE MEANING OF DEVELOPMENT

One of the rudiments of logic and philosophy is that a judgment is partly an ideation of an external thing as conceived in the mind. If we do not have in our minds a clear concept or well-defined picture of the term 'development', we cannot express an opinion or pass judgement on that term.

Hence we must start by defining the meaning of development, using examples from life's practical aspects to show its characteristic features, before we may be able to determine Islam's attitude to it.

The Arabic term *tatawwur* (development) is derived from the root-word *tawr*, which means 'transitional phase'. Consequently *tatawwur*, that is, development or evolution, is an instance of transition

or change from one phase to another, whatever the phase may be, whereas *al-taṭwīr* is to cause a thing to change from one previous condition or form to another. This is the definition generally given for the term in lexicons, and is the generally accepted meaning as well.

From this definition of development, it becomes clear that the new form or state into which the thing has been transformed need not be necessarily the best. According to this concept of development, transformation might represent a step backward or a worse condition, as, for instance, when we say that 'this person's illness is aggravated (has grown worse)', or a better and more perfect condition, as in the words of the Holy Qur'ān in the story of Noah, who urged his people to remember the grace and bounty of God. "For He it is Who hath formed you by successive steps" (Sura 71/14).

Development takes place involuntarily in natural phenomena as in the development (growth) of plants and animals from their emergence into life until they reach full growth, after which they mature and ripen and finally decline and perish. Development also takes place in voluntary activities and acquired skills, as is the development of man's knowledge and experience which become less sketchy and superficial with time and more solid and firmly-rooted, or the habits developed through application or continued use, which become a second nature to man. In all the foregoing cases, development has taken place.

The development takes place in all things: in concepts — ideas and beliefs, values and attitudes, morals and mores; in the material aspects and needs of life — clothing, habitation, means of communication, information media, war and peace, tools and appliances, work, science and art; and in the interplay of objects and people.

Development undergone by creeds and religions is of two kinds:

The first is a development of the religious creed itself as in the case of idolatrous beliefs which among certain people have gone through a primitive simple phase, and then developing into a more complex one in which the concept of divinity became blended with art, imagination, love and beauty, as in the Greek variety.

The second is a development in the people's evaluation of the worth of certain religious rites and rituals, while religion per se remains unchanged.

Religions that are born of man's fancy and imagination undergo the two types of development referred to above.



But revealed religions, determined as they are by fixed texts, undergo only the second type of change or development, which is an evaluational and behavioral type of development, considering that religion here is the religious texts themselves. So long as these exist, fixed as they are, they cannot suffer change or development unless their original sources are lost, or are varied or altered, in which case, they would fall under the first category because they admit of the possibility of their own development or change.

When the question of 'Islam and Development' is posed, the intent, as I see it, is not the development of the religion itself in the above-mentioned sense. What is intended, in my estimation, is the inquiry into Islam's attitude towards the development of man's life in its many aspects, conditions, customs, traditions, social values, family structure, and the like. Furthermore, the aim is to try to know the judgment passed by Islam on this development and how far it approves or disapproves of it. In other words, would Islam insist that its behests be obeyed in letter and spirit, or would it be willing to countenance their violation in trivial or serious matters? Thus the purpose is not by any means to inquire into the development of Islam itself, for Islam is delimited by fixed, jealously guarded texts which do not alter or change, as shown in God's words: "Verily, we have sent down the warning, and verily, we will be its guardian" (Sura 15/9). Islam in itself is not subject to change or development, since its original sources or texts are preserved and fixed, and since any deviation therefrom or neglect or misapplication thereof in no way affects them. They are, and ever will remain, the conclusive evidence and, as it were, the highway to salvation. Islamic thoughts and deliberations on the other hand might undergo development, that is, people's understanding of Islam might develop and change. They might undergo change as a result of new evaluations and new applications, necessitating a reconsideration of Qur'anic interpretations, which is to be conducted in an impartial and sincere spirit and to be motivated by a desire to discover the design and purpose of the Legislator. Islamic thought may also undergo a distorting change, caused by ignorance or by the evil intention to intrude non-Islamic concepts and values into Islamic thought when it is realized that the Islamic texts themselves cannot be falsified or perverted.

It is here that there emerges the need for the purification, preservation and rectification of such Islamic thought as has been perverted, and for reorienting people to the true Islamic path, both in

precept and practice, in all countries where Islam predominates. This need the Prophet himself recognized, calling it a regeneration of the state of religion. An authentic tradition has it that the Prophet said: "God sends to this nation at the turn of each century some one who will regenerate its religion."<sup>1</sup>

Scholars have written much on this *ḥadīth*, by way of explanation and analysis to ascertain the meaning of the term 'regeneration' used here, and the reason why the period of one hundred years was designated as the time for such a need. From all that has been written, one meaning of the term 'regeneration or renovation' emerges, more or less agreed upon, notwithstanding the different ways or forms in which it is expressed or presented. The term is understood to mean the purification of the Islamic faith from all the spurious and mythical or novel ideas that have crept into it, such as unauthorized innovations or superstitions, which disfigure its original, pure features, and also the revival of binding duties, complementary practices and commendable actions, essential as they are for the perfection of the popular practice of religion, long forgotten or forsaken. In other words, the regeneration of religion is to take place both in precept and in practice.

Having dwelt enough on the meaning of 'development' and the areas of life that the term covers, we propose to consider and analyze for a while the meaning of development and regeneration so as to compare and contrast them.

The term 'regeneration', in its import, does not mean the introduction into the Islamic faith new things which are foreign to it, or of which there is no mention in its texts. To do this would not be to regenerate but to supply a deficiency in the faith, which is inadmissible, simply on the grounds that there can be nothing wanting in the texts and original sources of Islam as set forth in the Qur'ān and in the Prophetic tradition. This is attested by the revealed word: "Nothing have we passed over in the Book" (Sura 6/38); and also in the last Qur'anic revelations: "This day have I perfected your religion for you, and have filled up the measure of my favours upon you: and it is my pleasure that Islam be your religion" (Sura 5/3).

To ward off superstitions and false beliefs (such as the invocation

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<sup>1</sup> This *ḥadīth* has been related in the works of a number of traditionists among whom Abū Dāwūd in his *Sunan* and others, on the authority of the companion Abū al-Rabī' b. Sulaimān. Traditionists are agreed as to the authenticity of this *ḥadīth* and the correctness of its chain of transmitters.

of others besides God as saints' tombs or the like in the hope that these may further the affairs of men) is partly an intellectual regeneration of Islamic thought.

To lead people to perform their public collective duties upon which the security and well-being of the Islamic community rests, (such as the waging of *jihād* 'holy war', the building of orphanages, schools and hospitals — all of which people tend to neglect because of the sacrifices they involve, and therefore, confine themselves to individual duties such as fasting and prayer because these do not cost them any expense or sacrifice — this type of action and other instances of similar nature) is a regeneration of Islamic thought and practice. The righteous ruler who leads his people to fight a holy battle against aggression or to protect the country, when the people are far involved in their own affairs and pleasures, or are too distracted by internecine strife and passions to rush to the rescue of the country, as magnificently exemplified in the action of Şalāḥuddīn who managed to rid the Islamic countries of the Crusaders' invasion. This Muslim ruler demonstrates concretely the idea of regeneration in religion. Similarly, to replace the use of old methods of warfare by new ones or to meet new situations or developments is another example of the practical regeneration of religion.

All this, however, does not constitute an advance in religion, for all those examples or instances just cited are comprised or implied in Islam's general texts. For these texts cease not to condemn superstition, prejudice and the stultification of human faculties or to enjoin *jihād* (holy war) and preparation thereto to the utmost of one's capacity.

"And when it is said to them, 'Follow ye that which God hath sent down'; they say, 'Nay, we follow the usages which we found with our fathers.' What! though their fathers were utterly ignorant and devoid of guidance" (Sura 2/170); "Make ready then against them what force ye can" (Sura 8/60).

This is what is meant by regeneration of Islam in the above-quoted *hadīth*: to revive such of its features as have become undistinguishable or ill-defined with the passage of time, to restore to its structure its pristine vigour and vitality, and remove the obstacles that have been placed in its way, checking its progress. For Islam's progress is constructive; it leads men on to the good, honourable and wholesome human life, and not away from their Creator, either through ignorance or through malice.

In other words regeneration means to restore to religion its original resplendence and its first unsullied state, both in spirit and practice, that is, to restore to it the freshness of its early years and its original purity and splendour.

How does all this fit in with the concept of development stated above?

A clear distinction can be drawn between the two concepts without need for much reflection. Development may take the form of sound, and wholesome renovation, and renovation is always a form of development. But there is an area in which development and regeneration stand wide apart, and, in fact, are opposed to each other. Development may be applied to any type of change. Things might develop from bad to worse; people might discard good things in their customs, conditions, behaviour and values and replace them by evil, harmful ones; or they allow sham or alien elements to insinuate their ideas or way of life, contrary to the teachings and the spirit of the Islamic faith. All these are corrupting factors which need to be put right or put away, as may be clearly seen from the above exposition.

*How Can Islam Meet the Needs of a Developing Life Within the Framework of Sound Development?*

There are certain indisputable facts in the universe as well as in life. These are fixed, established rules, true of natural laws, of human instincts and character, and of rational and mathematical concepts — which are not subject to change or development. The law of immutability governs the universal laws of matter, as seen in the fixed unalterable order of the heavenly bodies, and those determining equilibrium in liquids and the fall of bodies in space. Similarly, certain fixed laws are true of many aspects of the human character and of man's innate nature, both collectively and individually; they are also true of many concepts and values in man's social outlook. There are certain laws governing men's lives which may be said to be fixed or immutable. Countless examples may be cited. For instance, the consuming desire of the victim to wreak vengeance upon his persecutor, a desire that is deeply rooted in human nature; man's desire for knowledge and the urge to acquire it in every possible way; man's exercise of the mental faculties he is endowed with; the will to establish a just system of government; the fight against ignorance, to remove it from the way of human progress; the resistance against the evils of individual and collective tyranny; the need for the

neutrality of the judiciary and the law; the need for competence on the part of the judge as well as of all those entrusted with a mission or task; the need for integrity which reinforces confidence in the minds of people; the evils of treason and all that tends to undermine trust and confidence; the need for a proper balance between the rights and obligations imposed by legislation; the need for an equitable distribution of national wealth and for fairness in the distribution of public services among the citizens; the assignment of duties in accordance with people's abilities; the safeguarding of public and private rights from being infringed upon; the establishment of the necessary measure of chastisement and of curbs and deterrents required to keep order; due regard for the individual and for his human dignity, and a comparable regard for the community, without letting the interests of the one preponderate over those of the other, inasmuch that the wholesome community cannot be born out of repressed, neglected and corrupt individuals; the incessant need for economic development since poverty can never be regarded as an advantage in life; and countless other instances of basic concepts and values that may be said to be fixed and immutable so long as there is human life on this earth. But, will there ever come a day when these concepts may be reversed? Can ignorance ever be regarded as preferable to knowledge or tyranny as greater good than justice? Can an inequitable distribution of obligations — one that is not adapted to people's capacities — ever become the accepted norm, or can an unbalanced assignment of rights and responsibilities ever be the prevailing rule? Many other examples of a reversal or inversion of human opinion as regards values may be cited. Tastes in art for instance may undergo change or be quite various and disparate. Artists may prefer certain colours or shades of colours to others, musical instrumentation or melodies may greatly alter, and poetical styles differ from age to age and from one clime to another.

With this in mind, it will be seen that Islam has provided mankind with a set of rules and prescriptions that are basic and fixed, which possess a worth of their own that cannot conceivably undergo change in the nature of things — change that in the ordinary course of life may cause a reversal of values, and the reversal may become the rule. There are, however, certain exceptional or emergency situations where this rule may be operative. Sometimes, the suppression of truth may be the only way to salvation or to the rescue of others from oppressive injustice or the seizure of another's wealth may also prove the

only way to save a person from starvation, or severe penalty administered by the judicature may be indispensable to the establishment of law and order in the land in times of chaos and disturbance, and so on. In all these exceptional and temporary situations, Islamic law has made allowances. On the basis of the texts, Islamic jurisprudence has pronounced that exigency may legitimize certain prohibited actions, to such an extent as to ward off the exigency.

Taking social regulations as an instance, we find that adultery has been most stringently prohibited because it undermines family life, corrupts it and brings in its wake untold tragedies and evils as well as moral and physical disorders. The means leading to such dire consequences or facilitating the commission of the act have also been prohibited. For instance a man may not stay with a woman unrelated to him if alone, or a woman may not travel with a man unless she is in the company of her husband or of any of her male relatives not legally a potential husband. This is a fixed, unalterable rule of Islamic law, because it is based on instincts that cannot change or alter. It has nothing to do with the development of society or the spread of general culture or sex education or the high or low level of civilization in this or that society. Similarly woman's modesty and decorum in her apparel and ornament has been enjoined; woman has been instructed to conceal her charms and adornment from male eyes save those of her husband or close (consanguine) relatives. One of the basic principles indicated by the original texts of the law is the "blocking of expedients", that is, prevention of all that may lead to corruption, and something virtually corrupt. That is why also, the taking of small quantities of liquor, although not intoxicating, has been prohibited, for it may lead to more drinking, which is corruptive, not perhaps in the case of a certain person, but definitely in the case of another.

In the legal as well as in the judiciary system, Islamic law has dealt with two areas: the private law (civil and penal) and the public law consisting of its two divisions: the internal (constitutional, administrative and financial) and the external (international). The original texts in the Qur'ān as well as in the Prophet's tradition have provided us with universal fundamental principles of the fixed kind which admits of no change or transformation in human ideas or evaluations, the details and means of application having been left to individual interpretation *ijtihād* to fit developing temporal needs or interests, and the potential demands of time and place. The texts did not

concern themselves with details or particulars or with matters of a secondary nature except very occasionally when they meant to prevent disagreement as to people's appreciation of certain questions, as in the rules of inheritance, certain rules governing divorce, and the penalties for certain major crimes which might have serious effects upon Islamic society, namely, the five types of penalties imposed for transgressing the *hudūd* or limits of the law.

As for the punishments of all other crimes, these have been left to the discretion of temporal authority, to be dealt with according to need and public interest. These are known as the penalties of castigation.

In this connection, the words of the Umayyad caliph 'Umar b. 'Abdul-'Azīz, represent ideally the interdependence between castigation penalties and developing temporal needs. 'Umar said: "The degree of chastisement people suffer is commensurate with the degree of their wickedness."

As a matter of fact the basic universal concepts and the true principles upon which justice is founded in social life are in general beyond the oretical dispute as well as beyond development and change in all environments, for they are closely bound up with innate human nature and with firmly fixed human sentiment. Islamic legal texts in the Qur'ān and the tradition of the Prophet have underscored those immutable values and principles and revealed them in clear forms. Hence, these texts are suitable for every age and place as far as the desired ends are concerned, but to the exclusion of the means and instruments of change which have been left by the Legislator to be adapted to the exigencies of the situation. Thus the law has enjoined equity in judgments strictly based on evidence, leaving the ways and means of achieving this end rather unspecified. It did not also specify whether the judge should be one person or more, or whether there should be one or more levels of judicial administration, or whether different methods should be followed in different cases — one type for important cases, another for the less important, a third for administrative justice and a fourth still for civil or penal justice. There is one rule only governing all the above, namely, the rule known as *istiṣlāḥ* or *istiḥsān*, that is the selection of the better course or the application of discretion or "seeing fit" in legal decisions. The nation and the authorities in power are to choose what fits the situation best, in accordance with time and place, and that which is likely to achieve the desired end.

The same applies to other aspects of life — to constitutional affairs, for instance, or to other sectors of legislation. Islam has laid down in its principal texts that the nation should have a sovereign head in charge of all its affairs, who in the management of all the affairs of state, is always prepared to consult the nation and ready to listen to the representations of the nation. Neither party was to act independently of the other or to impose its own point of view, were it even the supreme sovereign authority in the state. This was the case during the rule of the caliphs known as the wellguided caliphs, immediately after the Prophet. To achieve this end a number of ways and means must be devised and adopted. However, the ways to achieve this end were not laid down or defined in the texts for fear that if this had been done, they would have assumed one fixed, rigid form which might not have been flexible enough to adapt itself to varying future situations. Conditions, ways and practices might change and develop as a result of successive experiences, which would determine what is to people's advantage or to their disadvantage. The nation might consider that government by consultation can be better achieved through the monarchical system, or alternatively the representative (parliamentarian) system, or through a constitutional monarchy, or by compounding the three powers or by separating them. All these methods are acceptable so long as conditions for genuine consultation are ensured — the participation of the ruler and the ruled in the expression of the national opinion, and the general will. No arbitrary powers are to be exercised nor is the right of rule by succession to be recognized. The system best suited to each situation is to be adopted.

The fixed principle which is not liable to change or evolution in public affairs is exactly what the Prophet pointed out and cautioned against, as reported in authentic traditions. The Prophet warned against entrusting a public function to a person when there are others who are fitter to discharge that specific function. He denounced such a wrong step as an act of treason against the Prophet and against the Muslim community as well. This warning covers all acts connected with any type of public appointment or employment, even the elector's vote which is given to a candidate whose success may not even depend upon that vote. What is important in this respect is not so much the methods used to achieve the desired end as the achievement of the end itself.



*General Nature of the Texts of Islamic Law Makes them Self-Sufficient in Their Fundamental Principles*

The primary texts in the Qur'ān, and likewise many a text pertaining to the tradition of the Prophet, are characterized by a large measure of generalization and flexibility. They outline or sketch the fundamental principles of the law as well as the ends it seeks to achieve, all of which are designed to serve man's interest in this world and the next, without, however, entering into details of particulars and of the means for those ends, the reason being that the inclusion of particulars or details in the text would militate against the attainment of the desired, specific objective. Many of these texts involve the determinant general principles governing them.

A punishment by retaliation is shown to have been ordained to save life. The system of vengeance and blood-feud may destroy the innocent as well as the guilty, and retaliatory punishment inflicted on the murderer is, in consequence, fairer and more life-saving.

The establishment of justice is shown to be closer to worship and fear of God, for fear of God means the avoidance of anything that might incur God's wrath or displeasure, at the forefront of which figures injustice, which was described by the Prophet as the tenebrosities of the Day of Judgment.

The proscription of wine and games of chance are enforced because the evils therefrom are far greater than their presumed good. There is also the argument that they are the devil's instrument for generating discord and strife amongst the believers and for distracting them from the duties enjoined by religion.

In these general texts, quite often the thing that is condemned is itself an index of the cause for which the rule has been formulated, as shown in the Prophet's saying: "No harm and no harassment". The word "harm" with the negative 'no' shows the underlying reason for the rule and the need for compensating every harm incurred.

Besides their general character and flexibility, these texts, through these generalizations and ratiocination, have served as a basis for analogy in dealing with questions regarding which no mention was made in the texts in various fields or special areas.

Prohibition of *maisir* (an ancient Arabian game of chance) as practised by the Arabs when the text was revealed covers all kinds of gambling, including the future ones, which share the same characteristics of the gambling activity under ban.

Prohibition of cheating or fraudulence in contracts is applicable to all kinds of deceit and fraud in human relationships, in any job or travel or any other type of activity.

Examples demonstrating all this are galore, making it clear as they do that the basic texts with their generalizations, flexibility and ratiocination have the effect of covering all contingencies, whether through the exercise of *ijtihād* (exercise of the mind in eliciting a legal rule), or through deductions and inferences by the application of the principle of 'interest' in connection with all questions left out in the texts, since 'interest' has been shown as the underlying reason behind many of the legal provisions in these texts.

Let us now turn to the role of custom and usage in the formulation of legal principles of every type. Theirs is a subordinate role, serving only to explain contracts and other administrative measures and to define legal obligations and commitments of every type. It is, however, of considerable importance in establishing the capability of the law to meet all legislative needs and to ensure its permanent self-sufficiency. The texts of Islamic law and jurisprudence have given great consideration to changing and developing customs and mores, which, it was enjoined, were to be taken as a basis in the enforcement of the law, without the need for a text regulating each special case, whether in matters pertaining to religion or to the wordly affairs of everyday life.

The oath binding someone to a certain course of action, is to be fulfilled in accordance with the swearer's own conventional comprehension of the oath in its purport. Jurists have even declared that a person who swears not to eat meat for instance, and the custom of his home country or his own habit is only to eat the flesh of hunted land birds or animals, does not commit a sin or perjury if he eats for instance, fish, because his oath is only applicable to the customary practice.

Anything held in trust is to be kept in accordance with customary practice, as enjoined by the Qur'ān. For example, if a person is entrusted with the safekeeping of a valuable necklace, and he keeps it by committing to the care of his wife, he is not to be regarded as having failed in his trust if the necklace is damaged or destroyed for any reason, nor is he to be regarded as his wife's guarantor. The customary practice allows one to commit such objects to the care of one's wife (but not to a servant, for instance).

The hired hand or worker who is hired on a daily basis is not obligated to put in hours of work — in number and time of day — save

as determined by accepted usage, even though not specified by the contract. For it is custom which determines these questions, when no legal or contractual text is available thereon.

Examples on the foregoing cases are too many to be cited all. If to all this we add the Prophet's observation made when questioned about palm pollination: "You are more knowledgeable about your world matters" — an observation which has opened the door wide to scientific and intellectual exploration and to the application of universal and natural laws to the needs of industry, agriculture, administration, and commerce as well as to all things pertaining to the affairs of daily life, under guidance from the precepts of religion, of uprightness and of integrity. In all this we perceive that there can be no area in life which is not provided for by Islam.

Thus this wise and all-embracing foundation laid down in the texts of the law enfolds the essence of all needs and exigencies making them adaptable to development in all things which do not violate any of their basic principles or obstruct all that is most conducive to their better application. Its rules and jurisprudence have been able to answer the needs of all ages, environments and civilizations wherever Islam has prevailed and has been in sole control.

This is as far as we are able to cover in this brief survey of « Islam, Society and Development », the subject of this discourse.

The task of applying this to planned parenthood, the thesis of this conference, belongs to others, since it does not form part of the subject under discussion.



# THE DICHOTOMY OF ISLAM'S NATALITY DESIGN IN AN EPIDEMIOLOGICAL CONTEXT

BY

DR. ABDEL RAHIM OMRAN

A sizable proportion of world's population is Muslim, for although there are no accurate statistics of the Muslim population, six hundred million is a conservative estimate. This population is found mainly in Africa, the Middle East, Asia and some parts of Europe. More than thirty-five countries have a predominantly Muslim population of 51-99 %, and several others have a substantial Muslim minority as shown in Figure 1 and Table 1.

The great majority of Muslims live in areas where there is an alarmingly high rate of population growth, the result of extremely high fertility and declining mortality. In pre-industrial times, rapid population growth would have been most welcome. Now, however, uncontrolled fertility with rapid population growth is considered not only a sign of underdevelopment but one of its determinants as well.

In attempting to account for the high rates of population growth obtaining among Muslims, many writers tend to stress theological rather than socio-epidemiological determinants as causes for this high Muslim fertility. For example, in a paper read at an international conference, it was declared that "... Islam has been a more effective barrier to the diffusion of family planning than Catholicism."<sup>1</sup> This statement reveals a lack of understanding of the actual and potential role of Islam in influencing fertility. Furthermore, with arguments both for and against family planning based on quotations from the Qur'ān, the *ḥadīth*, the consensus of 'ulamas or theologians, and *al-qiyās* or analogy (the four basic sources of Islamic jurisprudence), one may

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<sup>1</sup> Dudley Kirk, 'Factors Affecting Muslim Natality', in *Family Planning and Population Programs*, Bernard Berelson *et al.*, eds. (Chicago: University of Chicago Press, 1966), pp. 561-579.

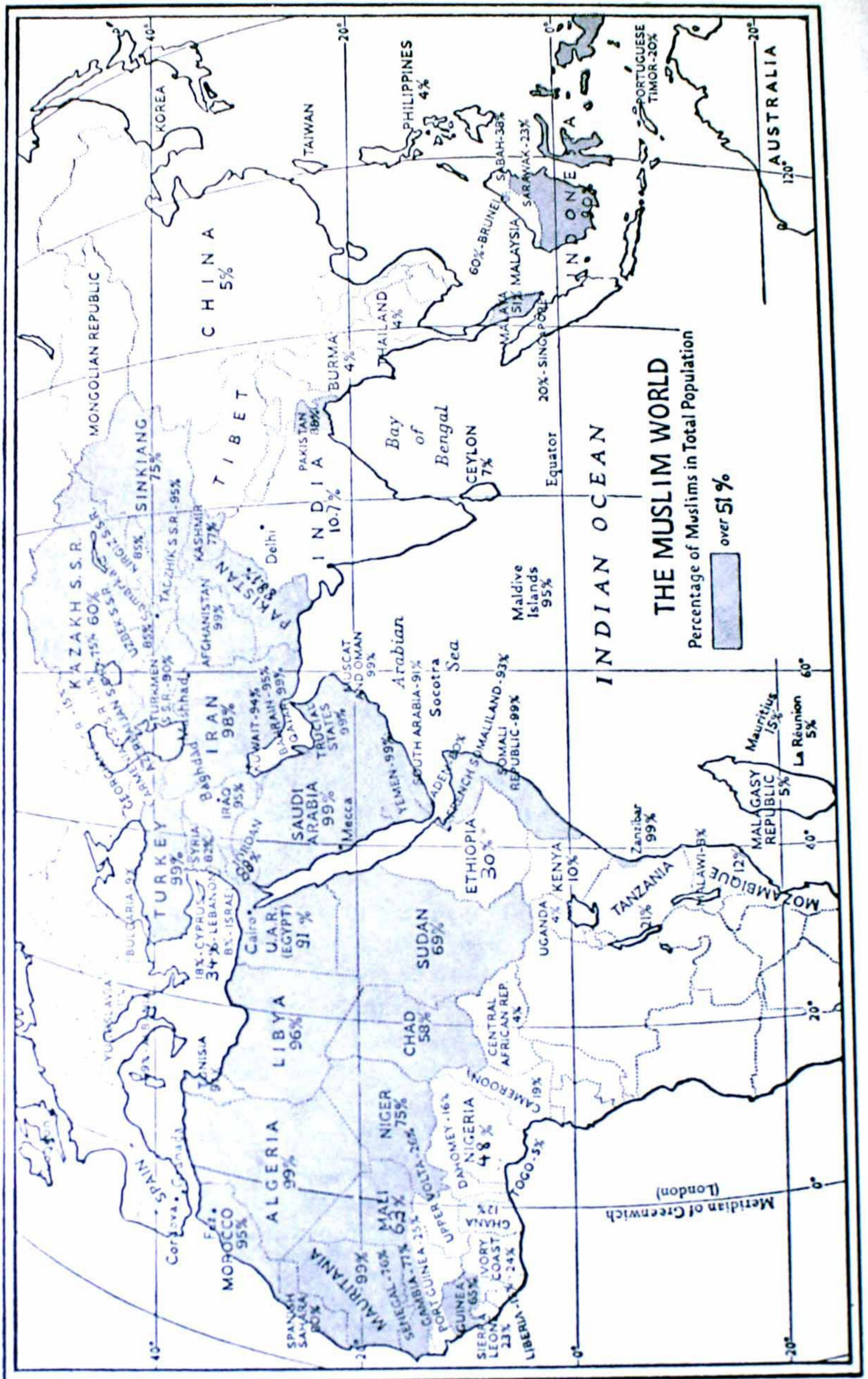


Figure 1: The Muslim World

Source: Updated from *The Moslem World* inset in "Southeast Asia", a map prepared by the National Geographic Society (Washington, D.C., 1966).

TABLE 1

*Some Demographic, Social and Epidemiological Indices for Selected Muslim Countries*

Country	Estimated Population		Population Projected to 1985	Percent Muslim	Death Rate /1000 Pop.	Birth Rate	Infant Mortality Rate	Rate of Population Growth	Years to Double Population	Population under (15%)	Per Capita GNP US-\$
	1960	Mid-1971									
Algeria	10.8	14.5	23.9	99	17	50	86	3.3	21	47	220
Chad	3.1	3.8	5.5	58	23	48	160	2.4	29	46	60
Egypt	25.8	34.9	52.3	91	15	44	118	2.8	25	43	170
Gambia	0.3	0.4	0.5	77	23	42	—	1.9	37	38	100
Guinea	3.1	4.0	5.7	65	25	47	216	2.3	31	44	90
Libya	1.3	1.9	3.1	96	16	46	—	3.1	23	44	1,020
Mali	4.1	5.2	7.6	63	25	50	120	2.4	29	46	90
Mauritania	1.0	1.2	1.7	99	23	45	187	2.2	32	—	180
Morocco	11.6	16.3	26.2	95	15	50	149	3.3	21	46	190
Niger	2.9	4.0	6.2	75	23	52	200	2.9	24	46	70
Nigeria	52.0	56.5	84.7	48	25	50	—	2.6	27	43	70
Senegal	3.1	4.0	5.8	76	22	46	—	2.4	29	42	170
Somalia	2.0	2.9	4.2	99	24	46	—	2.4	29	—	60
Sudan	11.7	16.3	26.0	69	18	49	—	3.2	22	47	100
Tunisia	3.9	5.3	8.3	97	14	45	74	3.1	23	44	220
AFRICA	278.0	354.0	530.0	—	20	47	—	2.7	26	44	—
Afghanistan	13.8	17.4	25.0	99	26	50	—	2.5	28	—	80
Indonesia	93.5	124.9	183.8	90	19	47	125	2.9	24	42	100
Iran	21.5	29.2	45.0	98	18	48	—	3.0	24	46	310
Iraq	7.0	10.0	16.7	95	15	49	—	3.4	21	45	260
Jordan	1.7	2.4	3.9	88	16	48	—	3.3	21	46	260
Kuwait	0.3	0.8	2.4	94	7	43	36	8.2	9	38	3,540
Lebanon	2.1	2.9	4.3	50?	—	—	—	3.0	24	—	560
Malaysia	—	11.1	16.4	51	8	37	—	2.8	25	44	330
Muscat and Oman	0.6	0.7	1.1	99	11	42	—	3.1	23	—	250
Pakistan	92.7	141.6	224.2	88	18	50	142	3.3	21	45	100
Saudi Arabia	—	8.0	12.2	99	23	50	—	2.8	25	—	360
Syria	4.6	6.4	10.5	82	15	47	—	3.3	21	46	210
Turkey	27.5	36.5	52.8	99	16	43	155	1.9	26	44	310
Yemen	5.0	5.9	9.1	99	23	50	—	2.8	—	—	90
ASIA	1,660.0	2,104.0	2,874.0	—	15	38	—	2.3	31	40	—
Albania	1.6	2.2	3.3	69	8	35.6	86.8	2.7	26	—	400
EUROPE	425.0	466.0	515.0	—	10	18	—	0.8	88	25	—
WORLD	3,005.0	3,706.0	4,933.0	—	14	34	—	2.0	35	37	—

Sources: Compiled from *Demographic Yearbook*, 1967 (New York: Statistical Office of the United Nations), *World Data Sheet* (Washington, D.C.: Population Reference Bureau, 1971), and map in Figure 1.

Table does not include other states with Muslim majority in U.S.S.R. (for example, Azerbaijan S.S.R. with 75 % Muslim; Kazakh S.S.R., 60 %; Kirgiz S.S.R., 85 %; Turkman S.S.R., 90 %; Uzbek S.S.R. 85 %), Arabian Peninsula and Africa (Aden, 80 %; Bahrain, 95 %; French Somaliland, 93 %; Qatar, 99 %; Spanish Sahara, 80 %; South Arabia, 91 %; Trucial States, 99 %; Zanzibar, 99 %) and Asia (Kashmir, 77 %). In addition, India has 11 % Muslim population and China has 15 %.

find Islamic teaching contradictory. Those who point to such contradictions fail to realize that Islamic tradition bifurcates into a pronatalist model or theme favouring large family size and another model or theme favouring small family size in accordance with prevailing social and epidemiological determinants. As will be shown in this survey, both themes sanction family planning.

The purpose of this paper is twofold: (1) to controvert misconceptions which represent Islam as an exclusively pronatalist religion and to affirm positive aspects of Islamic doctrine which can lend theological support to the family planning philosophy; and (2) to present the dichotomy of Islam's natality design in an epidemiological context. Details of the Islamic themes are omitted, since they will certainly be attended to by my colleagues.

#### THE EPIDEMIOLOGIC TRANSITION IN MUSLIM COUNTRIES

Our studies of the epidemiologic transition in various countries and at different periods of time describe patterns that can serve as a basis for the natality design in Islam.<sup>1</sup>

##### *The Pre-Modern Pattern of Population Growth*

Pre-modern population change is adequately described by the concept of population cycles, or the cyclic rises and falls in population sizes which have been observed in pre-modern human populations — including the areas where Islam now<sup>3</sup> prevails — and which reflect sequential changes in the three main population variables, namely, mortality, fertility and migration. In the absence of any medical influence, these cycles must be accounted for by vigorous social and political changes. These changes are described rather neatly by Ibn Khaldūn, a fourteenth century Arab historian and social scientist, who, through careful study of ancient populations, proposed a concept of population cycles that is still the best social explanation of population change in pre-modern periods.<sup>2</sup> His ideas are shown in simplified form in Figure 2.

<sup>1</sup> A. R. Omran, 'The Epidemiologic Transition: A Theory of the Epidemiology of Population Change', *The Milbank Memorial Fund Quarterly*, Vol. 49, 1971, pp. 509-538.

<sup>2</sup> Ibn Khaldūn, *An Arab Philosophy of History: Selections from the Prolegomena of Ibn Khaldūn of Tunis*, translated from Arabic by Charles Issawi (London: John Murray, 1950).



MODEL OF IBN KHALDUN'S THEORY OF CYCLIC POPULATION CHANGE

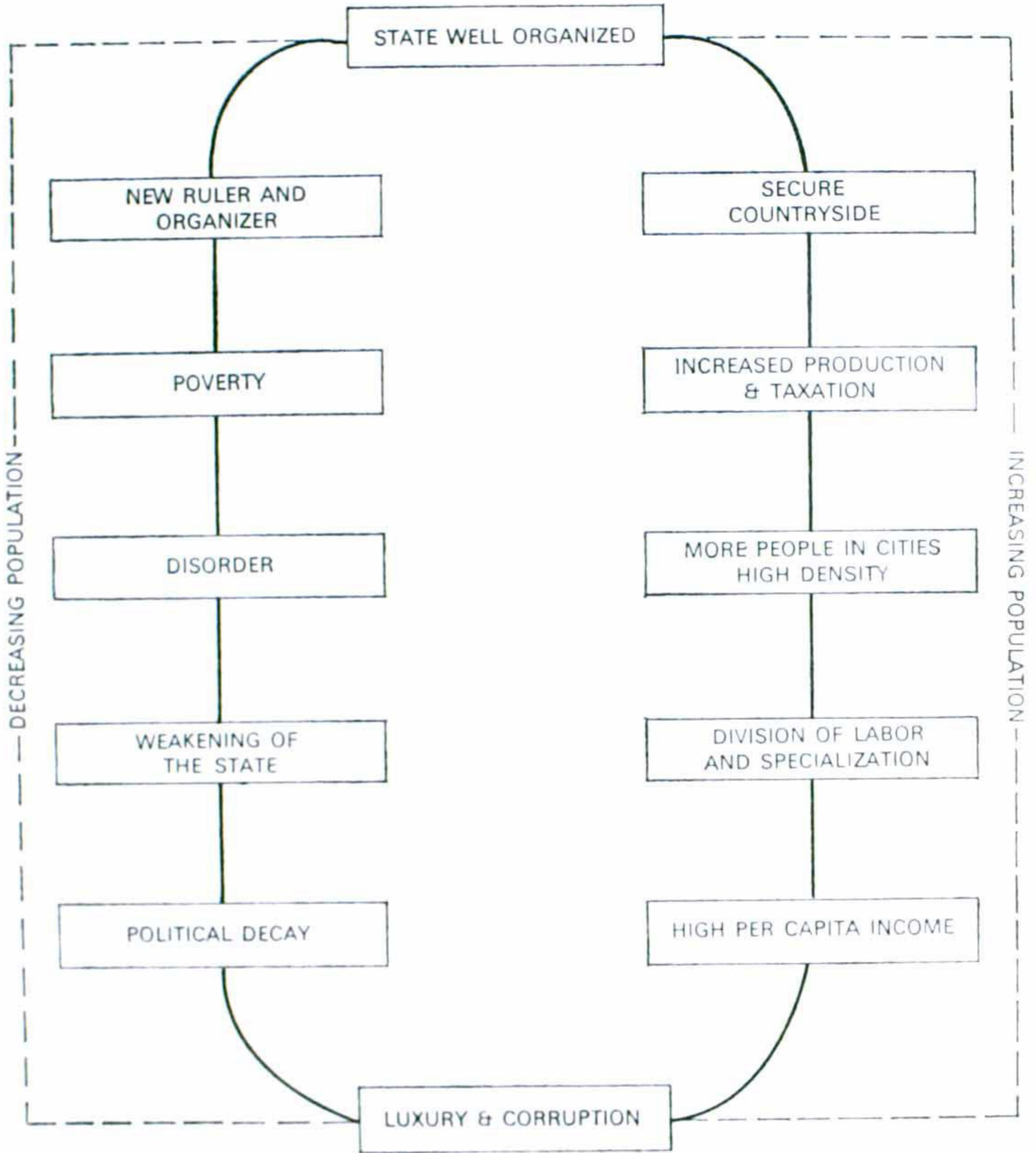


Figure 2: Model of Ibn Khaldūn's Theory of Cyclic Population Change  
 Source: A.R. Omran, 'The Population of Egypt, Past and Present', in A.R. Omran, ed., *Population Problems and Prospects: Egypt* (in preparation, 1971).

Ibn Khaldūn postulated that a population cycle started with the establishment of a strong, well-organized system of government, followed by political stability and economic prosperity based on increased agricultural productivity, division of labour and specialization — all this leading to a rising standard of living and to population growth. Following a stage of prosperity and well-being would come a phase of luxury and corruption, which would eventually lead to social unrest, political upheaval, and the weakening of the state. This “declining” period is marked by a drop in population. Subsequently, as new leadership emerges, either from within the state or from the outside, and political stability is re-established, a new cycle would set in. While the duration of the cycle might differ from time to time or from one place to another, a cycle usually encompasses several generations.

One of the propositions of the theory of epidemiologic transition adds to this great concept the proposition that the most influential determinant in these cycles is mortality, while fertility plays a secondary role; migration is selective and may contribute to the cycles only occasionally. Fertility fluctuations alone could not be held responsible for the major cycles simply because the range of fertility is framed by a biologic maximum and a realistic minimum, both shaped by fecundability, by female survival chances during fertile ages, and by marriage and fertility control practices. Because of the low motivation to limit births and the relatively ineffective methods of fertility control in pre-modern societies (except for abortion and infanticide), the broadest range for fertility is probably about 30-50 births per 1,000 population. In contrast, the range for mortality is much greater, for there is virtually no fixed upper limit to the death rate. Although 30 deaths per 1,000 population may be a reasonable approximation of mortality's lower asymptote, its upper asymptote in pre-modern societies maybe many times as high in epidemic and famine years. Consequently, even if fertility approaches its biologic maximum, depopulation could and did occur as a result of epidemics, wars, famines and natural disasters, which repeatedly pushed mortality levels to high peaks (50-100 or more per 1,000 population).

Even in the so-called good years, mortality was quite high from chronic undernutrition, endemic diseases, and lack of medical care. Caught between the towering peaks of mortality of the bad years and the high mortality plateaus of the “good” years, fertility, fluctuating as it did somewhat in response to mortality changes, had to be kept

high in order to compensate for high mortality — particularly among children. Under the influence of this cyclic change, the net growth in population was infinitesimal and by 1650, the world total was still about one-half billion. (See Figure 3.)

The conditions in the Arab peninsula where Islam started were similar, as were the conditions throughout almost all the Islamic world up to the nineteenth century. Hence developed all the pronatalist themes in Islam that characterize what we call Model One or the Traditional Model of Islam's natality design.

### *The Modern Pattern of Population Growth*

For the purpose of this paper, the year 1650 is used as the arbitrary cut-off between modern and pre-modern times. According to the theory of epidemiologic transition, three models of change can be identified in various countries. In Figure 4, England illustrates the classical model; Japan, the accelerated model; and both Ceylon and Chile, the delayed model. Most or almost all Muslim countries belong to the last model with a few minor exceptions. Further, each model passes through four phases exemplified fully by the classical model which develops gradually over a period of many generations; these phases are: (1) An Age of Pestilence and Famine; (2) An Early Phase of Receding Pandemics; (3) A Late Phase of Receding Pandemics; and (4) An Age of Degenerative and Man-Made Disease.

*The Age of Pestilence and Famine* is almost an extension of pre-modern patterns. Mortality is high and fluctuating, thus precluding sustained population growth. Fertility is also high and, to a lesser extent, fluctuating. The net population growth is small but incremental. The morbidity profile is dominated by epidemics and endemics of infection and undernutrition. The standard of living is low, as is the level of production and consumption. This pattern is encountered in the Muslim world throughout the last few centuries and has dictated once more Model One of Islam's natality design, that is, the pronatalist model.

*The Age of Receding Pandemics* is a stage in which mortality declines progressively while fertility is sustained at previously high levels or may actually increase because of (1) the improvement of female survival when more women reach and survive a greater and greater part of their reproductive age span; (2) decreased widowhood; and (3) improved

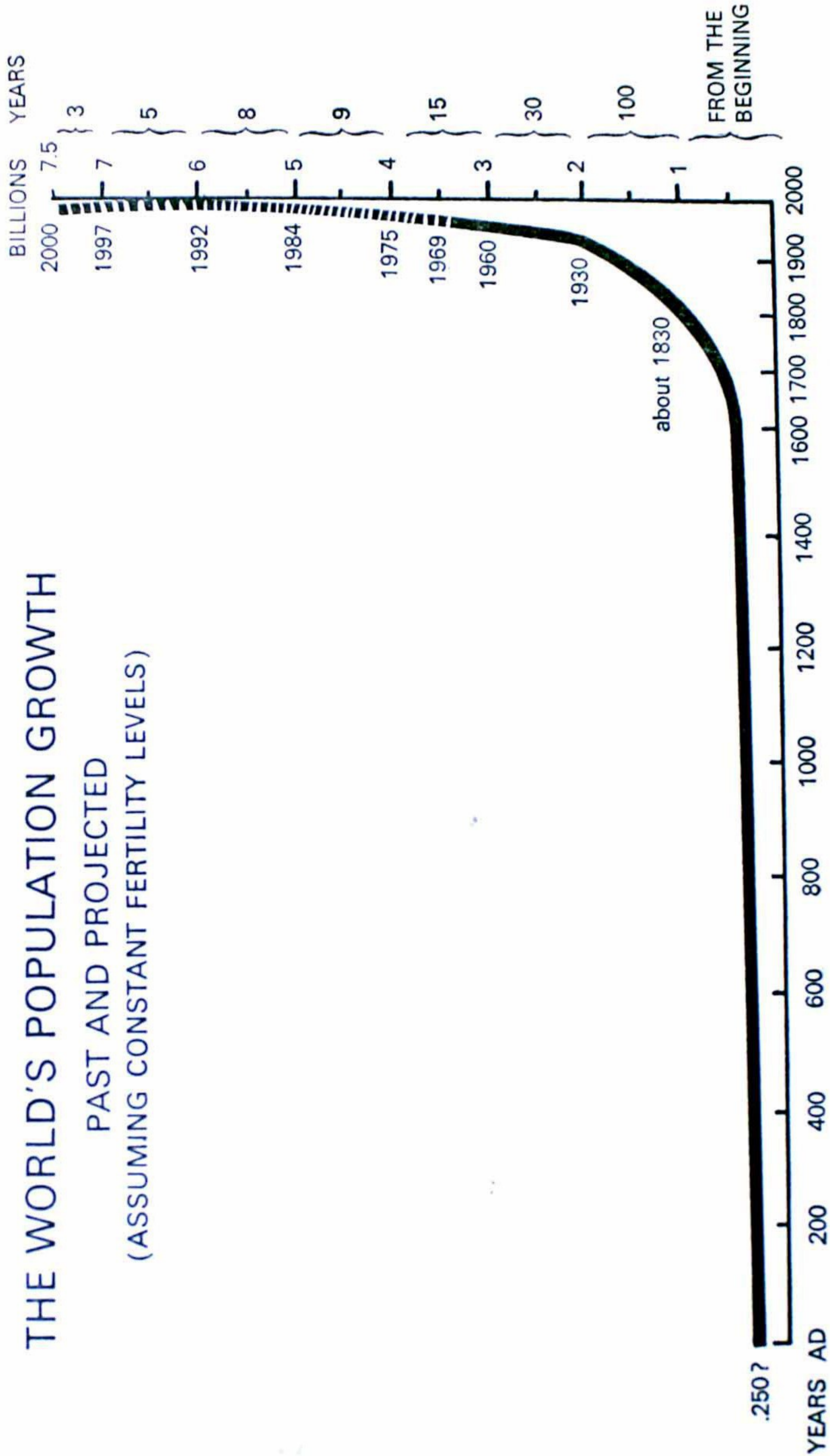


Figure 3: The World's Population Growth — Past and Projected

DEMOGRAPHIC TRENDS IN SELECTED COUNTRIES

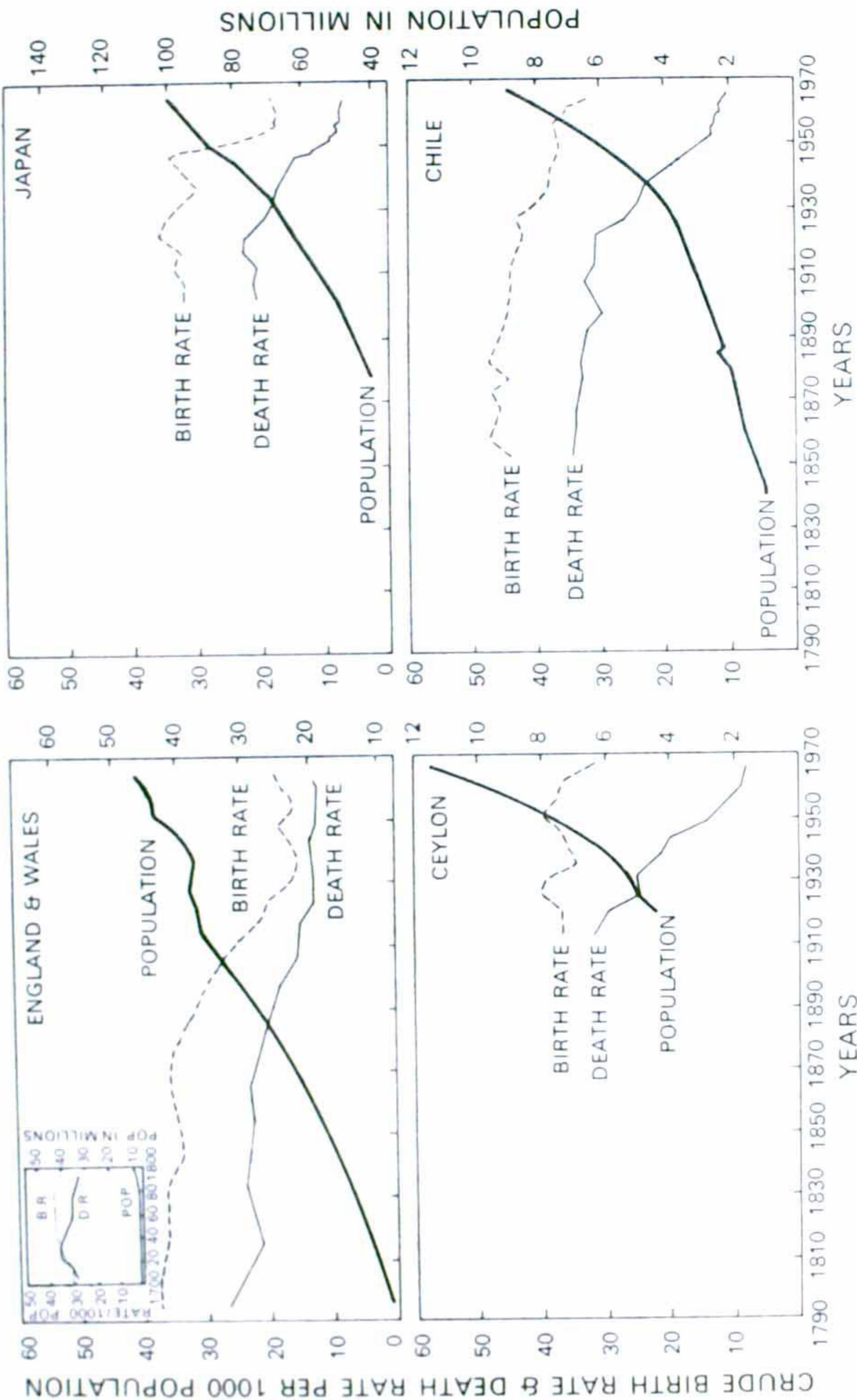


Figure 4: Demographic Trends in Selected Countries

Source: A.R. Omran, 'The Epidemiologic Transition: A Theory of the Epidemiology of Population Change', *The Milbank Memorial Fund Quarterly*, Vol. 49, 1971, Figure 2, p. 515.

fecundity as a result of the elimination of diseases that used to reduce it. The rate of change in this stage differs from one model of the epidemiologic transition to another. In the classical model, mortality decline is slow and occurs in response to social rather than to medical forces. These same forces are later to affect fertility and promote its decline after a time lag of several generations. In the accelerated transition, mortality decline is somewhat faster and the time lag for fertility decline is shortened (mainly through abortion), as in Japan.

In the delayed transition, in most Muslim countries at present, mortality decline has been very rapid, especially since the end of World War II, while fertility has continued at high levels, thus precipitating an explosive population growth never before known in demographic history. The mortality decline in these countries is mainly the result of medical and public health measures rather than through social change. This is sometimes described as an artificial decline initiated in large part by imported technology. Because of the slow pace of economic and socio-cultural change, fertility may lag behind while population soars, thus precluding any per capita improvement in standards of living, levels of production or consumption. This is a most dangerous situation, because it means that the developed countries will continue to develop and the less developed countries will continue to be less developed. As a matter of fact, most of the world population growth in recent years has occurred in the less developed countries. At this stage, fertility control has to be organized and intensified through family planning programs.

*The Age of Degenerative and Man-Made Disease* is characterized by mortality which continues to decline and eventually approaches stability at a relatively low level. The morbidity pattern is dominated by degenerative and man-made rather than infectious diseases. Fertility continues to decline to similarly low levels and has replaced mortality as the crucial factor in population growth.

This stage has been reached chiefly in the western countries which have completed a classical transition. It has also been reached by countries which have experienced an accelerated transition, especially Japan. Muslim countries have yet to reach this stage.

#### CURRENT STATUS OF MUSLIM COUNTRIES

Virtually all Muslim countries are passing through the dangerous second stage of the delayed transition with declining mortality and

sustained high fertility. Unfortunately, accurate data are not available for most of these countries. A summary of some of the demographic and social profiles in countries with one-half to almost 100 % Muslim population is given in Table 1. For comparison, data are given for the whole world, for Africa, Asia and Europe as well.

*The demographic profile* indicates the following:

1. Mortality is high but declining and ranges from less than ten to more than 26 per thousand population. Infant mortality rates, although much lower than ever before, are still alarmingly high.

2. Fertility is even higher than mortality, with birth rates ranging from 36 to 50 per thousand population.

3. The resulting rate of population increase ranges from 20 to 30 per thousand, one of the highest in the world. Thus, the potential for doubling the population is very high and takes only from 20 to 40 years. Selected Muslim countries are plotted on the correlation curve (population growth rate against years to double) in Figure 5.

4. The age structure of the population is predominantly young, with the population under 15 years of age exceeding 40 % in most countries. This implies a very high dependency ratio and low life expectancy. For example, in Egypt the youth dependency ratio in 1970 was 83.4 dependents 15 years of age and younger for every 100 people between the ages of 16 and 59. Figure 6 shows that youth dependency ratios (calculated in this case as those under 20 years of age for every 100 people between the ages of 20 and 64) in less developed areas of the world are high compared to those of developed areas.

*The social and economic profile* describes very low per capita Gross National Product (GNP) and per capita national income. The rate of illiteracy is very high and exceeds the 75 % level in many countries, especially among females. In most Muslim countries, health services are poor, with one physician for several thousand population.

For comparison, selected demographic indices for Muslim countries are plotted in Figure 7 against averages for the world, for Africa, Asia and Europe.

It is apparent that the demographic, social and economic situation in Muslim countries is very unfavourable compared to most of the world.

## YEARS REQUIRED FOR POPULATION TO DOUBLE

(Based on 1971 Population Growth Rates)

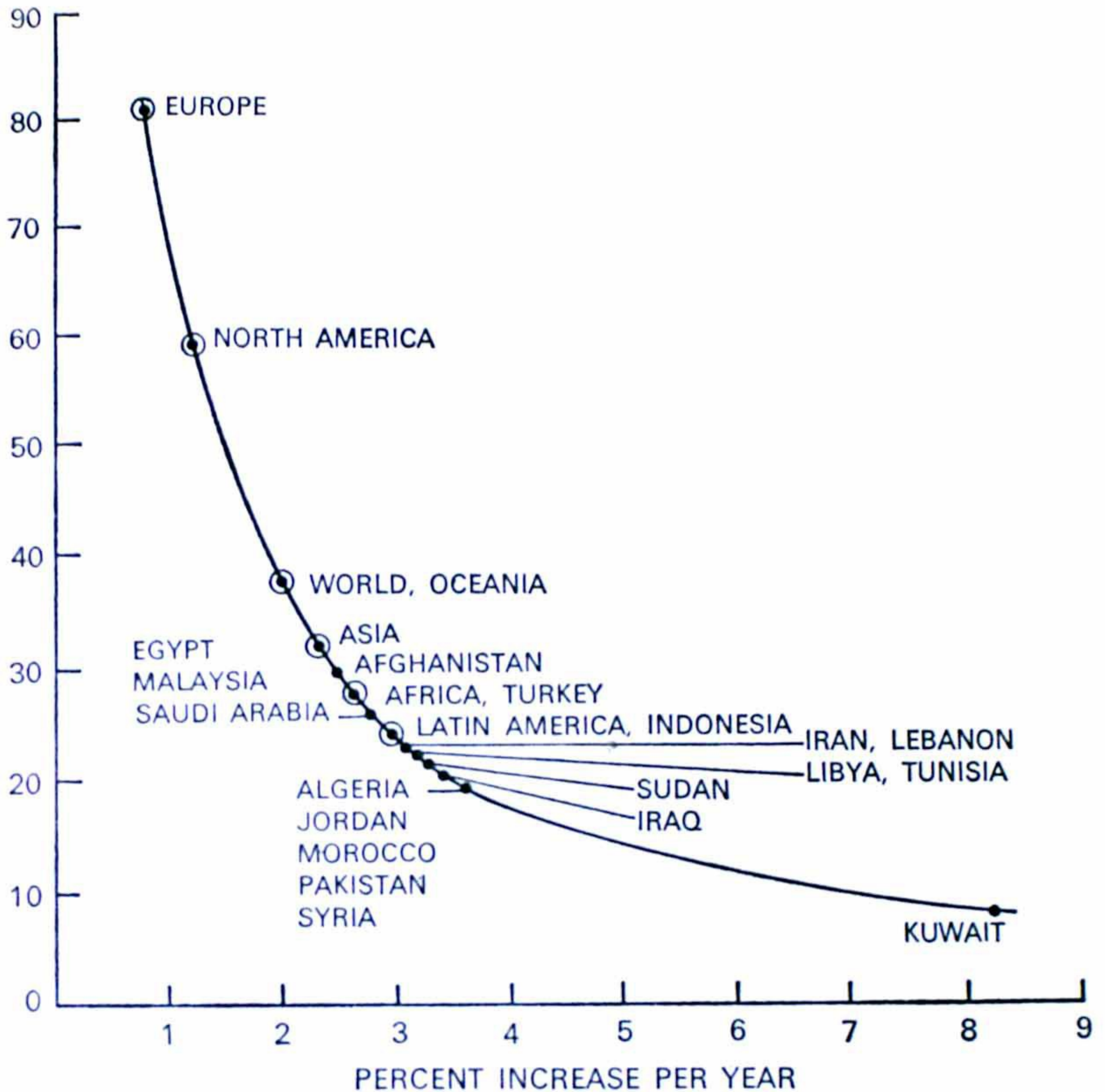


Figure 5: Years Required for Population to Double

Source: Graph showing doubling time of populations with different growth rates is from Figure 1 in Dorothy Nortman, "Population and Family Planning Programs: A Factbook", *Reports on Population/Family Planning* (New York: The Population Council, December, 1969); the data for the various areas and countries were plotted from 1971 World Population Data Sheet (Washington, D.C.: Population Reference Bureau, Inc., 1971).



ESTIMATED DEPENDENCY RATIOS, 1960

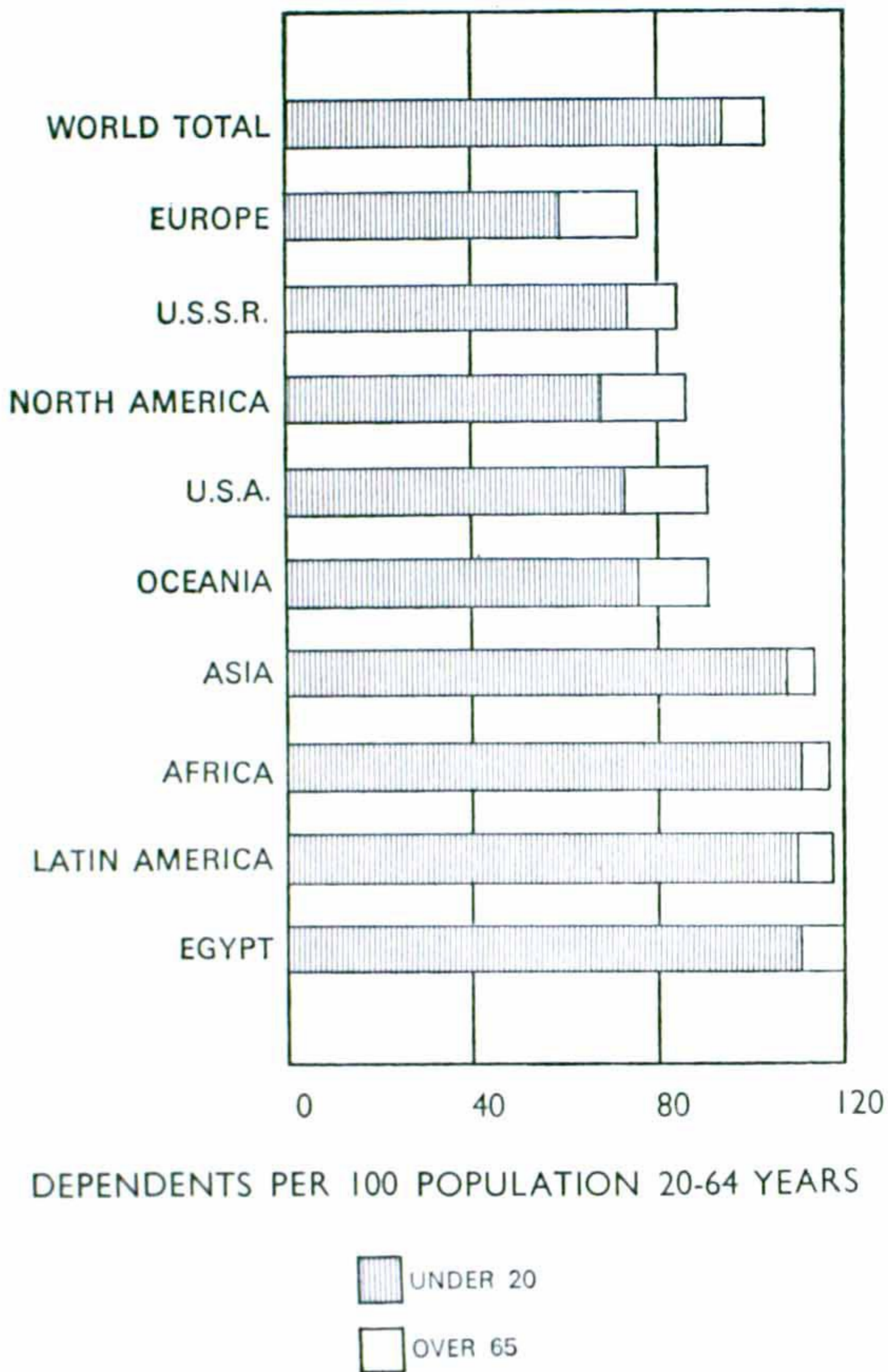


Figure 6: Estimated Dependency Ratios for the World, Continents and Selected Countries, 1960

Source: A.R. Omran, 'The Population of Egypt, Past and Present', in A. R. Omran, *Population Problems and Prospects: Egypt* (in preparation, 1971).

## DEMOGRAPHIC INDICES FOR SELECTED AREAS

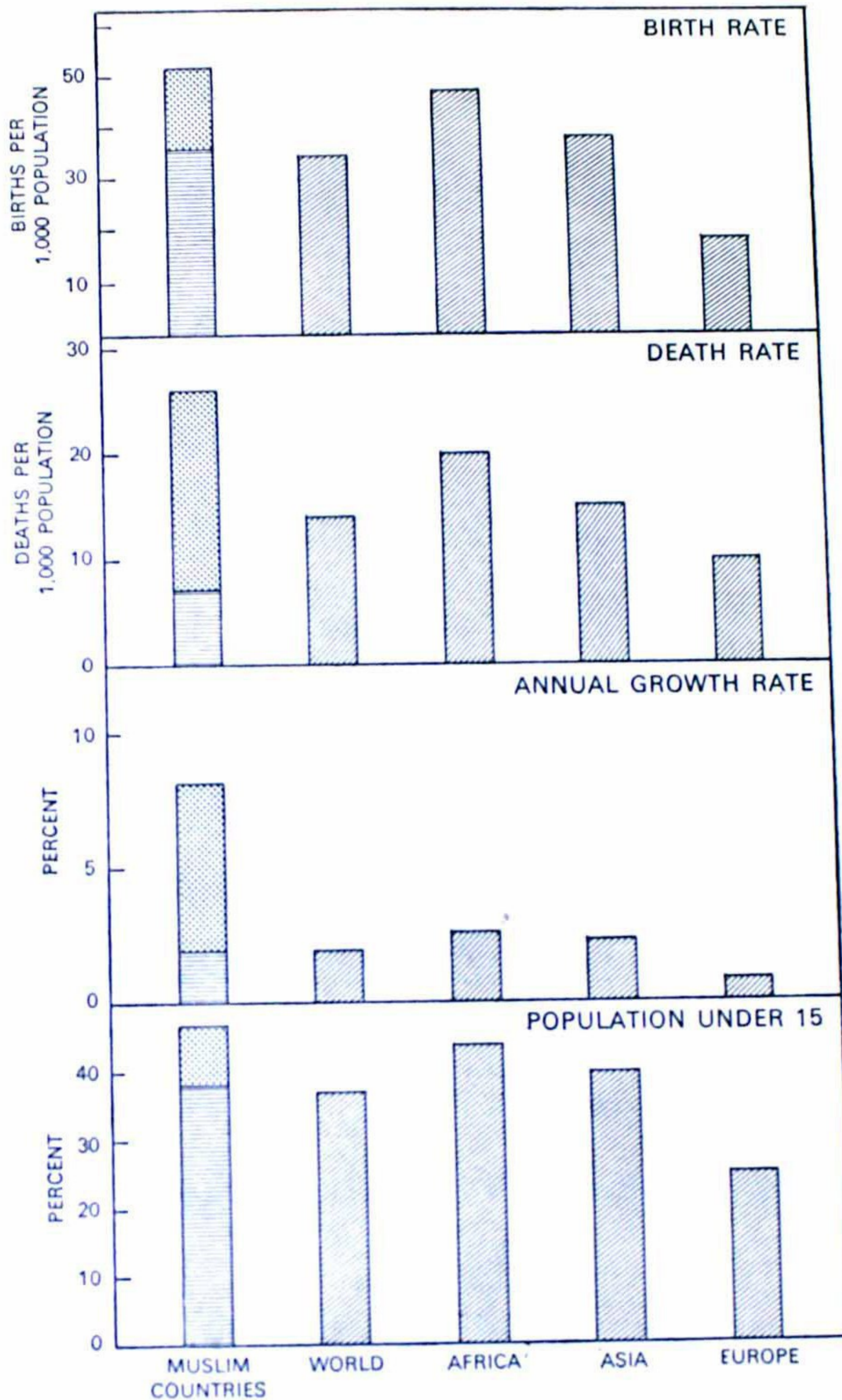


Figure 7: Demographic Indices for Selected Areas

The cross-hatched section of the bars representing Muslim countries shows the lowest index for a Muslim country; the dotted section shows the highest index for a Muslim country.

Source: Plotted from data on '1971 World Population Data Sheet' (Washington, D.C.: Population Reference Bureau, 1969).

The gravity of the situation is evident. If population continues to grow at current rates, economic development will be hampered. This is illustrated further in Figure 8 where the population growth rate is plotted against the per capita gross national product and shows that most of the Muslim countries lie in the quarter of high population growth and low GNP. Furthermore, although there can be little doubt that tremendous social, cultural and economic changes have been taking place in many Muslim countries, the impact of this tremendous progress is wiped out by the rapid population growth with very little net improvement in the per capita indicators. In Egypt, for example, the most significant single developmental project is the Aswan High Dam, which was planned to increase the arable land by 25 % (from six million to eight million acres). Its construction took ten years, by which time the rural population had already increased by *more* than 25 %.

From these social, epidemiologic and demographic conditions arises the need for Model Two or the Transitional Model of Islam's natality design.

#### THE TWO MODELS OF ISLAM'S NATALITY DESIGN

A dichotomy in attitudes towards family planning in Islam can be identified; one attitude is supportive of high fertility and the other is supportive of low fertility. The factors that determine which view prevails in any given locale may include the social, economic, political and epidemiologic circumstances of a Muslim society and the goals it sets for itself. Thus, as shown in Figure 9, under conditions that prevail in traditional Muslim societies, high fertility is necessary to compensate for high mortality and to help disseminate the Muslim tradition. On the other hand, as population increase becomes a hindrance to national economic growth and to family prosperity, the rationale for high fertility is eliminated and Islam then provides for limiting family size, as shown in the Transitional Model in Figure 9.

##### *Model One — The Traditional Model*

Model One of Islam's natality design favours selective continued high fertility and large family size because of various social and familial institutions; this model is suited for pre-industrial societies with pre-modern population profiles or those societies passing through the Age of Pestilence and Famine of the epidemiologic transition. The

POPULATION GROWTH AND GNP PER CAPITA

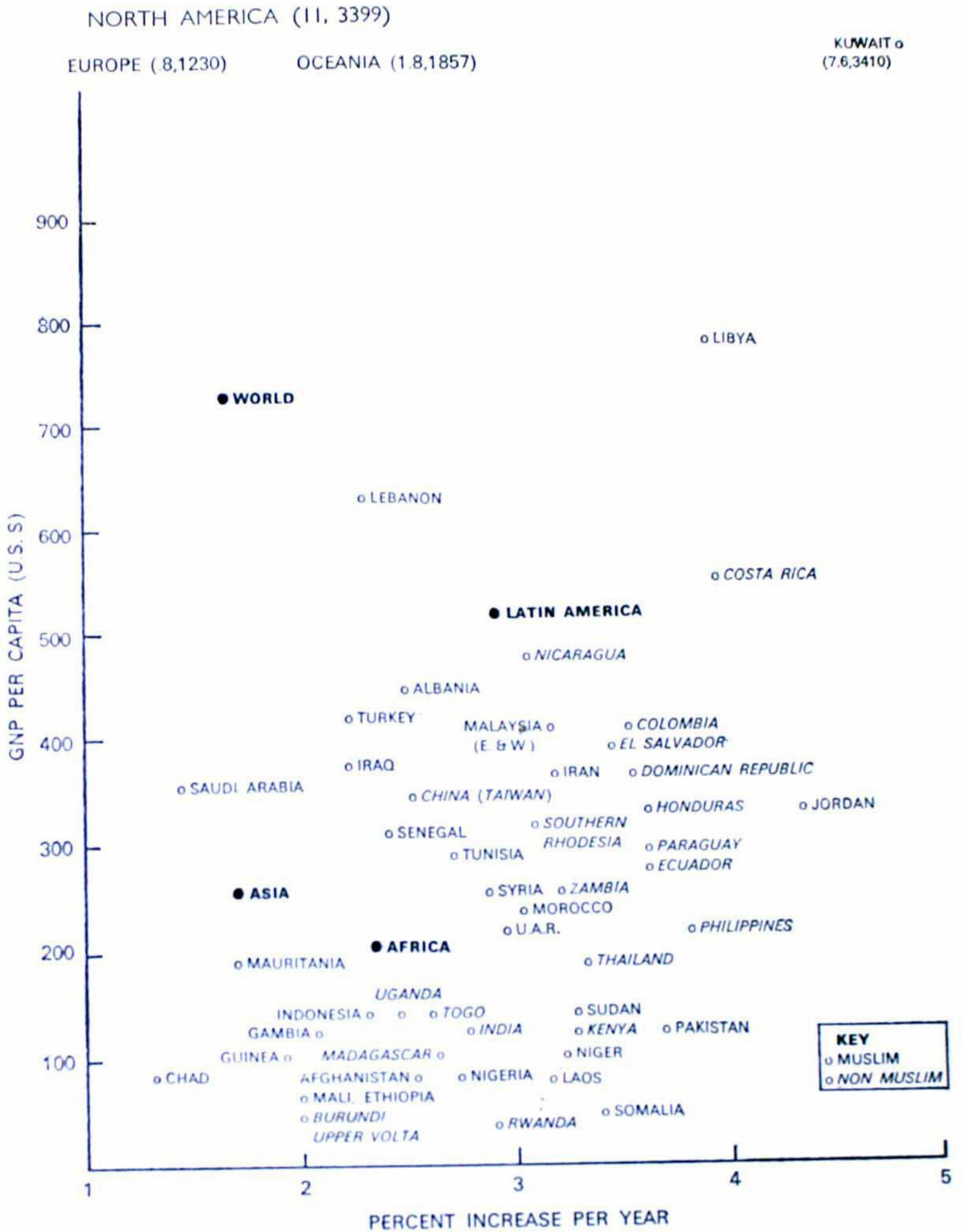


Figure 8: Correlation Between Population Growth and GNP per capita (1969)  
 Source: Plotted from data on '1969 World Population Data Sheet' (Washington, D.C.: Population Reference Bureau, 1969).

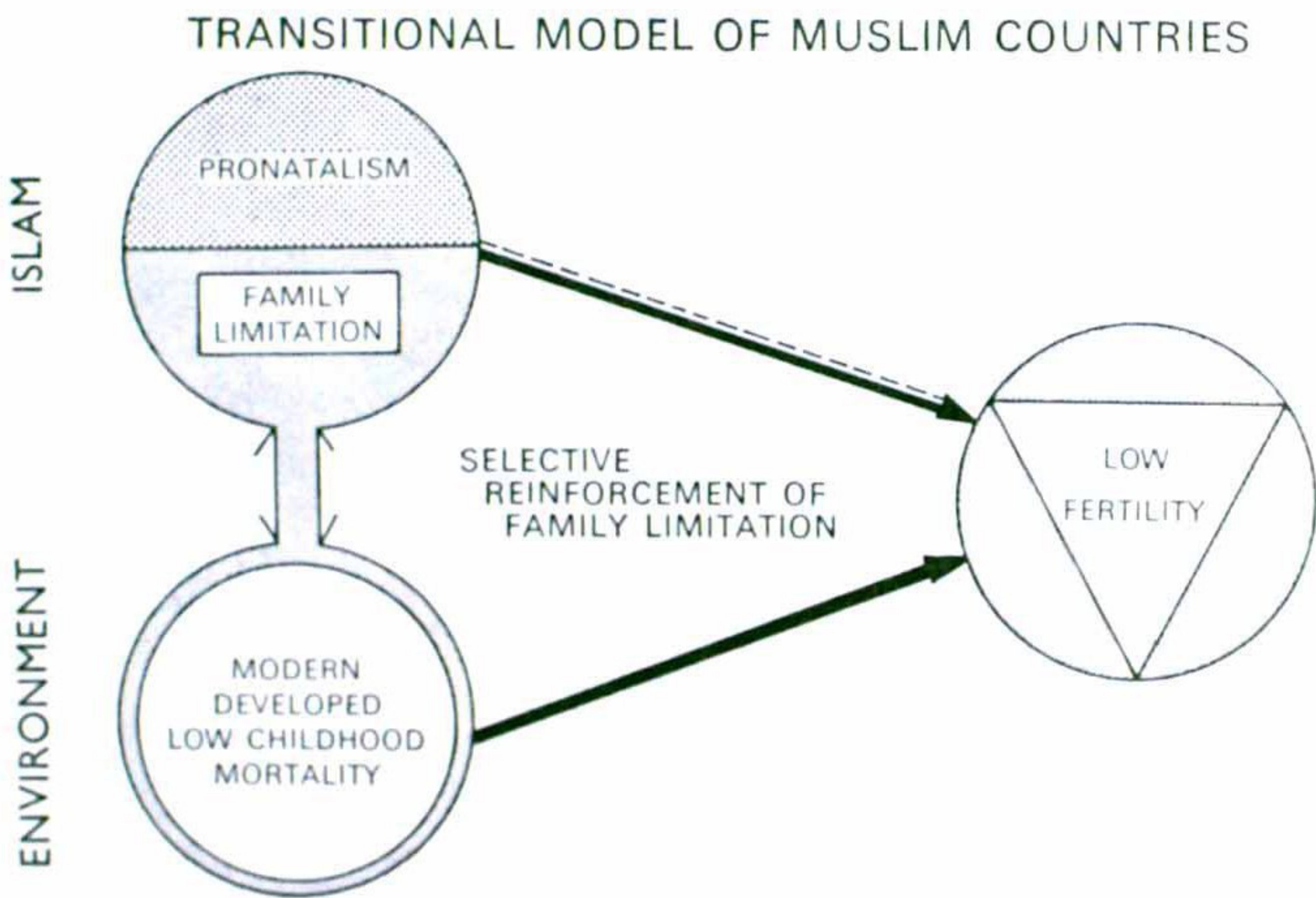
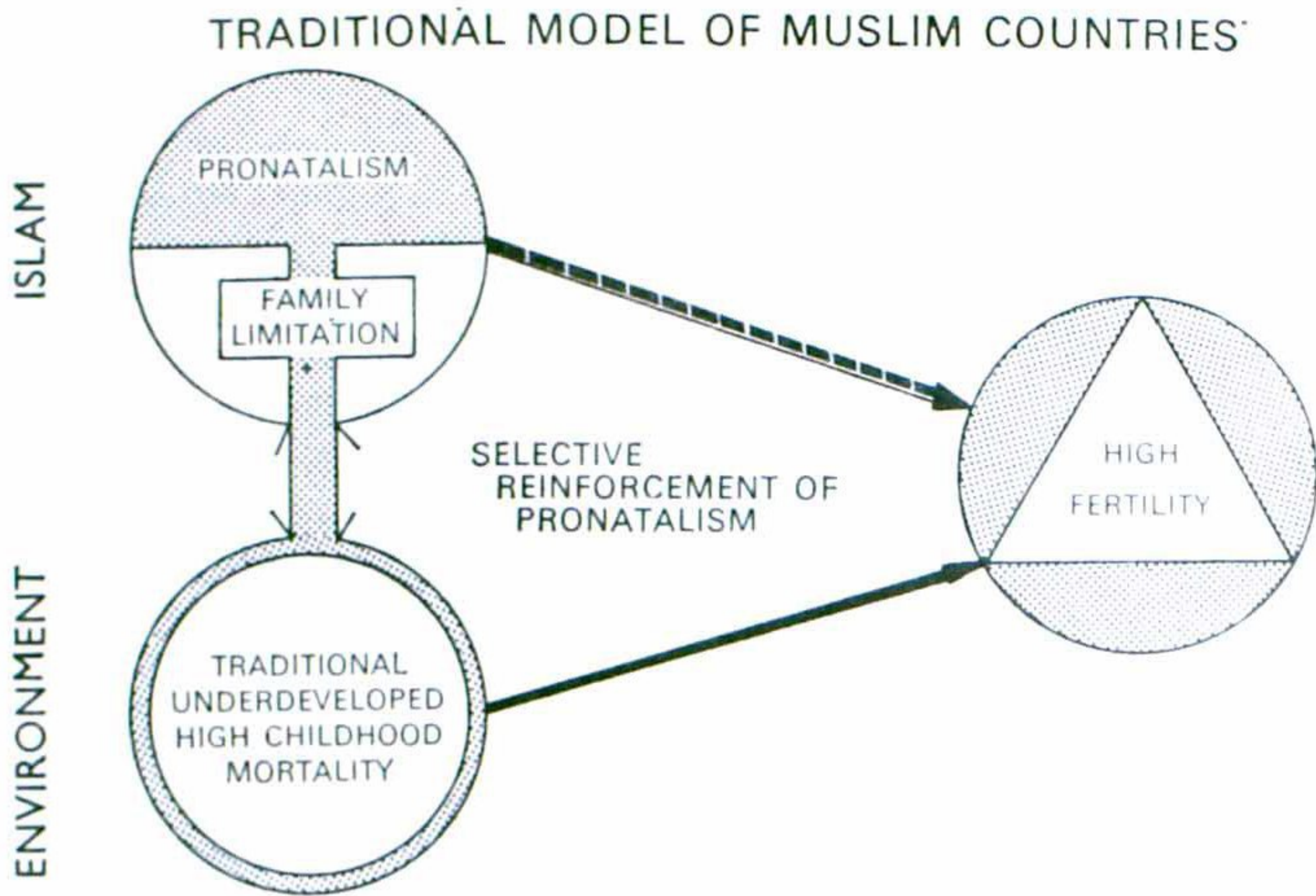


Figure 9: Islam's Natality Design: Model One, The Traditional Model of Muslim Countries and Model Two, the Transitional Model of Muslim Countries

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following aspects of Islamic law and practices have been interpreted as pronatalist, that is, belonging to Model One:

1. *Procreation and dissemination of Islam*: In Islam, as in other religions, the believers were asked to increase in number, to populate the earth, and to propagate the word of God. Because in the process of propagation, conflicts may arise, fighting men were highly praised and martyrs highly honoured. This aspect of Islam may also have reinforced the preference for sons, a social value held by pre-Islamic and non-Islamic communities for centuries.

Among the commonly quoted statements are these: "Wealth and children are the adornment of this present life" (Sura 18/46); "Marry the affectionate and prolific woman"; "Marry among yourselves and multiply, for I shall make a display of you before other nations on the Day of Judgement."

However, these values were not absolute, even when environmental conditions were harsh and the pronatalist model prevailed. The inspired writings also spoke of the quality of life in terms that have been interpreted as being in consonance with a family planning philosophy. For example, quantity was not the sole object of urging the faithful to "marry and multiply". It is unbelievable that the Prophet would be proud of a feeble, sickly, ignorant and backward population — however large it might be. The Qur'ān says: "Say: the evil and the good shall not be valued alike, even though the abundance of evil please thee" (Sura 5/100).

Although recognizing the high value placed on riches and children, Islam did not consider them as absolute values. Thus the Qur'anic verse which advocates these aims in life reminds believers that higher value is placed on a more benevolent life. "Wealth and children are the adornment of this present life: but good works, which are lasting, are better in the sight of thy Lord as to recompense, and better as to hope" (Sura 18/46); "Neither by your riches nor by your children shall you bring yourselves into nearness with Us" (Sura 34/37).

2. *The institution of marriage*: In Islam, marriage is the rule for every man and woman; it is the only legitimate context for sexual gratification. Marriage is usually entered into at an early age, especially for girls, and divorcees and widows frequently remarry. In Muslim countries, at any one time from 70 to 86 % of the women of reproductive age are married; less than three % of the women

never marry. Muslim women, therefore, spend most of their reproductive years in marital life. There is no question that in the absence of family planning, these practices are strongly pronatalist.

3. *Polygamy*: The most notorious quotations about Islam as a pronatalist religion concern polygamy.<sup>1</sup> But polygamy is notorious not because it is frequent, but because it is possible. The average rate of polygamy in most countries is only three % of all marriages, and the contribution of this small frequency to fertility is negligible. In point of fact, one study by Musham indicates that women living in polygamous marriages have fewer children than wives of monogamous husbands.<sup>2</sup>

4. *Fatalism*: Fatalism among Muslim people is also offered as one factor in pronatalism, and it is true that some Muslims have felt uneasy about the idea of birth control, for it may imply that they are trying to interfere with fate. However, even though it emphasizes fate and predestination, Islam urges planning and action for a goal to be attained. When a bedouin came to the Prophet to ask whether to tie up his camel or to leave it in God's care, the Prophet said: "Hobble her and then trust (in God)."

#### *Model Two — The Transitional Model*

Since Islam is meant for all nations at all times, it must face up to changing social and environmental patterns over time, and it carries within its doctrines plans for such change. In the case of population change it must be emphasized that virtually all the items under Model Two are integral components of Model One but they were not frequently invoked because of the prevailing desire for high fertility. Some of the items that support Model Two, the Transitional Model, are general and reflect the basic principles of Islam and some are specific to family planning. I am not going to enumerate these, since my colleagues will deal with them much more fully and adequately. However, there are two major areas of interest from the social and epidemiologic viewpoint:

<sup>1</sup> It should be noted that polygamy pre-dated Islam and that Islam in fact sought to limit the practice, for example by specifying that all wives should be treated equally but admitting at the same time that this was a near impossibility.

<sup>2</sup> H.V. Musham, 'Fertility of Polygamous Marriages', *Population Studies*, Vol. 10 (1956), pp. 3-16.

1. Islam anticipated problems arising from population pressure and its economic impact in Prophetic sayings such as: "The Day of Judgment will not be until the child becomes a nuisance;" "The most gruelling trial is to have plenty of children with no adequate means."

In many Muslim countries, the swift progressive social changes that have occurred as the societies modernize have translated the need for more hands to work in the fields into the current need for fewer mouths to feed. Beyond this, parents from all walks of life have become possessed by a desire to give their children a good education, even if they had not had one themselves, especially as they realized that in a modern society, better qualified individuals have a better chance of getting better jobs. Thus, the conventional advantages of having many children to help with the farming or parents' business have become the acknowledged disadvantages of having too many in need of support and schooling.

2. The health implications of Islam's natality design are evident in such quotations as: "A mother shall not be pressed unfairly for her child, nor a father for his child" (Sura 2/233).

Spacing out births was advocated even under Model One through prolonged lactation, abstinence, or coitus interruptus. "Mothers, when divorced, shall give suck to their children two full years, if the father desire that the suckling be completed" (Sura 2/233). There is also a Prophetic warning against pregnancy while a child is being lactated; this is called *al-ghail*.

In fact, many centuries ago Islamic medical textbooks carried prescriptions for and descriptions of methods of birth control. Excerpts from some of these textbooks used in Europe until the seventeenth century, are shown in Figure 10.

Reviews of modern epidemiologic literature indicate that mothers and children face serious health hazards as a result of excessive fertility, short birth intervals and too young or too old maternal age.<sup>1</sup> Among these hazards are increased risks of perinatal morbidity and mortality, maternal morbidity and mortality, increased undernutrition and poor growth and development of children. On the basis of these studies, it can be seen that family planning should be re-defined to include not

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<sup>1</sup> A. R. Omran, *The Health Theme in Family Planning* (Carolina Population Center Monograph, Chapel Hill, North Carolina, 1971.)





انما يافضلك بالضمادات التي تقط الاجنة فان استعماله ابعد اجزار اقوى واخذ قوة  
 (نصل في منع الحمل) الطيب قد يقتصر في منع الحمل في الصغيرة لخوف عليها من الولادة  
 التي قد يسهلها وتاتي في مناتها ضعف فان ثقل الجنين ربما اوردت ثقاق المشاة فيسلس البول  
 ولم يقد على حمله الى آخر المسر ومن التدبير في ذلك ان يوزع عند الجماع ان يتوق الهيئة  
 المحبلة التي ذكرناها ويخاله بين الاثزالين وية ارق بسرعة وبوهران تقوم المرأة عند الفراغ  
 وتلب الى خلف وتبات الى سبع وتسع فر بما تخرج المني وأما الوشب والعاقر الى تمام فر بما يمكن  
 المني وقد يحد من على ازالاق المني ان تعطر وما يجب ارتداه ان تحتل قبل الجماع وبعده  
 بالقطران وتحميه الذكر وكذلك من اللسان والاسف داج وان تتهل قبل وبعد بشحم  
 الزمان والشب وحمال نقاح لسكر وبزوه عند الطهر وقبل الجماع وبدهم توى في ذلك  
 وخصوصا ان جعل في قطران او غمس في طينج او عصارة لقوتنج واحتمال ورق الغريب بعد  
 الطهر في صوفة وخصوصا اذا كان مع ذلك فمموه في ماء ورق الغريب وكذلك شحم الخنظل  
 والهزار يشان وخبث الحديد والكبريت والسقمونيا وبزوال الكرنب ابراموا يجمع  
 بالقطران ويقتل واحدة لال نقل بعد الجماع يمنع الحمل وكذلك اقال زيل القيل وحده او مع  
 التبخيره في الاوقات المذكورة ومن المشروبات ان يدق من ماء البثور ووج ثلاث اواق فيضع  
 الحبل وكذلك من الحل اذا طلى به القضب سجا الكمرة ويجمع فانه يمنع الحمل وكذلك ورق  
 الخيلاب اذا احتله المرأ بعد الطهر منع الحمل

Ibn Sīnā, Qānūn (Būlāq edition) (Vol. ii, p. 579)

واما الادوية المنع من الحمل فام او ان كانت مما يجب ان لا تتركه كرسالة من  
 لآخر فم من النساء فانه يربط الامر في بعض الاوقات الى ان يعلما من كانت من النساء  
 صغيرة الرحم او بها علة يتناف عليها حتى مات ان تم في وقت الولادة والمخبر هو الامن  
 النساء فينبغي لطيبان لا يسهلها المني وكذلك ايضا لا يعف الادوية التي تمنع من احتباس  
 الطمث ولا الادوية التي تخرج الجنين الميت الامن بونقه فان هتفه كالمه تتما الجنين  
 وتسقطه وما يمنع من الحمل ان تحصل المرأة في وقت الجماع الملح الامدادا وبلبل الذكر  
 ذلكا وبالقطران او شغل المرأة فقلح الكرنب وبزوه وما السذبل فوقت الجماع اربق  
 او تحصل المرأة بتي من اخمة الارنب او ورق الغريب وغيره

(الباب التاسع والعشرون في مداواة الاورام العارضة للتدوى)

قد يمرض التدوى الوبم الحار بسبب تخين افة في التدوى (وهو لاجه) ان يؤخذ اسفنج فيفسر  
 في ماء حار بمزج بقل يسير ويغسله ايضا بمزج من ورد مسحوقين مع مغرة يخن ويغسل  
 الجسج ويغسله به ويغسله ايضا في الماء (وصفته) يؤخذ قيقب البانلا وقيقب اشعب  
 ودقيق الحلبة وخطمي من كل واحد جزع افران ومر من كل واحد منه فبر بدق الجسج  
 في ماء يخلطه في ماء شمس بفضله بعد اذ غسسه في ماء شمس بفضله

'Ali ibn 'Abbās, Kitāb al-Malīkī (Vol. ii, p. 440)

المهولة والمشروبة للمصرفة للنفزف فان عرض لهما  
 وجع في راحم جلست في الماء الذاتر ومرحت بدهن  
 المسحوق مقرا ونحو ذلك .

مانعات الحمل واما ما يمنع الحمل فان ينطل الذكر  
 بعصارة البصل قبل وقت الجماع وكذلك اذا احتلت  
 بعصارة النعنع وكذلك الفوتنج وبزر الكرك اذا احتل  
 بعد العطر فان خاصيته منع الحمل واحتمال الفزانخ  
 المتخذة من المر والجاوشير والسذاب والغريق مشونة  
 بمرارة ثورس وقيل ان اكلت المرأة الباذل على الريق  
 لم تحبل او يطلى الذكر بامى دهن كان فعل مثل ذلك  
 تدبير الرضاع واما امر الرضاع فينبغي ان يقتصر فيه  
 على لبن الام ان امكن والاختيار له من كانت في  
 سن الشباب وكانت حسنة اللون مقعدة المزاج مهيبة  
 بلسم مرضية الاخلاق ويكون ابنها معتدل التوأم  
 ابيض اللحم والرائحة وان يكون وقت ولادتها  
 قريبا من وقت ولادة الرضيع ويحب الاذية الودية  
 والانه ان اراد ان يلد له ولدان او اكثر فليرضعها

Ibn al-Jarri, Irshād (Cairo MS., second copy, modern)

باب  
 في منع الحمل  
 في ذلك حال يوجد ما يشاء له من ضعف بودر في منع ما يشاء كسبب استئني انتي بدير ايد جرن سلس البول وشقاق زعم وفلان حلت  
 بان لا يمانه كد حيتما كندت استئني شرد ورجعت انت كد مردور حال مجامعت وانما في زن را بلك مجرشتن ذكر كندت ورا تها  
 بزهره ودر زود وازوي چا شود وچند كندت انزال مرد ودر كندت زمان با مده ورجن ازوي چا شود بزهره تا مانت با بر جسدك ابريز  
 بر جستن با زهره تا مانت ازوي چا شود ودر قطره آرد و اگر مرد و وقت مجامعت سر قضب خريش بر وزن كنجذ كندت مني در زمان  
 ودر زود و اگر بر وزن مسان يا بطلان الوده كندت يا با مسند اج استئني با زود و در كندت كرنب ووزن او بهم سر شسته بر از باكي خريش  
 از مجامعت و بر وزن ازين مجرشتن برداشتن استئني با زود و در خاصه اگر بطلان الوده كندت و در كندت با زود و در وزن استئني  
 با زود و در صفت شافني كندت شحم خنظل و سار حسان و خش الحديد و كوكرد و مغزينا و قوكرنب و استار است كجوند  
 و بطلان بر شسته و شاف كندت و بر وزن ازين بردارند و برت زود و در زمان و انما انما بر بود شك ياني مشر اذعان و بر وزن  
 مجرشتن برداشتن استئني با زود و با ب  
 در منع الحمل  
 في ذلك حال يوجد ما يشاء له من ضعف بودر في منع ما يشاء كسبب استئني انتي بدير ايد جرن سلس البول وشقاق زعم وفلان حلت  
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 و بطلان بر شسته و شاف كندت و بر وزن ازين بردارند و برت زود و در زمان و انما انما بر بود شك ياني مشر اذعان و بر وزن  
 مجرشتن برداشتن استئني با زود و با ب

Isma'il al-Jurjani, Treasure of Medicine, (c. 1110 A.D.)

only limiting the number of children, but also spacing of births and planning the age of the mother at which there will be the fewest reproductive risks. Family planning should also include genetic counselling and treatment of infertility in order to allow couples to achieve their desired family size and to enhance family health and well-being at the same time.

#### CONCLUSION

Islam takes into account the possibility of population change from a traditional stage of high fertility and mortality and slow population growth to a transitional stage of low mortality and high fertility which produces rapid population growth and requires fertility limitation. Thus, Islam has provided two natality models, as described above — a pronatalist model or traditional model which encourages high fertility to compensate for high mortality and a fertility control model or transitional model which encourages fertility limitation once mortality is lowered.

Once Muslim countries achieve the final stage of transition to low mortality and fertility, the transitional model will still be applicable to maintain a more or less stable population or controlled growth. Quotations from Islamic tradition can be fitted into either model, and in fact under both models Islam advocates family planning in order to enhance family health and well-being.





# ISLAM, SOCIETY AND DEVELOPMENT

BY

MUHAMMAD SALĀM MADKŪR

Laws normally exist as a concomitant of civilization. Man, though distinct from other creatures by virtue of his rationality is, nevertheless, characterized by egotism. The different levels of intelligence, in the human brain, makes it sometimes extremely difficult to discover how exactly different are good and evil, or how clearly can questions shrouded in obscurity be elucidated. As a general principle, laws exist in a society, and civilization cannot exist in a society which is impossible without organization or order.

Islamic legislation is the culmination of a long process of legal formulation, and the most comprehensive. It deals not only with questions of faith, but it also regulates morals and human relationships. It is a legislation that strongly appeals to people, and one to which they submit willingly and confidently. For it addresses itself to reason, urging men at the same time to work and exert themselves in their everyday life. At the same time it is in harmony with man's healthy natural instincts. It seeks to establish justice in every shape or form, teaching forbearance with honour, and enjoining the doing of good and forbiddance of evil.

This legislation is constructed upon strong and sturdy foundations or principles, one of the most prominent being that it does not seek to impose undue burdens and intolerable restrictions upon those believing in its precepts and abiding by its rules. God says: "He (God) hath elected you, and hath not laid on you any hardship in religion" (Sura 22/78). He also says: "God will not burden any soul beyond its power" (Sura 2/286). Its sources laid down general rules, pointing out broad outlines and prescribing general rules of conduct, particularly as regards people's relations with their fellow-men and their political and financial engagements, while leaving scope for any new points of law that may arise in the future. This legislation is

capable of adapting itself to every sound aspect and stage of development. Hence the words of the Prophet: "I am only sent to you with the mission of the tolerant Ḥanifite (Orthodox) religion."

To be sure, there may be certain difficulties and constraint at the time of application. Consequently, God gave His community a certain latitude — permissions or relaxations to ease the rigour of the law where needed, and spare it any undue hardships contained therein. The rules laid down for necessity (difficult situations) are different from those prescribed for times of ease and free choice. The accepted traditions, customs and conventions of the community as well as its public and private interests were to be given due consideration by the interpreters of the Revealed Law (jurists) when devising rules of law and promulgating them. These basic rules or principles, are limited in number, however, lest they prove too exacting. They are so designed as to allow specific points of law to be deduced from the general principles, without causing any clash with people's interests, and to be capable of adaptation as circumstances and conditions change, to serve and promote the interests of mankind.

Regard for people's interests is one of the chief bedrocks of Islamic legislation. Wherefore the Lawgiver explained the rules by referring them to their causes, to demonstrate that the effect, that is the rule, is consequent upon its cause, and in most instances should change as the cause changes, particularly when the thing applies to human interrelations, which are often affected by changes of time and place. Proper regard for people's interests in their dealings with one another is a fundamental consideration in Islamic legislation, as evidenced by the Lawgiver's elaboration of the underlying grounds for them. Thus the rule is made to revolve upon the cause and is made contingent thereon, existing if the cause comes into being and ceasing to exist when the cause ceases to exist. Hence rules must be adjustable to the environment and to changing times, and changeable along with them. There is another principle to be observed in this respect, namely, that if different interests come into conflict, the public interest is to supersede and take precedence over the private interests, with the general idea that in case of necessity the lesser of two evils is to be the choice.

With people's interests in view, the Holy Qur'ān, the primary source of legislation, does not give a detailed exposition of the rules governing business, crime, and international and jurisdictional relations and the like, because they are liable to change along with the

change of the environment, and therefore must be governed by a different set of regulations, many of which are detailed in the Prophetic traditions. The silence of the Lawgiver about this or that particular point is not due to omission on His part but rather out of compassion for people, to give latitude to those in authority in every age to formulate laws designed to promote people's interests, within the limits prescribed by the fundamental principles of the Qur'ān and the Prophet's tradition as well as within the framework of the rules laid down by the Muslim Canon Law, and without clashing with any of its provisions. The Lawgiver's benignity and regard for people's well-being are betokened by the fact that He made many of the texts of many rules capable of more than one interpretation. These are said in juristic terminology to have a presumptive sense, to allow the legist scope for inferring what he believes to be most conducive to the promotion of the people's interests.

Islamic jurisprudence has begun to be appreciated and given due weight in law circles in many countries of the civilized world, in Europe and America, just as it is appreciated by the rank of lawyers and jurists in the Muslim World, so much so that it has come to be taught as a course in universities; its rules and theories are compared and contrasted with others, and specialists there are most eager to learn more and more about them. In the International Conference of Comparative Law, held in The Hague in 1932, the French jurist, Prof. Lambeurt, expressed his great appreciation of Islamic jurisprudence. Similarly, the Lawyer's Conference, held in 1948, also in The Hague and in which 53 states took part, recognized in its resolutions the genuine worth and importance of Islamic legislation, extolling the flexibility of its sources, and recommended that the International Lawyer's Federation undertake a comparative study of this legislation and encourage this study. In July 1951, the Eastern Jurisprudence Section of the International Assembly for Comparative Law held a conference in the Law School of the University of Paris to discuss and examine the papers presented on Islamic jurisprudence. The conference was presided over by the Professor of Islamic Law in the Law School of the University of Paris, and was attended by a large number of Islamic jurists and lawyers. During one of the discussions, a former president of the Lawyer's Association in Paris said: "How can I reconcile what we used to be told about the rigidity and inflexibility of Islamic jurisprudence and its unfitness to be taken as a source for legislation to meet the needs of a modern evolving society, with

what we hear today, which reveals something diametrically opposed to the former uninformed attitude, and which can be unquestionably borne out by texts and codified principles." Amongst the resolutions unanimously adopted by the conference, was the following, couched in the following terms:

1. The principles of Islamic jurisprudence have incontestable legislative and juristic value.

2. The differences of opinion among the schools of jurisprudence involve a wealth of concepts and information as regards juristic origins, something which is deserving of admiration, and by means of which *Islamic jurisprudence can meet all the needs of modern life and accommodate its everyday requirements.*

It is no wonder that the Islamic Law is distinguished by having a positive as well as a negative aspect. It enjoins good and prohibits evil. The pursuit of the good (interest) and the warding off of evil (disinterest) are both intended in themselves. In its prescriptions it is in accord with the code of ethics, and in close touch with the human conscience. It is our firm belief that Islamic jurisprudence with its numerous schools of thought and its various opinions is definitely capable of keeping abreast of human social life in continuous development. If the jurists at the present time could make the effort to face life truly and squarely and if they would only examine each innovation, or each new development as it comes to a head, they would achieve commendable results, because they would make jurisprudence serviceable to the demands of life. Also, the whole world would then be convinced of the adaptability of our law to meet changing conditions and to provide for varied needs of societies. If this were to take place, we would be certain of happiness, progress and success in the two worlds.

The rules of Islamic jurisprudence cover all the requirements of life. They deal with the life of the individual, of the community and of the state, in relation to all aspects connected with the rights of God due from His creation and the reciprocal rights of individuals, due to and from the individual and also due to society. They deal in short with all that tends to regulate the affairs of human society in all the phases of its progress and civilization in such a manner as to guarantee a well-guided and sane human life.

Clearly the original source of legislation has dealt with all these rules in outline, and the dealing with them is general on purpose, in



order to leave ample room for logical inference to be made by Islamic legists, who by so doing can bring their decisions into line with people's interests and with their accepted usage.

Islamic legislation concerned itself with all questions dealt with by modern legal codes. International relations have been regulated in several chapters of the Qur'ān, such as the chapters of 'Spoils of War' and 'Repentance'. Similarly, the arrangements concluded by the Prophet with the non-Muslims gave expression to a number of principles determining relations both in peace and in war. Constitutional and administrative matters were examined by the jurists in the past and were considered to be specifically related to the area of juristic policy. They also studied questions bearing upon financial and economic affairs when they discussed or wrote on *'ushur* (tithes), *kharāj* (land tax), *jizya* (poll tax), and when they considered such questions as the buried treasures of the earth, and land reclamation. Certain Qur'anic and Prophetic statements set down a number of equitable social principles dealing with exploitation, ownership, ways of acquiring property, and rights and obligations. In addition, Islamic jurisprudence deals with criminal and aggressive acts in society, with comprehensive, precise, and fair principles, fully detailed to cover all offences and crimes likely to be committed by man. Moreover, Islamic jurisprudence regulates legal proceedings and litigations. In all of these, Islamic jurists have not failed to give due weight to the contingent changes and developments in the social situations and in the people's interests.

We thus observe that Islamic law has circumscribed all the affairs of social life with legal and juristic framework. With each succeeding generation, jurists have worked out rules to meet any new situation that crops up, so that in time the corpus of Islamic jurisprudence has assumed the proportions of an imposing structure, built on sound and strong foundations, capable of accommodating every innovation, and incorporating major theories and general principles by which particular cases can be determined and decided as they arise.

Islamic jurisprudence, with its flexible nature, resting as it does on malleable and not so rigid principles, has provided for each aspect of man's activities and relations a regulation to be followed and a formula to be applied as a model. This legal system is meant to be applicable in all ages, in its own right; and therefore it should not be allowed to lag behind along the path of progress and improvement or to fail to serve the interests which were its purpose to serve.

The attitude of Islamic jurisprudence has been throughout orientated towards serving the community, with the aim of always giving the interest of the community precedence over that of individuals when the two come into conflict and both claim our attention. This conforms with the generally accepted presupposition that laws should aim primarily at the promotion of human society in amity and love. Positive laws on the other hand have until recently been inspired by the individualistic outlook, taking the individual as the focal point rather than as a part in the community as a whole. Recently, these laws have re-oriented themselves somewhat in the direction of the Islamic point of view, and in consequence, an important reformative step has been taken in the right direction, which betokens a recognition of the true worth of Islam as a long-standing regulating system.

The greater bulk of Islamic jurisprudence has not been derived from definitive texts or already formulated principles. Much of this bulk is born of inference by independent interpreters of the law (*mujtahids*) who use their own discretion in the enterprise.

The basis of these inferences, however, is either legislative prototypes in the Qur'ān or in the tradition of the Prophet, or still they may be other assertions couched in appropriate terms fit to serve as guides for the legists in their exercise of discretionary judgement. But since those prototypes are limited, as against the numberless cases to which they are to be applied, interpretations must be worked out in sufficient numbers to deal with cases as they arise, in absence of specifically stated rulings to cover them and to find out the intent behind the legal text or to establish the authenticity of the text, in case the text in question is solitary.

An independent legal opinion formed by the discretionary method of *ijtihād* or independent thought not based on an authentic text, but derived by logical inference cannot be regarded as valid unless it has been logically deduced from premises supplied by Islamic law, to determine legislative formulation. It is only natural that the formulation of independent opinion should not be uniform, owing to the various guidelines which may be followed for this purpose, and it should be remembered that as men's selective ways of perception differ there is bound to be juristic differences in consequence. This is by no means derogatory to Islamic law; it is rather to its credit, as an indication of the wide scope and of the flexibility of this law in its various developments. Moreover, these differences have been, and

can still be, a prolific source of legislative enactments. They have been also contributory factors in carrying forward the progressive evolution of the Islamic jurisprudence and in imparting vitality to this evolution. The jurists, in this respect, have aimed at something more than simply working out legal formulas to cover emergencies or unprecedented cases of social change; but went beyond that, they even posed hypothetical cases for the purpose of finding legal solutions for them, considering that those cases, although unrealistic so far, are liable to emerge at a later date. One proof of this assumption, as given by the jurists, is that woman may resort first to mechanical precautions against pregnancy or, secondly, may take a drug or a pill to postpone or delay it, without impairing her fecundity. By such methods, a married woman may succeed in either expelling the semen before entry to the uterus, or in destroying the sperm before impregnation. Translating the above instances into modern terms, we may say that the first mechanical method known as coitus interruptus, 'azl in Arabic, used by our ancestors to prevent pregnancy, corresponds to the device used these days by women and known as the ring to block the uterine aperture, or to another device used by men, the French leather, and both are designed to prevent the semen from reaching the ovum and fertilizing it. The second method may be said to correspond to the latest improvement in this respect, for temporary contraception, namely the contraceptive pill. Under this head may also be included the mechanical method of lavage known as vaginal douche, much advertised and supposed to be effective for several months. Included also is every other beneficial drug which may be discovered by the medical profession for this purpose. The third instance corresponds, as I see it, to the plastic filament known as the coil, for it definitely is a foreign body inserted into the uterus, which, by causing contractions, prevent the fertilized egg from attaching itself to the uterine wall, and thus expel it instead.

Look at jurisprudence in its heyday, at its height, when jurists worked relentlessly to find legal answers to actual as well as fictitious problems, to see what wealth of human endeavour and legal science there is before us, a wealth attesting the ability of Islamic jurisprudence to embrace all contingent questions and even to look ahead and legislate for hypothetical situations which may possibly occur in the future.

I believe that the gate of *ijtihād* (right of individual interpretation) should be kept open in every age for those who are fully qualified to

exercise *ijtihād*, and thus provide, by their foresight, for every eventuality which stands in need of a legal resolution or dispensation, basing themselves on God's decrees. Islamic law has never been meant to be restricted to situations arising early in the life of Islam. It is, among other things, a general, all embracing legal system, adapted to deal with every contingency as it arises. In doing so, Islamic law would continue to be congruous with people's interests, in keeping with its original design and in conformity to the basis upon which it is founded. Jurists of the Ḥanbalite School maintain that 'no age is to be devoid of a *mujtahid*',<sup>1</sup> for it is through *ijtihād* that the law's prescriptions are known. New situations are always developing and others are ever being renewed, which predicate the ever present need to discover God's law in every age. God's law has been communicated to mankind in every age, and God Almighty says: "Profit by this example ye who are men of insight" (Sura 59/2). The Prophet also said: "Verily God sends to this nation at the turn of each century someone who will regenerate its religion." Imām 'Alī said: "The world shall not lack someone who will bear witness to God's truth." God addressed himself, through this law, to all people, irrespective of race and place. This law is designed to serve their interests under their special conditions and circumstances, and depending on the stage of development peculiar to them in the course of human history. Understandably, this law should be flexible and pliable enough to be able to give suitable judgements on matters ensuing from inevitable change, without causing distress or hardship. Its rules should not be oppressive, but should always accord with the interests of the people.

If regard for people's interests is to be a prime consideration, independent legal decisions must necessarily be determined by the nature of the environment and the accepted usage of the age. It follows then that independent legal decisions must alter with the alteration of interests, and must change as the old usage yields place to the new. Thus, Imām Shāfi'ī, takes guidance from circumstances and accepted usage, particularly in cases concerned with human relations and practices. This accounts for the fact that his disciples and successors followed two sets of teachings attributed to him: one

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<sup>1</sup> The *mujtahid* is one who exercises the right of individual judgement in formulating decisions on legal or theological matters. *Ijtihād* is the right of individual or independent interpretation of the law, based on the sources of Islamic law, as opposed to *taqlīd* which is a strict adherence to the sources.

based upon the nature of the Iraqi environment and the Iraqi people's customs; and the other, which came later, based upon the ideas he conceived during his residence in Egypt, a country unlike Iraq in many ways. His thought, or strictly speaking, his school of thought, *madhhab*, in the latter case differed from that in the former, particularly in matters arising under the influence of environment. Similarly, in the works of the Ḥanafite scholars, we see clear and explicit indications of numerous differences between the leaders of the various schools of thought, which may be due to the particular circumstances of life, and also to dissimilarities in usages and social conditions. They represent this in their legal works by saying: "This is a difference of time and place, not one of evidence and proof." We find Abū Yūsuf, the Ḥanafite jurist, who occupied the office of chief judge under the 'Abbassids in Iraq, changing the rate of the tithe levied on land, from what it used to be at the time of 'Umar b. al-Khaṭṭāb, when public interest demanded it.

Jurists, who have examined the principles laid down by the law, here come to the conclusion that the principles primarily serve the interests of the public, as shown by the Holy Qur'ān, when God, addressing the Prophet, says: "We have not sent thee otherwise than as mercy unto all creatures" (Sura 21/107). The essence of compassion is the pursuit of the good and the avoidance of evil. Thus the laws revolve round this basic principle, never departing from it. The Lawgiver having the well-being of the community in mind, couched his commandments in simple terms, with additional explanation to make them easy to understand by the generality of people. Ibn al-Qayyim declares: "The structure and basis of the *Shari'a* (Islamic law) rests upon sound judgement and the interests of the community in this life and in the next. Al-Shāṭibī says: "The institution of laws is to serve people's interests both in this present life and the life to come." The Mu'tazilites are agreed that God's institutions are designed to serve mankind. This is the view of later jurists.

In point of fact, regard for people's interest is the torch that has illuminated the way for the jurists, and enabled them to exercise individual judgement guided by its light, and to take that action is necessitated and indicated by its needs and requirements. They made their judgements contingent upon the cause, and their different forms dependent on the respective situation.

The amendment of laws is an accepted procedure in Islamic legislation in the case of presumptive laws, consequent upon any

alteration in the cause and changes of time and place providing that this replacement should be effected by people of authority who are empowered to take action as regards presumptive laws and to gear this to the public interest. The Ḥanafite jurist, Ibn 'Ābidīn, says: "Many laws differ in different times, because customs and conventions of people undergo change in the meantime, or because of necessity, or because of moral corruption. Obviously, if the law were to remain unchanged, hardship and harm to people would be incurred, thereby violating one of the principles of Islamic law which enjoins that people's difficulties are to be relieved and harm and corruption avoided, and that law and order should prevail in the world. Consequently, we observe that religious protagonists of the various schools of thought have diverged from certain paths outlined by former authoritative interpreters of the law..."

Evolution and change are the law of life; they guarantee life's continuation by allowing it to develop, move forward, and ensure its success. The development of modern society, its transition into the industrial age, and its adventurous space travel, together with new advances in sciences such as, the use of artificial insemination, the transplant action of the cornea and plastic surgery in general, blood transfusion, splitting of the atom and many others — these are all new, unprecedented developments, which were nonexistent at the rise of Islam or at the time when jurisprudence came on the scene. Thus we have come to have many innovations and novel situations for which we seek to discover laws, from God's Writ. Besides, there are numerous relationships and commitments that were unknown before. To these may be added the new financial and business activities, necessitated by modern life. All these are new problems. People are constantly asking what laws should apply to them and what Islam's attitude is towards them. Many religious scholars shrink from pronouncing on all these new developments. Some may discuss them in private, or some may venture to come out into the open and declare that the principles and fundamental rules of Islam are not opposed to them. Thus they become the vehicle for harsh criticism and personal attacks, and the moderates in this controversy face such charges as betrayed of the faith or its wilful misrepresentation and perversion.

It is very easy to anathematize every novelty or neologism. It does not cost much effort to do so, because there is no textual verdict bearing on it, nor is there an analogous case by which it can be decided. It looks as though the general rule for every new thing about which

there is no judgement is outright prohibition or interdiction, with no possibility of having it sanctioned or allowed in some way. Does that mean that God has set forth in detail every individual practice which can be sanctioned, and by exclusion condemned all others as taboo? Let us suppose, just for the sake of argument, that our ancestors who exercised their sound judgement in formulating laws, and in grappling with the problems confronting them for the shaping of their community into one of excellent virtue, as a model for mankind, with superior laws and great potentialities for progress, were to be brought to life into our present society and to see all the societal novelties and other innovations every day. Would they, one might well ask, stand aghast at the extent of drastic change, and so feel completely immobilized to face challenge, or would they rather, after overcoming the first shock, set about explaining these changes in terms agreeable to the flexible nature of their traditional corpus of religious laws? Their guiding principle would be, in this situation, to try and make people's lives easier for them, by applying the rule of *istihsān* (juristic preference), in default of *qiyās* (analogy). This juristic preference, in the view of Ibn Mālik, as told by Ibn al-'Arabī on the authority of Ibn al-Qāsim, constitutes nine tenths of knowledge.

Islamic jurisprudence flourished when jurists faced up to all novel things that came up in their day. To meet those novelties, they derived, with notable perception and with the diligent exercise of reason, suitable legal formulas. Under such circumstances, to give an opinion if need be, is an obligation to be faithfully executed. But a judgement on matters of public moment is far more serious, particularly if it concerns a question of a legislation to prove in practice God's law.

Thus, the vitality and wealth of Islamic jurisprudence was a source for a variety of laws worked out by jurists after constant efforts in discussion and deliberation. In that flourishing age, jurists used to decide on new points of law in such a way as to serve people's interests and to meet the needs of the environment, with finality and overriding authority. They strove to formulate rules for all affairs in their lives and for every contingency that presented itself in their world, in complete subservience to God's law. Thus they were able to keep pace with the march of events and with the needs of their vast and expanding empire; they were able also to bequeath to us a vast juristic wealth, as a result of the close harmony between jurisprudence and actual life.

Though the foothold of the jurists in the realm of knowledge grew firmer, and their grasp of the role of jurisprudence became surer and debate and discussion among the various schools more heated, yet this did not at first engender bigotry and narrowmindedness. On the contrary, each *imām* (religious protagonist) told his followers that his (the *imām*'s) school of thought was not binding, nor was its observance mandatory. Listen to what Abū Ḥanīfa says: "Our knowledge is only an opinion; it is the best that we could arrive at. Whoever has a better (opinion) is worthy of being in the right." When one of his disciples asked him if the legal opinion he had pronounced represented the incontestable truth, he said: "By God, I do not know; for all I know it might be incontestable error." Aḥmad b. Ḥanbal said: "Do not imitate me, nor imitate Mālik or Shāfi'ī. Draw from where they drew." This advice had its effect upon the early disciples, but before long, theological dogmatism found its way into the hearts of people.

As a result, it did not take long for the attitude of the jurists to undergo some transformation. The spark of independence of thought previously experienced, had gradually died out, and the jurist began to rely more and more upon authority, *taqlīd*, and less and less upon independent thought. They also began to adhere to distinct schools of thought, refraining from engaging in the formulation of our laws, by *ijtihād* and the exercise of inference. This stagnation was made the more easy because their predecessors had left them a vast juristic wealth, well recorded and codified for ready use.

In consequence, Islamic jurisprudence declined for a period of time, unfortunately, the longest in its history — when jurists ceased to exercise their reason and to inquire, having contented themselves with the inherited juristic findings, without either applying themselves to enquiry or research into the legal needs of the new social changes in their times, or attempting to formulate judgements to be in agreement with the needs of their own times. Thus, jurisprudence, and in particular that section of it dealing with questions of human relations, became a body of mere theoretical and unrealistic rules, divorced from factual life, a circumstance which tempted people to try and get round the law or to contravene its prescriptions. At the same time, governments saw themselves forced to turn to other law codes and to borrow from them. If, however, later jurists had worked sincerely and wholeheartedly, with logical thought and independent reasoning in the light of their own times, paying regard to legitimate interests, as



enjoined by the Lawgiver, independent opinions would have developed, conformably with the forces shaping the age, within the framework and principles of Islamic law, or even within the definitions set forth by the various schools of Islamic theology and not against the pronouncements of the righteous among our ancestors considering that these definitions and pronouncements constitute as it were the opinions of one major school, namely, the vast corpus of Islamic jurisprudence.

#### RULES MUST CHANGE TO CONFORM WITH PUBLIC INTEREST

By change here is meant replacing one law, previously in force but not connected with faith or ritual or divine decree, by another law which answers the need of a new situation which necessitates the adoption of the new law. As for rules pertaining to worship and ritual, all jurists are agreed that these are not liable to any change or alteration because they are of God's prescription. These differ from the rules of personal relations and the like which are based on man's changeable interests and needs, and which are determined by the sense and evidence substantiating them. Hence, the texts thereof are synoptic and general, geared to man's interests, and capable of accommodating them.

Consequently, some jurists believe in the permissibility of altering the rules under this last category, even though there may exist texts contradicting them, or a consensus of opinion may be seemingly in conflict. A rule thereon must be contingent upon the cause. Those jurists issued certain legal pronouncements which contradicted the wording of the already authoritative laws. The great body of jurists, however, allow a modification of the law where there are no explicit texts nor true consensus. Ibn al-Qayyim, for instance, says: "The alteration of legal dispensations in accordance with places, conditions, intentions and interests is of great benefit. Ignorance of this recourse has been the cause of great prejudice against the law, incurring distress and hardship, which the law cannot conceivably be guilty of."

This report confirms what we have been saying all along, that rules based upon public interests are to be adapted, lest there be disjunction between the law and the affairs and interests of men, as long as this is in agreement with the spirit of the law and in keeping with its general intent, namely, to make life easy and free from distress and hardship. This cannot be achieved if we adhere strictly to legal formulations adapted to a former usage which has changed, or to one

which served people's interests for sometime but no longer does so, having changed to such an extent. That the law has to be reformulated accordingly, or that the law in question has to be revoked and replaced by another.

Al-Zaila'ī, a Ḥanafite, copies the jurists of Balkh as maintaining that: "Laws change with the change of times." The Mālikite al-Qurāfī says: "To observe rigidly the traditional laws forever is to stray away from the true path of religion and to be ignorant of the intents of the learned among the Muslims and of our ancestors."

It was the supreme Lawgiver Himself who, from the time the Qur'ān began to be revealed, laid down the rule of change in legislation, by revocation or by introducing new ones gradually to serve people's interests, beginning first with the less exacting ones where and when necessary, and then proceeding to the stringent ones, the effect of which is calculated to discipline personality, combat laxity and turn people away from any cause of moral corruption and animosity. Those in authority, whether governors or scholars, would do well, to follow with prudence and discrimination the example set for them, so that people might become God's inheritors on earth — which can only be achieved by obeying the golden rule of adopting the course most serviceable to men's interests and favourable to their needs and requirements. Revocation of laws, as is the case, was possible during the period of revelation only and is a privilege of the Lawgiver.

What the Prophetic tradition reflects in this respect tends to confirm to the jurist that personal judgement — always in the nature of presumption — must not have a binding force, and must not be rigid, admitting of no change. Aḥmad and others report that 'Alī once asked the Prophet, saying: "O, Prophet of God, if you send me on a mission, would you want me to be like a ploughshare in operation (that is, that I should follow your instructions literally), or like the onlooker who sees what an absent man cannot see?" The Prophet replied: "Nay, the one on the spot sees what an absent one cannot see," which proves that the use of one's judgement in formulating and applying rules that conform to the exigencies of one case or another is a legitimate course of action.

It is also reported that Imām 'Alī changed a law on the guarantee by craftsmen. He authorized it if a craftsman gave evidence that he had not transgressed (the rights of others). Prior to that, the rule was against the acceptance of their guarantee, on the grounds that what they possessed was held only in trust, and anything held in

trust could not be used as security. Imām 'Alī modified the rule, when he saw that people failed to take precautions to safeguard trusts, which failure sometimes led to the loss of people's money and occasioned animosity and bitterness among them.

'Uthmān b. 'Affān was also reported to have ordered that stray camels be rounded up and disposed of by sale. If their owners came to claim them thereafter, they were to be given their price. But the Prophet, as reported in Bukhārī, when asked if stray camels were to be rounded up by whoever saw them, forbade that, and ruled that they be allowed to go free, to drink and graze as they pleased. This remained in force until 'Uthmān's caliphate. When 'Uthmān perceived that people grew lax in their morals, helping themselves to other people's property, he reversed the order. As a matter of fact, what he did was neither to discard the ruling nor to invalidate it in favour of public interest. What he did was in line with the spirit of the text. If he had maintained the rule in its original force, despite his observations concerning people's malpractices, matters would have led to what would be quite contrary to the intent of the text, which was clearly designed to serve people's interests and to protect their morals at that time.

It will thus be seen that whoever looks closely into the courses of action pursued by the companions of the Prophet, with 'Umar b. al-Khaṭṭāb at their head, would perceive that they frequently changed direction and made what rules of society they formulated conform to the principle that those rules should serve both public and private interests, and their interpretations of the texts were favourable to those interests even though their apparent sense seemed to denote the contrary. This is demonstrated by the act of withholding the share due to those who were to be reconciled to Islam. The meaning conveyed by the Qur'anic verse: "But alms are only to be given to the poor and the needy, and those who collect them, and to those whose hearts are won to Islam" (Sura 9/60), is that a special portion of the alms collected was to be appropriated towards reconciling certain people and thus attracting them to Islam. This policy was maintained by the Prophet during his lifetime and by Abū Bakr after him. 'Umar however, disputed that point with the Caliph Abū Bakr, saying: "God has given Islam glory and strength, and therefore it does not need them (i.e. those to be reconciled); either they accept it, or the sword is between us and them." Another instance is 'Umar's refusal to divide the newly won lands of Iraq and Syria among the conquerors, when

he saw a number of the companions divide among themselves the land and what was there on it as spoils of war, on the strength of the verse on spoils, which says: "And know ye, that when ye have taken any booty, a fifth part belongeth to God and to the Apostle" (Sura 8/41). Nevertheless, 'Umar implemented the rule of public interest, saying: "If the lands of Iraq and Syria were to be divided up, how would the outposts of the empire be protected and what would be left for the offspring and widows in this and other lands?" Then he said: "Were it not that I had the cause of the Muslims in the next world at heart, I would have divided up every village we conquered, as the Prophet had divided up Khaibar." Yet another instance is his forbearing to cut off the thief's hand in certain cases, for he was ever inclined to making rules not unduly stringent. And a further instance is his making people answerable for their utterances, and also his legitimizing divorce if the wish for divorce is expressed in one utterance only instead of three, although this had not been the case during the life of the Prophet nor during that of Abū Bakr, nor even during the first two years of 'Umar's caliphate. Scholars understood this as a restrictive measure, to serve the cause of public interest, that is, stringency dictated by necessity. We, for our part, say that when the nature of public interest changed, scholars and those in authority reverted to the former rule of enforcing divorce on the strength of one utterance.

Examples of modification of the law in accordance with requirements of public interest are numerous in the age of the disciples or companions of the Prophet.<sup>1</sup> The followers (of the companions) followed in the formers' footsteps, authorizing, for instance, the fixing of prices, although the Prophet had prohibited it. The authors of the *Sunan* related that Anas said: Prices went up in the time of the Prophet and people asked him to fix prices. Whereupon he said: "Verily God is the withholder of His bounty, the bounteous one, the provider and the fixer of prices. I trust that when I meet God no one will ask me to account for any injustice done by me to him personally either by way of bloodshed or misappropriation." In the times of the followers, however, as people's character changed somewhat, they said: "People have gone to excess in

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<sup>1</sup> See our books *Introduction to Islamic Jurisprudence* and *Permissibility as Practised by the Fundamentalists and Jurists* in our treatises on the Methods of Independent Interpretation.

covetousness and greed.” Jurists sought to combat this trend, as urged by the *ḥadīth*, “no harm and no harassment”, whose general import advocates the abolition and restraining of defraudation. Thus the Prophet wished his righteous generation to follow this course of action. But, if tradesmen were to grow corrupt and defraud people should thus restrain the hand of authority from acting firmly, to ward off evil and resist malpractice. In this connection, Ibn al-Qayyim says: “The Prophet forbade freezing of price because there were no urgent grounds for it. If there had been, he would have imposed it,” — an additional proof that rules are contingent on cause and linked up with public interest, to change or to be modified accordingly.

The great religious leaders, *imāms*, continued to keep their course of action consistent with, and inspired by, that of their righteous predecessors. Abū Ḥanīfa and Mālik gave it as their opinion that it was permissible to pay alms to Banī Hāshim, because, in their case, the text which had prohibited alms to them, was not to be regarded as unqualified, but as dependent upon whether or not they receive their share from the state funds. With the removal of this qualification, the prohibition was likewise removed to avoid harm and prejudice. This is not a question of giving priority to public interest as against the prescription of the text, but is simply the use of discretion in the interpretation of the text.

The *imāms* were followed by their disciples, who framed legal opinions and dispensations opposed to those previously formulated by their teachers, laying down a general juristic rule: “The alteration of rules to accord with the changing times is not to be viewed with disfavour.” As an example, let us consider the differences that arose between the *imām* and his two companions on the question of the vindication or screening of witnesses, the purpose of which is to make sure that they will tell the truth when testifying. The *imām* did not insist on this screening as imperative, on the grounds that he was then living in an age when sense of justice and truthfulness prevailed. He only insisted on it in cases of legal punishment and chastisement, because in those cases more circumspection was needed to remove any possibility of uncertainty, and especially to give the accused the benefit of doubt. His two companions, on the other hand, required vindication in the case of every testimony, to guard against possible trickery in view of the corrupt nature of the society then. Then came the later jurists, who noted the scarcity of perfect justice. They noted also that the judge, if he were to insist on having none but fully

approved witnesses, who satisfied all the qualifications for integrity as witnesses would experience real difficulties in finding the person or persons needed for the confirmation of evidence, and thus a litigating party may run the risk of losing his case in consequence, having failed to establish finally his contention. Therefore, to meet this awkward situation, the jurists promulgated a *fatwa* (dispensation) to the effect that the testimony of those better qualified to testify (the worthier or the worthy to be preferred to the less worthy) was to be accepted. In other words, they abandoned the stringent condition of absolute integrity, contenting themselves with relative integrity. The later Ḥanafite jurist Ibn 'Ābidīn says: "Rules based on custom must change, depending upon the change of custom. For instance, good stipends used to be paid to teachers whose occupation was the teaching of the Qur'ān. Abū Ḥanīfa objected to such payments and prohibited the receipt of money in return for teaching the Qur'ān. But when these stipends ceased to be paid later on, later jurists approved the payment of fees or wages for certain religious duties, such as leading in prayer in the mosque, giving the Friday sermon, and the teaching of the Qur'ān.

Ibn Qudāma, the Ḥanbalite, reports that Imām Aḥmad declared that gifts to certain children might be allowed as a special case and, on justifiable grounds, if for example those children were suffering from a chronic disease or disability, such as blindness, or if occupied in seeking knowledge, although there are texts prohibiting indiscriminate preferences. Also, he was reported to have authorized the hiring of stud bulls or stallions and the like for purposes of reproduction when necessary, although the Prophet had prohibited it.

Abū Yūsuf made wide use of custom as a source of legislation, so much so that he said: "If the text of a ruling, when promulgated, is found to be based on an established practice or custom at the time of its promulgation, and if the custom changes, the rule should change, accordingly." Al-Qurāfī says: "In all sections of jurisprudence dealing with customs, change in legislation is incidental to change in custom."

We now have to add that change of rules was not only confined to changes of times. It may also result from the development of normative situations or conditions which occasion some social reorganization to suit a new mode of life, as for instance, the immunity granted exclusively to the governor, although it was permissible to grant it to private individuals. Nowadays, it is enough, when a plot of land is being sold, to state only the number of the plot and its location, whereas formerly

all the boundaries had to be indicated. Similarly, leading juristic opinion tended to consider the sale of a property as having been fulfilled as soon as the contract was duly signed and registered. Responsibility in this transaction for any damage to the sold property is transferred from the vendor to the purchaser as from the date of registration, although the actual transfer of the property might have been effected earlier, and although the legal title of the sale must be accompanied by actual delivery, and liability for damage cannot be transferred except in this way. These situations calling for regulative rules make it imperative that juristic legal opinions should be flexible enough to accommodate themselves to the requirements of the changing times, and thus serve the interests of the people in the light of the general spirit of Islamic law.

How is it then that jurists have for a long time refrained from asserting the need for the registration and validation of contracts, particularly as regards the marriage contract? Why is it that they have not sought to consider a divorce as finally annulled, and regard the taking back of a divorced wife as conditional at least upon legal testification, considering that public interest and the relevant texts support the procedure and do not countervail it? Is it right that we should stand inert in the face of the wide spreading use of drugs, with all their pernicious effects, while jurists and scholars continue to refrain from voicing their opinion against them, expostulating as they do that the drugs have not been proved to contain intoxicants like liquors prohibited for that very reason, but forgetting the possibility that their harm to individual and to society might be far greater than that of liquors themselves? Is it sensible that we ignore so many questions of today, deeply embedded in the social structure of the age, without having a conclusive textual rule or a consensus on the matter, and at the same time fail to put forward legal pronouncements to be in harmony with people's interests, and to promote their welfare and save them from lagging behind other peoples in the fields of science, politics, culture and economics?

Yet, when we come to the texts of Islamic law, we can say that the more scholars inquire into them, the more they will discover a large variety of guiding principles to be drawn from them. The Lawgiver gave us signs and pointers to guide us in the process of deducing rules to control new aspects of life not previously provided for. In fact, there are many questions in our life these days which stand in real need for clear-cut legal decisions or collective legal

opinions. Under this heading come such questions as types of insurance contracts, lottery, banking business, savings account, speculations, bills of exchange, stockholder companies and their issues of stocks which they float, government and semi-government bonds, and the like. In short, all these require careful consideration so that we may decide which of these and other similar activities accord with the spirit of Islamic law and are in agreement with public interest, and, having decided, to take the necessary steps to protect the Islamic community from continued retardation, economically and socially.

This does not mean that I approve of every novelty, or that we should alter the stamp of our Islamic character by hastily adopting everything new. Islam shall always preserve its distinctive character unchanged; but people change. Therefore, the method for our understanding of Islam must change and the outlook to be adopted must be such as to be conducive to the realization of people's interests. The interest of the community must be taken into account when inferences are made or opinions formulated. Those innovations or new inventions which can be brought into line with, or conform to, Islamic institutions are to be adopted and followed. But those which cannot be made to comply with Islamic jurisprudence and with its various schools, extensive and flexible as they are, and cannot be accommodated by them are to be discarded and cast away from our institutions and practices. But at the same time we must lay down a substitute Islamic system, by means of which we can dispense with the other, and which can be no less useful and no less able to meet the needs of people.

But to shrink back whenever we encounter any new development, not rooted in Islamic sources and traditions and which has not been attended to by the jurists, and content ourselves with saying that it is *harām* (tabooed by religion) without looking into it first and giving it due consideration, is in itself *harām* (or violation of the sacred law), considering that the purpose of the law is to promote the welfare and happiness of the people, and especially because God's law has always been designed to ensure general welfare, a supreme objective which led the early fathers to say: "Wherever the good (welfare) is, there is God's law." When the Prophet used to send a scholar or a mission to any of the Muslim countries, he used to advise them saying: "Make things easy, and do not make them difficult." When invoking God's blessing upon his nation, the Prophet prayed: "O God! Be hard on those who are in their rule hard upon my community." What we are to understand from these two *hadīths* is that they both



urge Muslims, in clear and explicit terms, to be attentive to people's interests. To turn away from serving these interests when there is no definite text disallowing the service is sheer wrongheadedness and rigidity, and a failure on the part of the legislating authority to adapt itself to changes in different periods of human development and consequently a sign of its backwardness, inertness and incompetence.

If we are to look thoughtfully into the ways of the early jurists, which we go by, and if we consider carefully what views they formed and rulings they formulated on the affairs of their times, we shall find that they for their part did not stand still, but moved along with the progressive development of their age, and acted according to the dictates of public interest. Wherefore they own the regard of the community, which used to refer to them all questions for appraisal and judgement. Their jurisprudence was that which was applicable; it was not felt to be burdensome, nor was it disregarded by either ruler or ruled.

Why we, on the other hand, allow ourselves to stand inert in the face of new developments and emerging social orders without making some effort to discover God's law to meet such new situations? This attitude on our part is tantamount to an implicit accusation of the Islamic law as being deficient, rigid and backward, when in fact, it is we who are the culprits. Is it right to say that the door of *ijtihād* (independent legal opinion) has been closed, and that this age is devoid of independent interpreters of the law? To clarify these questions we present the following two points to help us get at the truth of the matter, but in brief:

#### INDEPENDENT LEGAL OPINION (*ijtihād*) IS NEEDED, AND THE DOOR OF *ijtihād* IS NOT CLOSED

*Ijtihād*, which consists in the exertion of mental effort to the utmost to deduce legal principles from available sources, is an obligation binding on whomsoever is fully qualified for the purpose, whether the deduction is for individual or collective use. The obligation of *ijtihād* is indicated in God's words: "Profit by this example ye who are men of insight" (Sura 59/2); "And if in aught ye differ, bring it before God and Apostle" (Sura 4/59). God ordered those capable of reflection and discrimination to try to discover and earn, enjoining at the same time that in cases of disagreement on issues where there are no texts in support or otherwise, jurists should seek guidance and enlightenment

from the Qur'ān, from *Sunna* (Prophet's tradition) and from the already defined solutions, in devising their verdicts or findings. This is the straight path of *ijtihād*. Hence, there must be those who are well-versed in the proper and relevant learning. These are the *mujtahids* (formulators of independent legal opinions based on Islamic legal sources). The Prophet also urged *ijtihād*, saying: "Do what you can do, for everyone has his way made easy for him to do what he has been created for." The imperative denotes obligation, as we have shown in our book *Commands in Texts of Islamic Legislation, Relevant to Legal Principles*. This is substantiated by the decisions adopted by the caliphs, the companions (of the Prophet) and their followers in making legal rulings for cases not covered by traditional texts. But since texts are numbered, and historical and societal changes are without limit, therefore, laws pertinent to the new changes must be discovered. Those who ponder the Qur'anic verse: "But if they would report them to the Apostle, and to those who are in authority among them, those who desire information would learn it from them," will know how in Islam new rulings may be inferred.

Legal principles, however, must not all be subjected to *ijtihād*. For there are questions concerning which there is a true consensus, as the invalidity of the marriage of a Muslim woman to a non-Muslim, which are not to be referred to *ijtihād* or interpretation. The rule formulated thereon cannot be influenced by differences of age, place, circumstances or conditions, except by a special dispensation from an authorized legislator and only in case of necessity or need. In all other cases, *ijtihād* is applicable, whether the matter in question is covered by a relevant text, either presumptive in its enunciation of the legal principle or presumptive in being based upon a solitary testimony, or in the case where there is no textual support or no consensus. Here, there is wide scope for *ijtihād*, as we have shown in the relevant place.<sup>1</sup>

The contention that the door of *ijtihād* has been closed is a vain and baseless one, unsupported by evidence and unacceptable to human reason. The truth of the matter is that the 'Abbassid Caliphate grew weak and distracted, around the middle of the fourth century of the Hijra. The numerous aspirants to power strove against one another and were able to induce the religious scholars to issue tendentious pronouncements or dispensations (*fatwas*) to suit the wishes of the

<sup>1</sup> *Introduction to Islamic Jurisprudence and Treatise on Ijtihad Methodology.*

powerful contestants. The religious scholars, to make matters worse, were divided among themselves, because of bigoted adherence to their individual school of theology (*madhhab*), irrespective, as we have shown, of the fact that the bigotry in this way was contrary to the teachings of the founders of the religious schools themselves. As a result, men, qualified or non-qualified, but claiming to be jurists, entered the lists and made their own statements, jaundiced as they were, on matters in dispute. Consequently, legal decisions contradicted one another, so much so that judicial decisions were at variance even in the same town on the same point of law and all in the name of religion. Thoughts grew confused and scholars began to feel disturbed. As a way out of this chaotic situation, they judged it necessary that all who claimed competency in the formulation of legal judgement should be obligated to abide by the rules previously laid down by the preceding *imāms*, as a precaution against the issuance of *fatwas* or pronouncements under the influence of personal bias and passion, or with the view of furthering individual interests. They also sought to restrict the task of pronouncing legal opinions to those fully qualified to do so.

This in no way means that the vistas of thought were closed or that scholars of the fourth century A.H. had projected themselves into the future, and foresaw that in the generations to come there would be none who would satisfy the conditions of *ijtihād*, or that future times would preserve the character of their own age unchanged, or that no new situations would arise, necessitating the discovery of God's law and the need for a restatement and a new formulation of the law.

#### *Ijtihād* CAN AND MUST BE EXERCISED IN EVERY AGE

If an age were to be devoid of a *mujtahid* (independent interpreter or formulator of the law), who could be depended on in the formulation of legal principles to meet new situations, the law would become stagnant and it would be impossible to apply it to new developments. Al-Shawkānī elaborates this point, saying: "Some have claimed that no age should lack a *mujtahid* who would explain to the people what was revealed to them, nay, each region should have its own competent *mujtahid*, for *ijtihād* is a delegated duty." A statement ascribed to the Hanbalites is to the effect that no age should be devoid of a *mujtahid*. They say: "This is the view upheld by Abū Ishāq, for if God were to make an age devoid of one who will furnish proofs,

there would be no obligations and the law would be in abeyance. He also reported Ibn Daqīq al-‘Īd as having said: ‘This is the course chosen among us...’.”

Discussing the views of those who hold that no age can be devoid of a *mujtahid*, Shawkānī next says: “Has God withdrawn the favour he bestowed upon former *mujtahids* — that of deep insight, keen perception and a readiness for the acquisition of knowledge — restricting it to them alone and to their age? Or is it that learning, scholarship and discernment, much in evidence in their age and accessible for common use, were later suppressed or fell into decay, leaving no trace?” He concludes his words by saying that “*ijtihad* to succeeding generations is indisputably easier and within reach. Whoever seeks to restrict God’s favour to some of his servants, and to limit the comprehension of the law to preceding generations, transgresses against God and against the law, instituted to be universal for all people.”

The author of *Fawātiḥ al-Raḥamūt* says: “To say that an age is devoid of a free *mujtahid* belonging to a certain school is empty talk, not to be heeded, for it is an opinion pronounced by the unlettered and ignorant who, being misled, mislead others by their mistaken judgement.”

Hence, the doors of *ijtihād* have not been closed; the ways to it are more accessible and better-paved in our age than in former ages. God will not have difficulty in providing *mujtahids* in every age. That this is so is borne out by facts, experience and first-hand information on some leading and competent figures of Islamic jurisprudence, who can, if they only wish, devote themselves or devote some of their time, to expound and bring out God’s law, particularly as regards the new requirements and situations of life, in the light of the various sciences and civilizations, and in accordance with the changing needs and interests of people.

To resist any personal bias and prejudice or any false pretensions from causing misrepresentations in legal principles or from the use of delusion and mystification in the exposition of rules, we suggest that this *ijtihād* should be undertaken by recognized religious scholars in a co-operative or collective enterprise. This can be realized in some way in the *fatwa* committees, or the legislative councils or in conferences on the sciences of jurisprudence. It is clear that all these are ways of exercising *ijtihād*, which cut short long-drawn controversy and contentiousness, force those of opposing opinions to concede that the

door of *ijtihād* is still open, as confirmed by the Prophet's saying: "There will always remain a group of people in my nation, who will always uphold the truth, untroubled by those who dissent from them until God's is done." The idea of a research academy such as that of Al-Azhar is, with sincere intentions and true co-operation, apt to achieve that end.

In conclusion, I am convinced that only that which set this community on the right path in its beginnings will guide it aright in its present and future. The teachings of Islam brought different races into one united nation, raising it to the highest levels of excellence and glory and extending its sovereignty over large areas of the globe. We are confident that Islamic jurisprudence with its different schools and all the good ideas it comprises is capable of discharging the responsibilities devolving upon it, provided its legal principles are rightly comprehended and provided the jurists of today exert themselves to meet the problems of life effectively, rather than remain content with their ancestors' endeavour. To stop there is, as Ghazzālī declares, a straying away from the path of religion and a proof of ignorance of the ends contemplated by our previous religious savants.

Let us cast off the cloak of sluggishness and stagnation; let competent scholars amongst the believers, specialized in religion and other relevant fields, get together to look into every new situation and aspect of life, reconsider formulated legal principles and pick therefrom what tends to serve and promote people's interests, even through devising new prescripts by the use of inference and analogy. If we do this, things will adjust themselves right and benefits will accrue to all, with the Islamic jurisprudence moving in the meantime hand in hand with actual life and yielding a harmonious code of law, capable of securing the happiness and welfare of mankind.

May God show us the way to prosperity and good life; may He guide us and guide the jurists of the law of Islam in every Muslim region to the path of truth in leading people aright, in such a way as would lighten for them the cares and engagements of life. Verily, God is the one Who guides to what is good.



# ISLAM IN A DEVELOPING SOCIETY

BY

ABDELKERIM EL-MARRAK

Islam is the religion which God revealed to Muḥammad b. 'Abdullāh, His Apostle and servant, and ordered him, to be as a guide, and a bearer of good news and a warner, and as such deliver the message to all mankind so that humanity should adopt it as its organic law and derive from its principles all that helps it to organize its life in the spiritual, social, moral, intellectual and economic fields. Man, as a result, would be able to maintain his spiritual and moral balance and properly establish his due relations with his God and his fellow human beings.

Starting from the fact that Islam is a religion, we can define religion generally as a system of general principles, laws and directives to which man refers when he wants to elicit particular and general solutions for various aspects of life. On this consideration, it is absolutely impossible to dissociate the concept of religion from its social function, because religion is not meant for a particular individual, but for man generally, and for man in his capacity as member of an association of human beings with whom he interacts, with reciprocal action and reaction.

Wherefore the essential interconnection between religion and society. Since religion has a functional task within the human society it follows that, if its function is to have meaning at all, the existence of that human society is imperative. We can even say that if society did not exist there would be no need for religion to organize the life of the human being. Again, humanity from the oldest times, has found in religion a source from which to derive solutions for its problems and to be inspired with confidence and the sense of security. We are, therefore, led to emphasize that both religion and society are complementary.

## RELIGION AND THE DEVELOPING SOCIETY

If the society's need for religion is essential and persistent, it goes without saying that this need, being the outcome of living in a society consisting of living, growing and developing human beings, has to keep pace with the development of such a society so that no disruption could affect the social stability, and at the same time religious-minded people might not find themselves helpless in the face of problems confronting them in their private and public lives. Of this, what is important is that, with the passing of time, people may develop a feeling about religion embodied in the consideration that it is an obstacle in the way of human progress, an attitude of mind which creates a tendency for people to seek help from other sources to enable them to face their problems, with the consequence that they will be mastered step by step by material considerations, and religion, as a source of spiritual inspiration and as an agent for the preservation of psychological balance of personality, will have its function curtailed in scope in the process.

At this point we must assert that religion is a reflection of the society to which it belongs. So if social life is full of vitality, with intellectual vigour and immunity against superstitions and illusions, and does not suffer from submissiveness, infirmity of purpose and despondency, the attitude towards religion will be fostered by the reality of this situation and coloured by it. A Muslim whose mind has been enlightened and rightly guided by knowledge and liberated from superstitions, fantasies, and has discarded outworn customs and traditions, and freed himself from hunger, ignorance, disease and from the feeling of humiliation and abjectness — such a Muslim feels proud of his religion, to the extent that he examines it in a critical and logical manner, and will surely find in it apt solutions for the various and recurrent problems he faces.

We as Muslims believe that Islam, at the hands of the Prophet Muḥammad b. 'Abdullāh, proved to be a revolt against injustice and ignorance, and aims at resisting all causes of intellectual and cultural backwardness in general. It also aims at exalting man's status and unleashing his hidden and potential energies for the realization of the noblest aims of existence and for the sustenance of the powers of goodness and the suppression of the powers of evil. The early Muslims who lived in the shadow of this revolutionary conception



of Islam and incorporated it faithfully into their private and public behaviour were able to accomplish something of a miracle and gave a good example in a variety of fields — intellectual, moral, social, economic and scientific.

Hence, it may be concluded that Islam, as a religion, is represented by definite general principles and rules, and remains practically the same, whether during the period of Muslim ascendancy or the period of Muslim decline. But whereas the early Muslims had clear reasoning and pure spirituality and felt genuinely proud of Islam, the Muslims during the periods of decline suffered from confused thinking, from belief in superstitions and fantasies and from a melancholic feeling of depression and inferiority. No wonder then that the minds in those dark periods ceased to think properly. The religious conceptions of that period reflected those miserable conditions.

Therefore, we can safely say that Islam as a system of general principles grows strong or weak, depending on whether its followers are strong or weak.

During this present century the western world has experienced radical transformations in all the various intellectual and technical areas of life. Those transformations have had their reflections on the moral and spiritual life as a whole. Muslim societies, under the impact of western civilization, began to absorb western learning and culture in general; technology began to play an important role in the life of Muslims; the outlook of the individual and society, economically, began to be moulded gradually by the new needs, and the Muslim society began to feel more strongly the need for a re-examination of its structure and of the way in which its social institutions function. Moral values, as a result, have been going through a very hard test in the face of a set of various new values which have recently been introduced. The individual Muslim also has begun to feel an insistent need for a Muslim intellectual revival, vital enough to generate new religious concepts which can satisfy the requirements of the new times. The Muslim family has found itself to be too weak to carry out its comprehensive educational function, using the same old methods, and has to feel that a new pattern of relationships is developing between parents and their children, calling for a diligent search for new ways to preserve the entity and the security of the family and its internal stability so that it may fulfil the function for which it was evolved.

Therefore, in view of the uneasy situation of the Muslim society today, the leading Muslim intellectuals must live up to their responsibilities and help the Muslim individual to tide over the acute crises which he now confronts in the midst of crisscross currents of subversive materialistic ideologies. At the same time, we believe that Islam is essentially an enlightening and open religion and is able to solve all problems however complicated and involved.

#### ISLAM AND FAMILY PLANNING

This theme which we are today meeting to discuss in the light of Islam is not the only, albeit the most important, theme of its kind over which the mind of the Muslim is exercised. One of the other problems for instance, is the question of dealing with banks which has assumed so much importance in the individual's private and public life, that it has become almost impossible for anyone not to engage in some form or another of profit-making activity, though people are not equally aware of the extent to which this question is troubling everyone's conscience.

This is one problem, among tens of them, which exercise the Muslim's mind. But I have to limit my discussion to the question of Islam and family planning. And I shall try to prove the conclusion I have reached in examining the question in the light of Islam.

The first thing to be stated is that the Qur'ān is silent on this question (family planning), which silence in my opinion, can be explained by the fact that in the early days of Islam the problem did not assume such serious proportions of such degree of acuteness. It was not then as serious as, for instance, the problem of alcoholic drinks or adultery or the attitude of society towards women and such other problems which prominently figure in the Qur'ān.

This is apart from what the Prophet is reported to have made several statements and to have taken certain attitudes on the question of coitus interruptus ('*azl* in Arabic) as a means for family planning, which partly convey the idea that he approved of it and partly that he frowned on it, either on the grounds of unlawfulness or of disfavour. Here we must use our reasoning, in interpreting the Prophetic traditions in order to derive rulings which meet the requirements of the new developments provided that they are in line with the spirit of Islam.

Among the Prophetic traditions which approve of family planning

through 'azl<sup>1</sup> is a tradition in *Sahīḥain* (two compilations or traditions) reported by Jābir. The tradition, as reported says: "We used to practise *coitus interruptus* during the time of the Prophet while the Qur'ān was being revealed. The Prophet, adds Muslim, came to know of this, but he did not forbid us (doing it)."

What we conclude from this tradition is that the Apostle — approved the practice, and that if it had been forbidden he would not have hesitated to say so. Also if it had been forbidden, the divine revelation would have referred to it, because the Prophet was asked about it while the Qur'ān was being revealed.

There is also another Prophetic tradition which clearly shows that 'azl is permissible. It is related on the authority of Jābir that a man came to the Prophet, for his opinion regarding his slave girl whom he did not want to be pregnant on account of his need for her services. The Prophet then said: "Practise *coitus interruptus* with her if you wish. What is pre-ordained for her will certainly befall her." We do not wish to relate more of those genuine traditions and Prophetic opinions which approve of 'azl as a means of family planning. But let us emphasize that there are other Prophetic traditions which can be variously understood and interpreted.

Let us give some of those Prophetic traditions which were understood to mean the prohibition of 'azl. One of them says: "Marry among yourselves and multiply for I shall make a display of you before other nations on the Day of Judgement."

Those who are in favour of the prohibition of family planning take this Prophetic tradition to mean that begetting many children is the prime object of marriage and that the Prophet will make a display of us on the Day of Judgement on the strength of our multiplicity, and consequently any attempt to limit the number of children is opposed to this prime object.

Those against family planning quote also another tradition in which the Prophet said: "A black woman if prolific, is better than a beautiful woman if sterile." Some thought that this tradition urges people to beget children repeatedly.

Those conflicting Prophetic traditions point to the insistent need for the exercise of our reasoning power supported by analysis, comparison, and constant reference to the principal rules of Islam for

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<sup>1</sup> 'Azl means barring man's semen from reaching the uterus during sexual intercourse.

perceiving the underlying sublime aim of Muslim law. In this way our perspective becomes clear and the difference between what may be called the particular, as against the general, solutions becomes clear.

WHAT ARE THE MOST IMPORTANT REASONS FOR THE NECESSITY OF FAMILY PLANNING?

There is a set of facts which must be stated. Among these are:

(1) Muslim jurists are unanimous that we cannot consider family planning, by limiting the number of children, as binding on all people regardless of their respective special cases and their individual circumstances.

(2) Family planning is legal and recognized by most of the jurists of all schools of law, subject to certain conditions and provided that both the wife and the husband concerned agree to it.

(3) The most important reasons which jurists regard as favourable to family planning:

These reasons are summed up as follows by Shawkānī in the sixth volume of his work *Nayl al-Awṭār*: "The reasons for practising 'azl are: To take pity on the suckling baby for fear of the mother getting pregnant while still suckling; to escape having too many children; and escape getting children at all."

From this account by Shawkānī, it appears that one may go as far as stopping completely begetting children, provided it is done with the agreement of both husband and wife and provided that the ability to get children would not be irremediably impaired. It means that in special cases one can stop getting children provided that this does not become a general rule for everybody.

(4) There is another fact which should serve as our pressing point of departure in intelligently analysing our actual situation in order to find out the causes of poverty, misery, ignorance and disease from which most people of our societies suffer and the causes for the prevalence of maladjustment and delinquency. Because of all these deficiencies, the observer gets an impression of our society which is quite unprepossessing and unfavourable. The fact we suggest to be the starting point is well known to us, namely, that the highest birth rate is found among our poor and culturally backward people, and that most of the children born in our society are born to parents who, to say the least, cannot bring up a generation strong enough and

prideful of its respective nation, religion and creed. In this connection, it should not escape us to remember the saying of the Prophet: "Poverty is next to disbelief." I want to add to it in the way of clarification that this disbelief assumes greater proportions in so far as the individual is more conscious of his poverty and of his increasing need cropping up from day to day.

Bearing in mind the actual condition in which our people today live we must, in interpreting the term "make a display" used by the Prophet in his tradition, consider not only the quantity, but also the quality of the progeny.

This explains the necessity for family planning as a means of solving individual problems and hence a help towards temporary relief from our present serious social problems. We are suffering from lack of balance between the economic sources and the birth rate, and also from other problems such as mothers' employment and the introduction of new conceptions about the institution and function of the family.

#### FAMILY PLANNING NEEDS PROPAGATION

Bearing in mind that most of the children are born to poor people, destitute of wealth and knowledge and consequently of the ability to rear and bring up strong generations with sound bodies and sound minds; and bearing in mind that those people's ignorance covers the ignorance of the Muslim of the Islamic view in this respect, we can realize the great significance of propagating family planning knowledge and technique, as indicated by statistics worked out in the last decade which show that the ratio of those who visit hospitals to avail themselves of the scientific methods of family planning is much higher in the urban areas as compared with the other areas. All of this makes it clear that people must be made conscious of their problems and able to face them without being hindered by fears and phobias. In this way one can shoulder all responsibilities relative to one's financial position, and one's available energy and time, lest one should fall victim of his own children.

People of every group and position must live up to their responsibilities: the religious scholar ought to bring home to people the spirit of Islam as it truly is and to strip it of all misleading accretions so that people may get rid of all complexes; the biologist, the physician, the statesman, the civil servant and the intellectual must, each in his

own field, contribute to the enlightenment of people as that they may overcome this crisis hitherto thought to be only temporary. In this way the Muslim society can pursue its way to progress on a sound and safe basis. God is our guide to prosperity, and peace and the blessing of God be upon you.

# SOCIETY AND SOCIAL DEVELOPMENT IN THE VIEW OF ISLAM

BY

ABDUL MUNIM EL-SHAFEI

## FUNDAMENTALS OF FAITH AND LEGISLATION IN ISLAM

Islam is based on monotheism, that is, on the belief that God is one and that there are no other gods beside Him, nor are there other worshipped objects. "God is the creator of all things, and of all things is He the guardian" (Sura 39/62).

Islam means that the believer surrenders to God, praised and exalted by His name, obeying His behests and committing himself to the observance of His 'limits', that is, His divine commandments.

These injunctions and limits are contained in the Holy Qur'ān, which was sent down by God to the 'seal' (last) of the Prophets, our Lord Muḥammad, blessings and peace be upon him, who was charged with the task of communicating them to the whole of mankind. The Prophet conveyed the message, which was both committed to memory and recorded in its original form by his companions. Moreover, the Prophet's acts and sayings illuminated the path for the Muslims in their applications of Qur'anic rules.

The sources of Islamic Law are the Qur'ān and the Prophetic tradition, the latter being a collection of the Prophet's sayings and those practices connected with his performance of devotional services, such as prayer, fasting, pilgrimage, etc. Where, however, no explicit text is to be found either in the Qur'ān or in the tradition, the source of legislation is *ijtihād*, which is inquiry and study carried out by men versed in the Qur'ān, the Prophet's tradition and the rules and spirit of legislation, to find out the legal decisions that are most suited to the needs of humanity from time to time.

### THE ORGANIC LAW OF ISLAMIC SOCIETY

This law consists of behavioural or moral principles which lift man to higher levels, thereby ensuring the happiness of the individual and the well-being of society. These principles are laid down in verses of the Qur'ān or in the *ḥadīth* (Prophet's acts and sayings). Muslims are required to observe them as religious duties whose performance is obligatory on all Muslims, individually and collectively.

We now cite here a number of Qur'anic verses and Prophetic traditions that illustrate several of these principles:

A. On brotherhood and friendly dealing among Muslims:

“Only the faithful are brethren” (Sura 49/9).

“The Muslim is one from whose hand and tongue the Muslims are safe.”

B. On social solidarity and interdependence among Muslims:

“And gave due share of their wealth to the suppliant and the outcast” (Sura 51/19).

“Believers are one to another like a compact structure, with the parts held firmly one to another.”

C. On the protection of morals and the prevention of deviation:

“And that there may be among you a people who invite to the good, and enjoin the just, and forbid the wrong. These are they with whom it shall be well” (Sura 3/104).

D. On justice and the sovereignty of the law and the system of government:

“Verily, God enjoineeth you to give back your trusts to their owners, and when ye judge between men, to judge with fairness” (Sura 4/58).

“O ye who believe! obey God, and obey the Apostle, and those among you invested with authority; and if in aught ye differ, bring it before God and the Apostle, if ye believe in God and in the latter day. This is the best and fairest way of settlement” (Sura 4/59).

E. On taking counsel and co-operation:

“And whose affairs are guided by mutual counsel” (Sura 42/38).

“But rather be helpful to one another according to goodness and piety, but be not helpful for evil and malice” (Sura 5/2).

F. On the family system and the sanctity of marriage:



“And one of his signs it is, that He hath created wives for you of your own species, that ye may dwell with them, and hath put love and tenderness between you” (Sura 30/21).

“Men are superior to women on account of the qualities with which God hath gifted the one above the other, and on account of the outlay they make from their substance for them” (Sura 4/34).

G. On production, consumption and economy:

“Say: Work ye! but God will behold your work, and so will His Apostle, and the faithful” (Sura 9/105).

“And let not thy hand be tied up to thy neck; nor yet open it with all openness, lest thou sit<sup>r</sup> thee down in rebuke, in beggary” (Sura 17/29).

H. On man's successorship on earth:

“Then we caused you to succeed them on the earth, that we might see how you would act” (Sura 10/14).

“And He taught Adam all the names of all things” (Sura 2/31).

“See ye not how that God hath put under you all that is in the heavens and all that is on the earth, and hath been bounteous to you of his favours, both the seen and unseen” (Sura 31/20).

I. On the acquisition of learning and the exploration of the secrets of the universe:

“Say rather, ‘O my Lord, increase knowledge unto me’ ” (Sura 20/114).

“Can they not look up to the clouds, how they are created; and to the heaven how it is upraised; and to the mountains how they are rooted; and to the earth how it is outspread” (Sura 88/17-20).

If one looks into these principles, he will surely perceive that the constitution of the Islamic community is designed to promote this community's happiness and well-being, individually and collectively, for it is based on brotherhood and social solidarity, and it also urges the establishment of justice and equality and the protection of the family system.

In addition, it seeks to lift man to higher levels of excellence, by glorifying good works which ensure the welfare of the community, and by urging Muslims to seek knowledge and thereby discover the secrets of the universe and to use this acquired knowledge for improving man's condition and towards man's enjoyment of the blessings which God has bestowed upon him. This lifting of man's life to

higher levels is none other than the ideal and the supreme goal which all nations aspire to achieve through what is known as "Economic and Social Development."

#### ISLAM AND DEVELOPMENT

It has been shown that the constitution of Islamic society aims at raising man's standard of living. God says: "And now have we honoured the children of Adam: by land and by sea have we carried them: food have we provided for them of good things, and with endowments beyond many of our creatures have we endowed them" (Sura 17/70). The way prescribed by God to be followed to achieve the raising of the individual's, as well as of the community's standard of living is to urge people to do good and to glorify good deeds: "Who so doeth that which is right, whether male or female, if a believer, him will we surely quicken to a happy life, and recompense them with a reward meet for their best deeds" (Sura 16/97).

The Muslim is called upon to urge himself and others to do good and prohibit himself and others from doing evil, so that peace and prosperity may be established among Muslims, and that love may prevail among them and their prestige be enhanced. Thus will they be able to gain for themselves an honourable place in the world. "Ye are the best folk that hath been raised up unto mankind. Ye enjoin the just, and ye forbid the evil" (Sura 3/110).

However, to advocate and enjoin good conduct and forbid indecency pre-supposes that the enjoiner of the good and the forbiddener of evil should be cognizant of what is consonant with people's interest before he can urge them to do it. Muslims should therefore have among them men who are versed in learning, and able to explore the mysteries of the universe and scrutinize the annals of bygone times and nations, so that they might draw therefrom lessons and theories conducive to man's improvement of his mode of life.

The best way to acquire knowledge as well as to preserve and spread it is constantly to read and write. No better evidence for that can be adduced than the verse of the Qur'an first revealed to the Prophet as ordering him to read: "Recite thou, in the name of thy Lord who created man from clots of blood. Recite thou! For thy Lord is the most beneficent, Who hath taught the use of the pen; hath taught man that which he knoweth not" (Sura 94/1-5).

In another verse, God exalts literacy. He swears by the pen, which is its tool, and by the lines, which are writing itself: "Nūn. By the pen and by what they write, Thou, O Prophet; by the grace of thy Lord art not possessed" (Sura 68/1).

Unquestionably, reading is the widest gateway and the easiest road to knowledge, for the reader can learn of the annals and experiences of nations in bygone times, and know the opinions of his contemporaries and make use of their experience without having to leave his place for all that. Writing too is the most reliable method by means of which ideas and human experiences can be recorded and preserved across the ages as well as diffused throughout the world and be made use of most extensively.

Knowledge enjoys a very high position in the teachings and precepts of Islam, as is asserted in the Qur'ān in a number of verses: "Say: shall they who have knowledge and they who have it not, be treated alike?" (Sura 39/9); "Such only of his servants as are possessed of knowledge fear God" (Sura 35/28). And in the *Hadīth Qudsī* (divine tradition): "The learned are of the damned, except those of them who act upon their knowledge; and those who act upon their knowledge are of the damned except those of them who are sincere." Learning in this context is not restricted to the science of jurisprudence alone, which expounds the rules of permissible and prohibited actions. What is meant here by learning is knowledge as a whole, including that section of it which serves to guide man in the performance of the great task he was entrusted with from the time God designated him as His successor on earth, which is: to populate the earth and develop its potentialities, to tap its resources and to enjoy the blessings which God lavishly bestowed upon him.

Hence, it becomes abundantly clear that learning from the Islamic viewpoint is regarded as the first step along the path of economic and social development and that ignorance is man's worst enemy. For it is through ignorance that man fritters away the potentialities God has granted him and remains incapable of developing these native gifts and harnessing them for achieving his well-being and happiness. Consequently, it behooves society to spare no effort in spreading fundamental education and affording opportunities to each individual for obtaining the necessary measure of education by means of which he can absorb information and ideas, understand the mysteries of the universe surrounding him, and develop both the

initiative and capacity for seeking and achieving the largest measure of happiness and well-being for himself and for the community at large.

The adoption of this policy, i.e., the universalization of fundamental education, must necessarily entail the consumption of a sizable portion of the national income of any country. Some might feel that this would clash with the more urgent need for investment to develop other sources of income, such as commercial, agricultural or industrial production. Expenditure on the spread of culture and education, however, is a form of investment which is indispensable for the realization of social and economic development. To put it off or to neglect it altogether retards this development, and costs society much more. A look at the advanced nations furnishes clear evidence of this basic fact. It is the advanced nations that take care to spread education among their people and to raise their cultural and educational level, whereas the more backward countries are the ones in which illiteracy is widespread. In fact, we may note that economic development in the advanced countries has increased at a more rapid pace in the last forty years than at the turn of the century. For the rulers and people of those countries had become more conscious of the benefits to be reaped from the universalization and improvement of education, accompanied by a corresponding improvement in productivity and a consequent steady increase of income, which in turn meant the raising of the standard of living for all people.

Here we are faced with a baffling problem. The countries that are in most need of development and improvement of living conditions are those least capable of providing the necessary funds for spreading and improving education, owing to their poverty and the meagreness of their resources — a state of affairs which considerably retards their development and aggravates their poverty. What makes matters worse is that the populations in these developing countries increase at extremely rapid rates. Thus they seem to be placed within a vicious circle from which they apparently cannot extricate themselves.

Let us also note that this restricted provision of funds does not affect educational services alone, but also those of health, development works and other sectors. All these different aspects of shortage and need contribute to the retardation of development and to adding to the poverty of the already poor developing nations.

It is the opinion of the writer that the developing nations can break loose from the vicious circle in which they are now trapped, only through international co-operation in the field of family planning. This, coupled with foreign investment of capital and expertise to promote economic development, will bring about the desired result, namely, economic growth ahead of population growth. The efforts of this conference as well as those of similar ones are undoubtedly commendable, worthy of great appreciation and praise. It may be noted that Islam contains nothing that interdicts or prohibits family planning or discourages such a policy. Modern science, moreover, has made available means for planning the family. All that is needed is to clarify points relating to religion and to inform people as to the effectiveness of these means in family planning.



## FAMILY PLANNING AND SOCIAL CHANGE IN MUSLIM CULTURE

BY

WAJIHUDDIN AHMAD

Extensive use of birth control methods is usually associated with a vague notion of modernity. In research, this belief finds expression in attempts to relate low fertility or contraceptive use to certain supposed indices of modernity, exposure to mass media; detachment from cultural and religious traditions, ownership of appliances like electric irons and sewing machines and expensive belongings like china-ware and dressing tables, more frequent, visits to urban centres, ambitious attitudes.

A researcher is perfectly within his rights to study a relationship between any two items of observed behaviour in a given situation. But such a study also involved certain subjective judgements about how the variables are believed to be related. A psychological set or midprogress is inferred to account for the relationship, giving rise to postulates that may be termed 'psychologisms'. The assumed psychological link both reflects and feeds a *philosophy* of human behaviour sub-conscious, because it is learnt in the name of science. 'Psychologisms' also get taken out of context and are generalized into full-fledged theories of how behaviour can be changed, anywhere, regardless of cultural or situational factors. A pervasive theory eventually leads to a uniformity in lines of action.

The 'psychologism' of modernity rests on the following assumptions, employed singly or in combination:

(a) Persons rating high on a chosen 'modernity' index are more full of plans, self-disciplined and have greater sense of self-efficacy, a confidence in their capacity to relate ends and means. Hence they are more inclined than others to adopt and make sustained use of innovations that help them in achieving their purposes.

(b) Innovative behaviour is related to a facile pragmatism, unhampered by cultural obstacles, living on a rationality independent of the moral force of tradition.

(c) High energy level, arising from a close involvement with personal goals, enhances the capacity for change.

These ideas, seeming as they do to be perfectly tenable as general propositions, reveal their limitations in concrete contexts.

An item of behaviour or verbal response selected as expressive of a planning-minded 'set', may be no indicator of the assumed disposition, which may reveal itself in activities that are not conventionally modern and therefore fall outside the observed segment. Saving for, and purchasing household gadgets, may reflect factors other than self-confidence and effort in planning income, availability, advertising, a changing style of living, shortage of domestic labour, useful facilities like electric power, competition with other forms of investment. An observed association with an aspect of planned behaviour may not be direct and psychological. People who live close to shops and sales-agents also live close to clinics and doctors. And if an association exists in Taiwan, it may not exist in other countries where self-planning and organized living is not reflected in the pattern of consumption identified as modern. A villager in this country may not be interested in a sewing machine or bicycle but may work hard and save with effort to buy a stronger bullock, a cow yielding more milk, a tin roof or even a prettier second wife.

Similarly, innovation in any field or even as a general characteristic of behaviour, may not be a function of modernism as reflected in a chosen measure, like exposure to mass media. A European sociologist observes that Nigerian farmers are more innovative than those in his own country. The note of surprise in his statement is its inconsistency with the expectation that better educated, informed and 'scientific minded' people should follow more rational practices in agriculture, as they do in other undertakings. But the adoption of better farming methods may depend, primarily, on the unique features of a farming situation, its incentives and constraints and on sources of information other than mass media. In Pakistan, too, no relationship could be discerned between fertilizers in use and educational levels of farmers, which is understandable. An enterprising farmer, keenly interested in increasing his crop yields, need not take any interest in the distant events reported on the radio or in the newspaper.



Alienation from traditional culture is assumed to facilitate social change and innovation, because of a generalized concept of tradition, as being a massive incubus, arresting progress in all directions. It is a facile view. Some traditions may inhibit change but others may give impetus to it and direct it. Besides, a reflective consideration of a traditional norm, of its details and principles, may dissolve its rigidity and permit innovation within its framework.

A great deal of social change that occurs too, follows the Pushto maxim: 'new tasks in old ways' (*nave chare, zare lare*). People plunge into the future protected and disguised in the diving suit of the past. The great regenerative movements in Islam combined the adoption of western values and the rigorous rationalizing of the social processes with a fundamentally religious inspiration, through the efforts of men like, Sir Sayyad Ahmad Khan (1817-1898) in India-Pakistan, Maji Agus Salim (1884-1955) in Indonesia, Shaikh Muhammad 'Abdū (1849-1905) and Tāha Husain (1891-1973) in the Arab world, Namik Kemal (1840-1888) and Taufik Fikret (1870-1915) in Turkey and Husayn Ali Rashid in Iran. Likewise leaders of political dynamism like Iqbal (1876-1938) and Afghani (1847-1897), found a directional rationale in elements of the religious tradition. The movement for the emancipation of women from the seclusion of 'purdah' suggested a reversion to the days when the wives of the Holy Prophet and of his companions went to the battlefield and helped the wounded. Radicals still find it necessary to 'Islamicize' their socialism. A simple thing like teaching cleanliness for hygienic reasons also involves a reference to ritual purity.

The attempt to relate prospects of social change to the dynamism generated by strong goal-involvement fails to take into account the phenomenon of immobility at high tension, of sheer movement failing to become a moving order. It was only in Kipling's days that the 'East' was phlegmatic. Much of the adaptive failure that we see now is due to an over-reaching straining and disorganizingly intense urge for change. It is not that goals do not stimulate. They excite and agitate, as much as the smell of food would confuse a hungry animal placed in an experimental maze. People keep running between cities and villages in search of jobs. They make fantastic plans about what their children might do when they grow up. But frustration results in the fixation of non-adaptive and non-innovative responses. Uncreative substitutes are found for purposive behaviour: ritualism, retreatism, rebellion and the security of conformism, all for the sake

of preventing damage to self-esteem, which may result from an initiative that fails. What they need is not dynamism but direction, which can come only from moral perceptions. When an initiative is taken in the belief that it is the right thing to do, its failure or success is not consequential and its gains become secondary.

Family planning, too, must be seen not only as progressive but as morally binding. It must find, not just sanction and precedence, but impulse and direction in tradition. The change touches the deeper fibres of living. It cannot sprout from a vague desire to move forward, keep abreast of the times, to behave as the more successful and 'advanced' people behave. We wear suits in our offices, at home, slip back into dresses our grandfathers used to wear. I find it rather hard to agree with the eminently qualified observer who locates in the political radicalism of the modern Indian society an assurance of its procreative radicalism. No radicalism survives without its momentum in moral sensibilities.

I may suggest here, certain motifs, picked from Pakistan's religious culture and folk wisdom, which could provide a base to family planning in the context of 'traditional' values and perceptions. The list is purely illustrative and requires further research and expansion.

'Amr b. al-'Āṣ (d. 664), companion of the Prophet (peace be upon Him) and conqueror of Egypt, spoke to the Egyptians about four causes of social decay, leading as they do 'from prosperity to poverty', 'from honour to humiliation' and from 'ease to drudgery': too many children, wasting of wealth, a depressed standard of living and idle gossip.

'Abdullāh b. 'Abbās (d. 687), another companion of the Prophet, said: "Plenty of children is one of two poverties and a small family is one of two prosperities." A similar saying is attributed to 'Alī, the Prophet's cousin and son-in-law.

There are at least ten texts showing that the Prophet permitted 'azl. 'Azl usually means coitus interruptus but jurists of Islam include in the term, the use of medicines, before or after coitus and means for obstructing the mouth of the uterus.

Imām Abū Ḥanīfa (d. 767), the founder of the Ḥanifite system of Islamic law, inferred the permissibility of 'azl from the Qur'anic verse: "Your wives are your field: go in, therefore, to your field as ye will; but do first some act for your souls' good: and fear ye God, and know that ye must meet Him" (2/223).

Ibn Taimiyya (1263-1328), refers to a consensus of opinion among all the four Imāms (founders) of Sunni schools of jurisprudence on the lawfulness of contraception.

Imām al-Ghazzālī (b. 1058), allows contraception if for preserving the woman's health and her good looks, avoiding economic hardship, and of sparing the children an unwholesome environment in life. (He does not approve of it if it is resorted to to prevent the procreation of female offspring or because of an obsessional preoccupation with ritual purity).

A consensus of five hundred religious divines that codified Islamic law under the orders of the Moghul emperor of India, Aurangzeb Alamgir (1670), allowed contraception, with the consent of the partner in case of a free-born wife and without her consent in case of a bondswoman.

Shah 'Abdul 'Azīz (1746-1864), in his famous *tafsīr* of the Qur'ān says: "'*Azī* is justified on the strength of authentic and wellknown utterances of the Prophet." This is beyond question. The use of medicines before or after coitus for preventing conception is as lawful as '*azī*. Imām Shāfi'ī interpreted the Qur'anic verse (4/3-4) as a counsel to monogamy as 'the best way to avoid a large family'.

"And he giveth daughters to whom He will" (Sura 42/49). The Prophet had eleven wives but he had only five children according to Sunni belief, and two according to the Shī'a sect. His only son died in infancy but he never craved for a larger family though he was taunted as 'the sonless' by the Meccans.

"Daughters are greetings from the Prophet" (Punjabi proverb).

Three hundred and thirteen warriors of Islam overcame an army of thousands. Strength is not in numbers.

"What! think they that what we largely bestow on them of wealth and children, we hasten to them for their good? Nay they have no knowledge" (Sura 23/55-56).

"How oft, by God's will, hath a small host vanquished a numerous host!" (Sura 2/249).

The Qur'ān emphasises familial responsibility: "And let those who cannot find a match live in continence till God of His bounty shall enrich them" (Sura 24/33).

The Prophet said: "You have a duty to your child as you have a duty towards your father." Also: "To leave your inheritors rich is better than leave them poor."

“No person shall be charged beyond his means. A mother shall not be pressed unfairly for her child, nor a father for his child” (Sura 2/233).

“And let those be afraid to wrong the orphans, who, should they leave behind them weakly offspring, would be solicitous on their account” (Sura 4/9).

“When God punishes a man, he plants too many teeth (children) on him,” Arabic saying quoted by al-Ghazzāli.

“O our Lord! give us in our wives and offspring the joy of our eyes, and make us examples to those who fear thee” (Sura 25/74).

“And that nothing shall be reckoned to a man but that for which he hath made efforts: and that his efforts shall at last be seen in their true light” (Sura 53/39-40).

“And let every soul look well to what it sendeth on before for the morrow” (Sura 59/18).

“Pledged to God is every man for his actions and their desert” (Sura 52/21).

“And he hath subjected to you all that is in the Heavens and all that is on the Earth” (Sura 45/13).

“Destiny is an ass, you may lead him where you like!” (Pushto proverb).

“What must befall will befall but at least tie your camel’s knee” (Pushto proverb).

“The desire of increasing riches occupieth you, till ye come to the grave” (Sura 102/1-2).

“Thus have we made you a central people”<sup>1</sup> (Sura 2/143), enjoined — moderation in all things, which is also the divine way: “For every thing hath God assigned a period” (Sura 65/3). It is for man to know this measure, live according to it and avoid overstepping it.

“Extend your feet only as far as the sheet permits!” (Proverb).

“Sowing is easy, reaping is difficult” (Proverb).

“A child hollows the mother’s hip” (Proverb), referring to the hard labour that goes into proper child care, (Babies are carried on the hip).

Avicenna, or Abū ‘Alī b. Sīnā (d. 1037), the great Muslim

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<sup>1</sup> According to the Muslim commentators on the Qur’ān: not addicted to excess.

physician listed twenty methods in his '*Canons*' for preventing conception. Many of them were useful, having been employed down the ages, and are still known to our apothecaries practising the popular method. Men and women still get them or use things like honey, salt, vinegar, lime, mustard oil. Al-Ghazzālī mentions the condom and in the old days it was made out of gut. Modern methods are an improvement on old methods.

"Good medicine has a bitter taste (harder method)"; "A new shoe hurts in the beginning and so does a new ear ring" — (Used by field-workers to 'challenge' a client to try the IUD).

Traditional references, religious or secular, can be used easily for legitimizing fertility regulation. It must, however, go beyond apologetics and it can. The references, suggested above, encompass a variety of conceptions directly and indirectly relevant to family planning: the support to the small family idea by 'culture heroes', through word or deed; the assurance that people have for ages dealt intelligently with the problem of high fertility: more intense value-awareness of parental responsibility and perception of fertility control (or late marriage) as a means towards that end; a realization that strength does not consist in numbers and that quality matters more than quantity, enhanced valuation of female children, greater confidence in capacity to achieve life aims; the importance of prudence, moderation and 'living according to measure'; a sense of familiarity with the idea of using 'techniques' and confidence to try surer but harder methods.

Instead of relying on a culture-free capacity to act on the basis of know-how and know-why, greater emphasis is required to be placed on traditional stimuli, familiar and yet distant, carrying overtones of sanctity, authority and collective wisdom, enriched with an inheritance of meanings and vividly linked to present needs. The educational process will acquire the ease of self-movement and will involve only putting up sails, not taking oars. It would be fuller and deeper, flesh as much as bone. An educator will find himself not only imparting an idea but also *expressing* it, minting it into a coinage of wide currency and thus discovering a common area of interaction with his audience. And then there would be less risk of adopting approaches that may be offensive or trivial.

Despite a religious sanction of contraception and encouragement to family limitation in Islamic orthodoxy, contemporary religious attitudes are showing signs of hardening against family planning,

suggesting as they do that the change is influenced by non-religious factors. Leaders of the most orthodox Deobandi school of theology, till the mid-forties, allowed both contraception and abortion (provided it is done prior to the animation of the foetus), relying upon ancient texts in this connection. Some of these *fatawas* emanating from Mufti Muhammad Shafi, Mufti Azizur-Rahman and Maulana Rashid Ahmad Ganguhi are still in current circulation. Yet the present day disciples of these renowned authorities in religious matters have made sharp attacks on the family planning movement and programme.

The most noteworthy indictment of family planning was made by Maulana Maududi, the leader of a religiously oriented political party with a significant following, in a book that he has published in several editions in English and local languages. Other religious parties, otherwise opposed to the Maulana, have supported him on this issue. Withdrawal of the official family planning programme figured in electoral promises of several such groups including Maududi's own.

The Maulana, a religious leader himself, bases his case against family planning almost entirely on secular grounds, giving the usual pro-natalist arguments and supporting them from the writings of the Keynesians, of Collin Clark, Dudley Stamp, McCormick, Cole, Bernal and medical 'anxiety-makers' like Scherlieb and Lurand. On the strictly religious aspect of the question he concedes that the Prophet permitted contraception to individuals and did not ban it. However, he adds that in the days, of the Prophet there was no public and organized movement of birth control and had there been one, he would not have allowed it.

Notwithstanding the erudition and intellectual sophistication of the book, its basic tenor is a sense of disquietude over that family planning means culturally to the author. He sees it as the product of a society where 'woman is compelled to renounce motherhood for the sake of daily bread', where 'selfishness and materialism stop people from sharing things with others, including their own children', where the 'responsibilities that go with the enjoyment of sex are shunned', where sex exhibitionism, slothful living and competitive consumption distract wives from attending to their familial duties and where, above all 'faith in God's munificence has disappeared'.

He argues on the basis of demographic and economic data that western reduction of fertility was not motivated by economic pragmatism, reaching the conclusion that the basic cause was a change in sexual mores and roles. He goes on to warn that the importation of

conception control to under-developed countries will bring about the same subversion of social and moral values from which Western countries suffer. For the Western interest in the population problem of developing countries, the author offers the following explanation: "The expanding populations of Islamic and Asiatic countries pose a serious treat to the political supremacy of the West and they perceive in this growth a risk to their security and standards of living."

This is the Maulana's basic thought. The trend is not purely religious. It is very different from the Catholic opposition with which it is sometimes confused.

On the secular front too, the opposition to family planning proceeds from an interpretation of Western motives in giving it active support. A well-known economist and educationist, writing under the pseudonym of al-Hamza, in a left wing paper, argues that the foreign concern with population control for under-developed countries, like Pakistan, is a dodge to shirk responsibility for offering us better terms of trade and helping us in our industrial development. Undoubtedly, in Pakistan the 'nationalistic' opposition is far feeble than the well-documented virulence of Latin American intellectuals and politicians. But the keynote is the same and it can grow louder.

The issues are essentially the same as those raised in an imaginary discussion between an American wife and a Bolivian, reported some time ago in the *New York Times*. The American wants the Bolivian to use the pill because it is good for her country. The Bolivian expects the American to percolate more coffee for the family at breakfast and give up the parsimonious techniques of using beans which she learnt from Eleanor Roosevelt during the war. If Americans buy more coffee from Bolivia, she thinks that her country's and also her own problems will get solved. The argument never ends.

No argument would have developed if the Bolivian leaders themselves had insisted on the use of the pill and the Americans concentrated on developing a better market for Bolivian coffee in America. Any effort in population control will remain suspect, both politically and culturally, as long as it is seen as a foreign assault and a strategem.

The image of an alien inspiration that a family planning program acquires, grows out of many small details of which its promoters are seldom conscious: too many foreign advisers, trips and fellowships financed by aid-giving agencies, impressive sedans for the use of officials, parties in top class hotels, even the use of foreign words or

their unfamiliar translations in media and personal communication. A conscious effort to impregnate programmes with national and culturally meaningful symbolism is needed. But it would be possible to do so only if they are something more than one of the terms in an aid-giving deal, expressed or implied.

The foreign emphasis on population control would be less liable to misinterpretation if it was balanced by an equal emphasis on population symbiosis in the world context. There is all the concern in prospering countries with the problem of teaching population control to the brown, the black and yellow nations which sometimes elicits the cynical reminder that the white races multiplied seven times during a period when others increased only two and a half times. But little is heard of efforts to widen areas of interdependence and mutual accommodation between peoples with different growth patterns and resources. What attempts are being made to educate public opinion for altering restrictive immigration laws, in countries teeming with opportunities, with vast habitable blanks of territory, rich in resources that need more human labour for their exploitation? What is being done to liberalise trade, to accommodate the interests of 'specialist' economies, based on a single product or a short range of products, and to introduce changes in the domestic economic structure that make such liberalizing possible? The avowed policy of replacing aid with trade can hardly be implemented without paying attention to Professor Gilbraith's advocacy of slowing down the rate of growth in developed economies and drastically in certain sectors. There is no reason for instance for Americans to compete in commodities like cotton and oranges with people who have grown them for thousands of years. The expedient of 'economic aid' is not symbiotic, definitely not in the long run. Its depressing and deleterious effects on the parasite are fully known and the feeling of absolution it provides to the host is totally illusory.

Any student of human ecology knows that population control is one of the several constructive solutions of the problem of overpopulation. A structural dispersion of the population in living space and a functional alteration of relationships with other populations are equally important forms of adaptation. If this is true for a community or a nation, it is also true globally. The international concern with the human situation in population can appear more genuine if it is an involvement with the problem in its totality and not just in one aspect.



DISCUSSIONS ON  
MUSLIM OUTLOOK ON THE FAMILY  
IN A CHANGING SOCIETY  
ISLAM, SOCIETY AND DEVELOPMENT



1. The aims and scope of the conference.
2. Essential points of emphasis on the subject of Islam and the family.
3. The nation and the concept of the nation.
4. The unitary or nuclear family and the extended or joint family.
5. The family and marriage in Islam.
  - a. Filial obedience.
  - b. To whom should the child be related?
  - c. The irrevocable will and testament.
  - d. Equality in marriage.
  - e. Permissibility of polygamy.
  - f. Marriage to non-Muslim women.
  - g. Civil marriage.
  - h. Divorce.
  - i. Women and public life (man and woman; woman's work; femininity of woman).
6. Family planning and responsible parenthood.
7. Islam, transitional development and change.
8. Population explosion and population studies.
9. Muslims and backwardness.
10. The responsibility of the '*Ulamā* (religious savants) for the backwardness of Islamic society.
11. Religious savants and learned men of science.
12. Individual judgement or discretion (*ijtihād*) and the responsibility of the '*Ulamā* for the deduction of rulings.



## 1. THE AIMS AND SCOPE OF THE CONFERENCE

### *Sahnoun*

I wish to open my remarks with a preliminary formal observation. With all due respect and esteem for the distinguished religious learned men and the professors who have come to this conference, I wish to discuss with you first of all the legality of the conference applying itself to the study of questions of moment in Islam such as the question of family planning. This conference was convoked by an international regional organization financed by foreign institutions which have no right to interfere in the affairs of Islam and no right to decide and make plans in Islam's name. Such study should have been the responsibility only of the Secretariat-General which emanated from the Conference of Islamic Unity held in Rabat under the chairmanship of Mr. Abdul Rahmān al-Ṭanjī, or should be tackled by the Academy of Islamic Research or the Islamic World League or other Islamic organizations.

### *Huzayyin*

What Mr. Sahnoun has said cannot pass without our comment. We are assembled here in a conference called by a reputable international organization which has dealings with our Islamic countries on the basis that there is no compulsion in matters of opinion. This organization is merely consulting us to build up an opinion of its own but we are not consulting it to form our own opinion. This point must be made perfectly clear.

Furthermore, we are assembled under the wing of the sister state of Morocco, its monarch, government and people. The conference was opened by two worthy ministers of this noble state and on this basis this is a conference being held in a perfectly legitimate manner in accordance with Islamic Law, and in a perfectly correct manner from the point of view of learning and science.

### *Sharabassy*

In my opinion we, who are taking part in this meeting, are not in a position to give decisive judgement in Islam's name and cannot

speak for all the Muslims in their consensus, but are simply a group of learned men who are honoured to be related to the study of Islam, and who give their own personal opinions, which are not binding upon us as a group, and hence, a fortiori, are not binding upon other Muslims.

#### *Marrak*

Our responsibility in presenting religion to the younger generation as pure and refined as it was in the time of the Great Prophet Muḥammad, is an enormous responsibility regardless of whether the organizer of the conference is a Muslim organization or not. The important thing is that we as Muslims should think in an Islamic manner which derives from our pure refined spirit, and should seek inspiration from the attitudes and positions taken by God's Messenger and his companions among whom stand out men such as 'Umar and others.

#### *Najjār*

As I see it, we have proceeded to present papers and listen to commentaries but we have not attained the desired objective. Moreover, I believe that we have not been invited for debates on Islamic jurisprudence, although there is no harm in introducing judgements of such jurisprudence in so far as they are texts which aid us to attain the goal of this conference.

Therefore, why not define the aim first and then proceed on the basis of matters arising out of that aim and agree on clearly defined opinions and meaning which will constitute along with what flows from them in respect of the subjects to be under discussion, a set of meanings, standardized and fully integrated.

The objective of the subject "Islam's view of the family in a developing society" as I see it is to put forward Islam's understanding of the matter vis-à-vis the changes which the Muslim family and community are likely to undergo. Therefore, the conference should get down to the point where there is fulfilment of a pressing requirement. This has been referred to by Mr. Zarqā' and others, and is the need to benefit from the collective exercise of judgement, and this by any of the methods referred to in the item relating to the decision of the Conference of Islamic Research. As an example of what should happen I mention co-operation aimed at making up for what has already been missed of the subject "Islam, Development and Society". In my opinion this boils down to defining the concept of development.

“Transitional development”, or simply “development”, in sociological parlance, means every positive social change which is directly proportional to the duration of time already gone by. But “development” in the ordinary everyday usage is not intended here. Therefore, I propose that “development” be replaced by the phrase “social change”, in its unqualified sense, because it is more comprehensive and more to the point in relation to what the discussion is getting at.

I also think that the subject “Islam, Society and Development” aims at making clear Islamic judgements and concepts as well as at sketching the way to so disposing them as to face up to changing social needs so that there should be between these judgements and concepts, on the one hand, and changing social needs, on the other, some kind of correspondence, co-ordination and complementarity, and so that we should arrive at the Islamic wisdom which aims at achieving man’s well-being and his being at one with his conscience, and also at asserting effective Islamic humanism.

For all these reasons I call upon the conference to define its line of approach in advance in a decisive and realistic manner avoiding methods based on guesswork and ornate language. This would approximate more to productive worthwhile effort than would continuing with presentation, analysis and commentary.

*Karmī*

I agree with Mr. Najjār as regards the aims of this conference, for I have the feeling that its objective is still not clear to many members. Therefore, I think there should be a complete definition of its objects as a preliminary to the discussion of ways and means of achieving it.

*Wā‘iz*

The subject of “Islam, Society and Development” is wider in scope than the area of Islamic jurisprudence and law which was discussed fully in the contributions of Messrs. Zarqā’ and Madkūr. It deals with social problems referred to boldly and clearly by Mr. Najjār — for which we should be grateful to him — and, in a different way, by Dr. Omran in his valuable contribution.

Amongst these problems are a group of problems which occupy our minds so constantly and seriously that Islam must pronounce its opinion on them categorically. For instance, what is Islam’s attitude

to the woman who leaves her home to go to work? Does not such work conflict with her duties towards her children? What is Islam's attitude to co-education in universities? What is Islam's judgement on woman's dress? Is there an Islamic dress especially for woman? What is Islam's view of our present life which is marked by permissiveness, and which necessitates the mingling of the sexes? What is Islam's attitude to trade union organizations, which have become a serious social phenomenon, threatening as it does nations, communities and governments, and exploited as it is by foreign propagandists? What is Islam's attitude to family planning by means of birth control, inasmuch as it is a social and economic phenomenon which is being studied with dedication by a great many scholars in universities?

Finally, I believe that the conference should define the factors which make for the immunity of the Islamic community to social changes in order to preserve its intrinsic character and its harmony with the Islamic idea.

#### *Khalaf*

It seems to me that a great deal of the discussions going on at this conference are irrelevant. We have got into side issues in our discussion, which have taken us far away from the main subject.

#### *Dusūqī*

As a head of a family myself, I came to the conference full of hope that it would mark out for us the way to that Islamic life which every Muslim devoutly seeks for himself, his family, his homeland and his country. I have been disappointed by what has been said by some, namely, that putting out recommendations and resolutions is not the task of the conference. We have suffered the rigours and troubles of long journeys from the farthest East to the farthest West in order to listen to the decisive word of Islam or the opinions of venerable scholars of religion on the problems facing the whole Islamic community everywhere.

Also as a head of family and a man who looks with apprehension on his children and on all Muslims, I view the future with trepidation and wariness in the face of the incoming currents, from foreign sources. For some of these currents aim in some way or another to break up our moral values and some others aim in the same way to break up our spiritual ones. And all together aim to break up the Islamic family which is the nucleus, or the stuff, in the structure of the Islamic society.



I hope that we shall emerge from this conference with at least some recommendations which represent the point of view of a group of Muslims and which would be a guiding light to me and to every Muslim.

#### *Marrak*

I wanted to record my extreme satisfaction at the important change of course which has in my opinion put the conference on the right road, which is that the facts of the conditions of Muslims' lives have now been looked at in a scientific manner. This scientific view or scientific touch is sufficient on its own in my view to guarantee our being put on the right road. I wish the conference would proceed along this line.

#### *Amīna al-Sa'id*

I say with all frankness that I never expected that in this conference we should be getting lessons on the origin of the word "family" and the meaning of "*al-firāsh*" (the bed), on the question of whether "development" means "progress" or "retrogression", on woman's adornment and clothes and other such subsidiary matters which have taken up no inconsiderable part of the discussions.

I would not have liked us to concentrate on theoretical or subsidiary matters, or to concentrate on viewing family planning within the framework of procreation, because a high birth rate was the result of other factors which had broken down the genuine fundamentals of Islam, and made them incapable of keeping pace with the progression of civilization, such as the appearance and diffusion of antibiotics, which have led to a reduction in the death rate: hence the enormous multitude of people without means and without educational or economic capabilities.

I would have preferred that we faced the problem squarely and passed in review the conditions of Muslims in every country, and asked the question whether the present conditions of the Muslims give them effectiveness or respect or strength, so as to make them worthy of mention in this modern world, which is based on knowledge, work and strength.

#### *Beji*

I expect from this conference that it should bring forth recommendations the effect of which will be to protect the rising generation and help it to grow up as a generation bound to Islam, and imbued

with its teachings and its spirit, and I await recommendations which will prevent the revolt of the young against Islam and prevent the breaking of the bonds which tie them to it.

## 2. ESSENTIAL POINTS OF EMPHASIS ON THE SUBJECT OF ISLAM AND THE FAMILY

### *Huzayyin*

I believe that the intention of the general debate is that we should debate the main subject, i.e., "Family and Society in Islam" from the point of view of its connection with the subject of the conference itself, i.e., "Family Planning" and not be overwhelmed by details of Islamic jurisprudence connected with secondary points and subordinate to this large subject.

### *Marrak*

I propose that we speak about two subjects: "The building of married life and related matters (e.g. polygamy, divorce and problems of the family) considering that these form a unity, and "The Family, the Muslim woman and contemporary life."

### *Majul*

I should like to express a personal opinion on the conference's aims. In my opinion we must arrive at agreement on some of the Islamic concepts fundamental to the values which Islam seeks for the family and particularly in relation to its planning. I also think that the conference should establish what things are a matter of agreement and what are a matter of dispute. I should also like it to give prominence to such things as are fit to implement in some areas and not in others, like the wish to reduce or increase the size of population. The needs of a country where Muslims are a minority and where the smallness of their numbers affects their political position, differ from those of a country which does not suffer from this kind of problem.

### *Wā'iz*

I am of the opinion that the conference should address itself to discussing the extent of Islam's harmony with those factors which influence the development of society, economic, political or cultural, and that the members of the conference should work to define Islam's view of the family in a developing society such as this.

*Sahnoun*

We did not assemble to hear the opinions of some of the schools of jurisprudence on certain Islamic questions but to hear the opinion of Islam, as derived from its two original sources, the Book and the Sunna on questions which require discussion not on questions which have been thoroughly debated in discussions and argumentations. Among the problems needing to be debated are the question of marriage to non-Muslim women, civil marriage, libertarianism, the overriding of the guardian's wish in a marriage case, woman and work, dress, and the irrevocable will and testament. Then there are problems which Muslims have finished debating them and others which need extensive study, among the most prominent of which are social problems on which no Islamic texts are to be found.

*Karmī*

We must concentrate on the original topic as Mr. Huzayyin said at the beginning of this discussion, i.e., "The family and a developing society". Islamic society is based on Islamic foundations but is threatened by various external dangers to which many people have referred. By "Family Planning" what we mean is keeping it strong so that it can form the basis of a strong Islamic society. What, then, are your proposals for this society?

*Shamsuddin*

As Mr. Karmī has said, we are supposed to be discussing the family in a developing society. So we must discuss the Muslim family which came into being in the framework of Islamic legislation and which now faces certain changes resulting from modern life. What, in the light of Islam, do we accept and what do we reject of these developments?

*Marrak*

As an educator I wish to emphasize one important question which must be an object of the conference's discussions and debates. How do we make Islam able to solve the problems we are facing? This is the really delicate issue.

The Muslim family has inherited values which were in the past an effective factor in the life and thinking of Muslims, but now we are facing a different reality. Advances in knowledge have entailed the

emergence of problems for which we must unavoidably find solutions to be in harmony with the spirit and teachings of religion, such as: work for women and the adverse effect thereof on the bringing-up of children, on the relations between mother and child, and on the spiritual and moral authority of parents have led to the disintegration of the family. In my opinion the conference should concentrate on the questions and problems which face our contemporary society and which require urgent solutions.

*Atay*

I think that the subjects which members of the conference have brought up will impose an intolerable burden on the conference because the basic subject of the conference is "Family Planning". It is this we should concentrate on, and on the problems which it involves.

*Madkūr*

Talk about defining the family, the clan and the tribe, as in Mr. Karmī's contribution seems to be remote from the original subject of the conference. Discussion should be within the framework of the family system in Islam. Let members of the conference deal with the rights given to husband, wife and children by Islamic law and what this has entailed for systems, organizations and developments in modern society. We want to know what is the attitude of Islam with regard to that part of those systems which relates to the formation of the family.

*Sharabassy*

The basic principal subject is "Islam's view of the family in a developing society," and although this title was mentioned at the beginning of more than one contribution it seems to me that "development" has not been sufficiently explained. Perhaps there is among the discussions some explanation of it but it has not been presented to us.

*Zarqā'*

I consider that many of the remarks I have heard are extraneous to the conference's subject. The conference stems from the International Planned Parenthood Federation. As I understand it, the call to discuss all the subjects of the conference should come within the

framework of the basic object of the Federation itself, namely, the planning of parenthood. But family matters in all their branches and ramifications are as vast as the ocean and cannot come under the title "Planned Parenthood".

*Lam'ān Zaki*

The papers read are very valuable, and I personally regard them as an intensive course of teaching, so far as I am concerned. But it seems to me that they have been concentrated primarily on "Islam's view of the family" and have not dealt with the second part of the title, i.e., "in a developing society".

The Muslim family nowadays is exposed to many new factors, some of which have been referred to briefly and in passing, such as woman's entering the labour market, which has resulted in her leaving the house and the family; but there are many other influences which the Muslim family is exposed to in these developing societies and which we have not got to in our discussions.

### 3. THE NATION AND THE CONCEPT OF THE NATION

*Majul*

Mr. Balogun has spoken of the happiness of Muslims and the Islamic peoples. The fact of the matter is that the preservation of the community of Islam has been considered to be a duty ever since the Prophet Muḥammad founded the first Islamic society. Included within this is the preservation of the rights of woman and care for children, the happiness and orderliness of the family and other allied matters related to the Islamic community (*umma*).

*Huzayyin*

I should like to comment on what was said by Mr. Balogun and Majul about the nation (*umma*). This concept of the nation is new to people in Europe as well, but understood in a way different from Islam's understanding of the matter. The appearance of the nation in Europe led to strife and wars. But the appearance of the idea of the nation in its Islamic conception led to unity and to the ending of tribalism, clannishness and factionalism. It also led to social solidarity and to the kind of interdependence, with charitableness, which presupposes piety.

This means that whenever we study the concept of the family in Islamic society we should always be linked with the "Islamic nation" concept, that nation which is distinguished by interdependence and solidarity.

*Shamsuddin*

Mr. Huzayyin pointed out that the concept of the nation and its growth in Europe were a cause of disunion and wars. The truth of the matter is that the concept of the nation caused nothing of the kind. The reason for disunion and wars was the concept of aggressive fanatical nationalism which must be considered the cause of tragedies in Europe and the world. But the concept of the nation in Islam is one of the factors of affection and stability and not one of the factors for strife and disturbance.

#### 4. THE UNITARY OR NUCLEAR FAMILY AND THE EXTENDED OR JOINT FAMILY

*Huzayyin*

The task of this conference is to clarify Islam's attitude to family planning.

The body which organized the conference and Dr. Isam Nazer in particular have been exceedingly successful in putting the discussion of the family and society at the beginning of the discussions. In my opinion it is this point which is a distinctive feature of Islam — if it is legally and properly implemented — and distinguishes it from all other religions, persuasions and social systems. The reason for this is as follows:

In so far as the family in the present society, i.e., in a developing society, is concerned, we are between two diametrically opposed positions. The first position which we have inherited from pre-Islamic Arabia is the tribal system which we find not only in Arab countries but in Asia and Africa, including Nigeria which I happen to know well.

In the tribal system there are certain requirements which lead to a kind of clannishness which goes beyond extremism to become fanaticism. Moreover, the idea of the tribe cannot harmonize with that of the nation. From the point of view of the building of society we find in tribal life certain aspects which are appropriate and others, more than these, which are not. Then again tribal life may not go well

with features of modern life, such as industrial progress, the growth of civilization, the building of cities and setting up of governments. It is very difficult for a constituted government to arise where there is a tribal society. Furthermore, it is equally difficult for a contemporary society with no government to compete successfully in modern life.

The second diametrically opposed position is the idea of the family as known to ancient Greece to which I think Mr. Karmī and Shamsuddīn have referred. The idea of the family in the narrow sense which Mr. Shamsuddīn called "the unitary family" which consists of father, mother and minor children is a non-Islamic idea which developed in ancient Greece and then passed on into the spiritual heritage of modern Europe, because modern Europe had its origin only in ancient Greece. Therefore, modern society in Europe is the very small society, that of the small family, Islam is not so. When we speak in Islam about the germane child we refer to him only in the context of our talk about adornment: "Wealth and children are the adornment of the present life" (Sura 18/46). But whenever we talk about the family in the specifically family sense about which Mr. Ḥasan Karmī spoke then we are talking about family and duties. For in Islam spending on relations is a binding duty — we did not say spending on children — for charity begins at home.

The idea of the family in Islam is that of the extended family which is not so restricted. This should be well remembered, because the meaning of it is reflected in the life of the individual. When I try to preserve the instinct of the survival of the species I may not restrict that to children and to multiplicity of children but I must consider that I can preserve this instinct of mine through the maintenance of my kinsman by means of that goodness which God put above piety, as in the verse: "... but rather be helpful to one another according to goodness and piety" (5/2), not vice-versa. Goodness is seeking others in the community of the Islamic clan and family in order to be good to them. And in seeking others to be good to them there is a wider satisfaction for the instinct of love of longevity and the survival of the species than by way of having a multiplicity of children because as the Qur'ān says: "The desire of increasing riches occupieth you, till ye come to the grave" (Sura 102/1-2).<sup>1</sup> Rivalry in having a multiplicity

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<sup>1</sup> The Arabic word *al-takāthur* has two meanings: 1) the desire of increasing riches, and 2) multiplicity of offspring. Apparently Mr. Huzayyin is using the word in the latter sense — Editor.

of children was mentioned in the Qur'ān to emphasize the fact that it distracts us from that which is more important. This means that if we wish to link the organization of society in Islam and the family in Islam with new ideas which have appeared in the world we can say: "Islam contributes seriously to mankind's progress by means of what is known as family planning in its widest sense."

This concept must be clear in our minds and we must clarify it to the rest of the world because we wish to say to the world through this international organization that there are in Islam certain fundamental intellectual and social forces which would rescue the Islamic society (nay, the world community as a whole if it follows the example of Islam in its proper genuine form) and the world from the life of strife and rivalry consequent as it is upon rivalry in increasing the number of the small family. It is this rivalry which invites narrow selfishness. We must abandon all this and emerge into a phase of balanced increase which includes the large family.

If we look at Europe at the present time we notice that the change away from the small family has begun because the Europeans realize that the system of the small family is destructive to their life. Therefore, they are now striving towards what they call in English "community" or "society in miniature" with the aim of getting out of the predicament modern European society has got into, inherited from ancient Greece, to attain something which resembles what Islam has called for. This is the significance of this conference and this encounter. We wish to inform and enlighten ourselves about the social institutions we have in our Islamic traditions and which we must understand correctly so as then to make the world understand these ideas which will then undoubtedly cause people to give Islam its proper due.

#### *Atay*

I should like to comment on the contribution of Mr. Karmī. He presented a valuable paper but omitted a great deal of importance. He dealt with the kin-group but he did not mention the family as such and did not say a single word on it. I recall the noble Qur'anic verse: "And if they fear want, God, if He please will enrich you of His abundance" (Sura 9/29). Is there not an etymological connection between the word for "want" (*'aila*) and the "family" (*'ā'ila*)? I believe that the latter is a derivative of the former, whose meaning is poverty and want or the need of one person for another. This means that the



word for kin-group refers to the meaning of mutual aid or every individual in the kin-group helping the other.

The Qur'ān mentions "*ahl al-bait*" (the people of the household) and therefore, it is possible to call the kin-group *ahl al-bait*. There is another word in the Qur'ān, namely '*ashīra* (clan, "sept", roughly) for the Qur'ān says: "But warn thy relatives of nearer kin (*ashīra*)" (Sura 26/214).

Mr. Karmī has commented on the word '*ashīra* by saying that it is greater or less than the tribe but he did not refer to its meaning in the last-mentioned verse from the Qur'ān where its meaning, as I understand it, is in reference to those who lived with the Prophet Muḥammad.

### *Mubārak*

Those who have spoken so far about the kin-group have neglected what is quite plain in the Qur'ān and in the traditions of the Prophet Muḥammad. To describe the kin-group, the Qur'ān and the Prophet Muḥammad used the word *ahl* (people). The Qur'ān says: "O believers, save yourselves and your families from the fire..." (Sura 66/6). The Prophet said: "Every one of you is a shepherd and every one of you is responsible for his flock. The husband is in charge of his household and responsible for those in his charge; and the wife is in charge of her husband's household, and responsible for those in her charge." He also said: "The best of you is the best to his wife, and I am better than you to my wife." He also said: "You have a duty to yourself, and you have a duty towards your family." In these Qur'anic verses and sayings of the Prophet I believe we have clear indication that the kin-group in its narrow meaning of the "unitary or nuclear family" is to be found in the Qur'ān and in the Sunna (tradition) of the Prophet.

### *Kounta*

We are well aware that if we talk about the family these days we are only talking about a group composed of a man, his wife and his children. This is the conception of the term in European thought and — with all due respect to the views of the speakers before me on this subject — that is its meaning as we find it in the Qur'ān and the Sunna.

The kin-group in Islam has passed through three stages of development:

1. The miniature or conjugal family, composed of a man and his wife and children.
2. Then it developed to become a wider kin-group.
3. Then it returned to what it had been formerly.

People are descended from Adam and Eve in the belief of Islam and other religions. The Qur'ān says: "O men! verily we have created you of a male and a female; and we have divided you into peoples and tribes that ye might have knowledge one of another" (Sura 49/13). Thus the starting point is a man and a woman who constitute the primary cell which then comes to include their children. But with the Muslims the kin-group soon came to include these origins and their ramifications until it became the extended kin-group. This is what the Qur'ān is referring to in the following verses: "God, too, hath given you wives of your own race, and from your wives hath He given you sons and grandsons, and with good things hath He supplied you" (Sura 16/72); "And it is He who hath created man of water and established between them the ties of kindred and affinity" (Sura 25/54). A similar Qur'anic verse is: "Those who are united by ties of blood are the nearest of kin to each other. This is in the Book of God" (Sura 8/75). The type of the extended kin-group is the one we find widespread in many Islamic countries, and especially among my people in West Africa.

But the conditions prevailing these days — economic and social — help towards a return to the miniature family. The present time and circumstances do not help towards a man taking more than one wife even though polygamy is allowed in Islam on certain conditions. African communities have begun to look again at the extended kin-group and the protagonists of the miniature family put forward strong arguments. For the smaller the kin-group becomes the fewer will be the problems it faces. Religion does not bind us to a particular form of kin-group but has left us at liberty to decide our own destiny.

*Shamsuddin*

Our brother from Mali, Mr. Kounta, has referred to two verses of the Qur'ān and deduced from them that Islam favoured the complex or compound family. These two verses indicate nothing of the sort but simply indicate a desire to establish the unitary family based on kindness or goodness among the members of the same kin-group for the sake of building the nation.

*Sā'ih*

I should like to make clear that the word *usra* is neither Islamic nor Arabic but is simply a conventional term. Whenever we say: "By the kin-group is meant such-and-such" we only wish to explain what it means in common parlance, and there is no room or need for the discussion of the matter. But if we go back to the origin of provision in Islamic law on the wife and fathers and sons, then discussion ends there, with no need for debate as to what we mean by "kin-group" and what it consists of.

*Shafei*

In English there are two terms:

1. *Family* this is what we should call the kin-group or family, and
2. *Household* which can mean the extended family.

I believe that this conference, as Mr. Sā'ih said, intends that we should talk about the nuclear family, comprising a man, his wife and his children. It would be better for us to restrict discussion within this framework.

*Shamsuddin*

I still consider the compound families (which I have called "extended families") to be a survival from the tribal structure which Islam combated and which every means must be employed to break it up so that we may reach the concept of 'nation' which Islam has sought.

I have no knowledge that in Europe and America there is a return to the compound family.

Mr. Huzayyin has touched on the subject of the unitary family as I have called it. I can see nothing new which would induce me to change my opinion which is that Islam strove to break up the tribal structure of society whether Arab or non-Arab so as to establish the unitary family from which the nation would be formed, based on legal contractual and organizational bonds and not on blood and clan bonds between tribes.

*Huzayyin*

My reply to Mr. Shamsuddin is that I still stick definitely to my opinion, in disagreement with him ("It is a blessing for scholars in religion and jurisprudence to differ among themselves"). Islam does not approve the principle of the unitary family because its fate is

rapid extinction. For, as the children grow older they establish other unitary families and only the mother and father remain. Thus the first unitary families lose touch with the subsequent ones and hence the blood tie is severed. I should like to remind you, gentlemen, that in 1959 a conference was held in Libya to study the subject of "The Arab Household". That conference preferred the term "Arab Household" to my "kin-group" and "family". Our difference on this subject is something on which he and I have no common ground.

*Karmī*

A number of my fellow members of the conference have spoken, including Mr. Huzayyin, about the unitary family. The fact is that in explaining the concept of the kin-group I used every approach except that of saying that the kin-group is unitary. I mentioned the nuclear and the extended family and finally the modern conjugal family — to use the English terms — but as for the unitary family, it has, in my opinion, no connection with Islam or other religions. It is incorrect to say that the unitary family is in contradiction with Islam because the kin-group in Islam has changed. As regards the extended family it has existed in our countries and in all other countries. The feudal families are the outstanding example of extended families. The present situation seems to be a contradictory one although technology is leading to the loosening and disruption of the family.

## 5. THE FAMILY AND MARRIAGE IN ISLAM

(a) *Filial Obedience.*

*Sharabassy*

Mr. Karmī has spoken of the child's obedience to the parents and quoted texts from the Qur'ān and the traditions. And there is no doubt, as he said, that such obedience comes immediately next to the worship of God, as we see in the Qur'ān: "Thy Lord hath ordained that ye worship none but him; and, kindness to your parents" (Sura 17/23). But I would have preferred Mr. Karmī to proceed cautiously or at least to qualify what he said, if only by one sentence, namely, that such obedience should be given only in respect of what is lawful. We are in a society which is related to Islam, and very often parents incite

their children to do what is not lawful or fitting. A great deal of the distintegration in the Islamic society is due to the parents not performing properly the functions of taking charge of the children and guiding them rightly. We know the genuine tradition of the Prophet: "No obedience is due to any creature in disobedience to the Creator."

*Shamsuddin*

Mr. Karmī took it that in Islam the father in the family has been changed into a priest, an idea borrowed from an orientalist, and has no basis in Islam, because a child, male or female, as soon as he attains majority is completely freed from parental authority. The tradition: "You and what you possess belong to your father" and the injunctions to show respect are intended only to emphasize ethical aspects and family cohesion. The tradition just quoted contains absolutely no binding obligation. The child belongs to himself and so do his possessions and nothing is binding on him except a moral obligation.

(b) *To whom is the child to be related?*

*Zarqā'*

Mr. Karmī has quoted the tradition: "The child belongs to the marriage bed". He held that this is a return to the idea of relating the child to the father, as against the ancient Arab custom of relating the child to the mother. This is true in so far as relating the child to the father is concerned. The word *firāsh*, however, in the tradition, does not have the meaning it has in everyday language, but is a metaphor conveying the idea of the legality of intercourse between man and wife. The Prophet meant that the child was to be related to the man, between whom and the child's mother there was a situation of licit intercourse; this is what the Prophet called *firāsh*. The child then, is related to the man who has this *firāsh*.

(c) *The irrevocable will and testament*

*Amina al-Sa'id*

I should like to mention that Egypt many years ago adopted the system of the assignment will, and that grandchildren now receive of the share of their mother or father from their grandfather up to a third. This has been in force for the last 20 years.

*Atay*

I have been studying the subject of the irrevocable will since I was a student and have asked myself if prohibition of inheritance comes from a Qur'anic text or a tradition or from the exercise of personal judgement by one of the Imāms. When I read the Qur'anic verse: "With regard to your children (*awlād*)..." (Sura 4/11), I went back to the *Kitāb Ahkām al-Qur'ān* by Abū Bakr al-Jassās.<sup>1</sup> I found that he took it that the word "*walad*" did not apply to the grandson and therefore, the grandson should not be counted among the children for the purpose of inheritance and so should not inherit in accordance with the verse. This, as you see, is one of the individual independent judgements (*ijtihād*) which do not regard the grandchildren as being on the same footing as the children. It is my opinion that the grandchild is included in the term 'children', and so there is no need to stipulate an assignment will.

*Mubārak*

I understood from the reverend Shaikh Sā'ih that he was referring to the necessity of considering the case of the assignment will because it gives to the one who is rich and takes from the one who is in need. I should like to say that the assignment will does not preclude the fathers of the sons from becoming rich, for if its aim were to enrich these fathers then we would be justified to think of forbidding inheritance from every man of wealth, a thing which Islam does not sanction. I heard also that grandchildren are not children, but the truth of the matter is that what we find in everyday language, is that the grandchildren are like children.

*Sā'ih*

Mr. Atay, in the course of his talk about the assignment will, correlated this will, with the Qur'anic verse: "With regard to your children (*awlād*)..." (Sura 4/11). The truth is that I did not refer to that nor did anyone else. If he were given the chance to have a look at my paper, he would find that in the Qur'ān there is a clear and explicit statement on the will and testament in the verse: "It is prescribed to you, when anyone of you is at the point of death, if he

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<sup>1</sup> Abū Bakr Aḥmad b. 'Alī al-Rāzī known as al-Jassās lived in Baghdad and died there in A.H. 370. He compiled many works, and was one of the leading Ḥanafī scholars. He is the foremost exponent of the Ḥanafī school.

leave goods, that he bequeath equitably to his parents and kindred” (Sura 2/180).

However, the scholars of religion, as I said in the original paper, have adopted many different lines of interpretation. That accredited in Egypt and Syria is the opinion of Ibn Ḥazm<sup>1</sup>, one of the Zāhirite Imāms, who maintains that this is a legal right of the grandchild, and if the grandfather does not grant it the legal executor of the bequest must see to it that this right is given to the person to whom it is due.

### *Tanji*

Some colleagues have dealt with the assignment will which is directly connected with the family, and Mr. Sā’ih states that it has been in force in Egypt since 1946. Another colleague mentioned that it had been implemented in Syria after some slight amendment. As regards Morocco, there it lays down that the child of a son may inherit but not the child of a daughter. Therefore, I propose that, if this conference produces any recommendation on this matter, the assignment will should include the child of a son and the child of a daughter on an equal footing.

Then there is the question of the preference given to males over females in respect of gifts and grants, as happens in Morocco and other Islamic countries, even though the Prophet Muḥammad said: “Fear God and deal equitably with your children.” When Nu’mān b. Bashīr al-Ansārī<sup>2</sup> wished to favour one of his children with a gift, the Prophet Muḥammad forbade him to do so. But since woman has now taken her deserved place in society as a constituent element, I propose that this conference put out a recommendation to be in accordance with the opposite traditions on this subject, notwithstanding the fact that I do not deny that the Imām Mālik, the Imām of the Maghrabis, settled for preference to be allowed on the strength of the fact that the Caliph Abū Bakr gave preference to ‘Āisha, the Mother of the Faithful, by giving her 20 rations from the proceeds of Al-Ghāba.

<sup>1</sup> Abū Muḥammad ‘Alī b. Aḥmād b. Ḥazm the Zāhirite, born in Cordova in 384 A.H., was one of the greatest scholars and jurisprudists of Muslim Spain, and one of its most learned men. Originally a Shāfi’i, he went over to the Zāhirites. He is said to have written 400 works, e.g. *Kitāb al-Faṣl fil Milal wal-Aḥwā’ wal-Niḥal* and *Jamharat al-Nasab* and *al-Aḥkām li-Uṣūl-il aḥkām*.

<sup>2</sup> Ibn Sa’d b. Tha’laba (b A.H. 2). One of Mu’āwiya’s Emirs appointed by him to govern successively Kūfa, Damascus and Homs. A link in the chain of ascription of 114 traditions. Killed at the end of A.H. 64.

However, the Imām Mālik did not take notice of the position of ‘Āisha (whose husband, the Prophet Muḥammad, died when she was only 18) and her being deprived of the married state (since no one could marry any of the Prophet’s wives after him).

(d) *Equality in Marriage*

*Sharabassy*

Mr. Karmī stated that one of the reasons for the disintegration of the family is that no inquiry is made about the paternal and maternal uncles at marriage. I am afraid that this may imply an extension not congenial to the spirit of Islam in respect of the subject of equality in marriage. We know that the subject of equality in marriage is one which is in dispute for a long time. Some of the Imāms assert that no tradition or what approximates to a tradition can be accounted, as one reliably reported on the subject of equality in marriage. We fear that the discussion of equality in marriage in Islam will overlay the original basic meaning of the principle enunciated in the Qur’anic verse: “Truly, the most worthy of honour in the sight of God is he who feareth Him most” (Sura 49/13). This means to say that in Islam there are no distinctions of genealogy or status, no great ones and humble ones, so long as there are found piety, uprightness and obedience. The tradition in this respect is well known, namely: “If some one with whose godliness and character you are satisfied comes to you as suitor, then give him your daughter in marriage; for if you do not do so, there will be trouble and great corruption.”

(e) *Permissibility of Polygamy*

*Madkūr*

Islam has been concerned in a comprehensive way with marriage as opposed to other contractual arrangements. It has set for it certain preliminary steps, which cover the betrothal and the process of choice before the betrothal. Islam was in advance of any other legislation when it directed people to make a choice before betrothal and when it allowed the woman to choose her husband, and the husband to choose his wife and allowed for the woman that the betrothal be made on her own initiative. The precedents in Islam which demonstrate that are many. Thus it was Khadīja who chose the Prophet Muḥammad as her



husband. Islam enunciated these rules and gave complete freedom — within the limits of the general principles of Islamic law — to man and woman to establish a family.

But family life, for which Islam wished continuity and stability, may encounter obstacles which render the continuance of marriage impracticable. The Qur'ān says: "But if they separate, God can compensate both out of His abundance" (Sura 4/130).

Polygamy, the question of divorce, its modalities and the wisdom implicit therein are all subjects about which there has been a great deal of discussion.

Here I should like to comment on what Dr. Zahia Kaddura said on the permissibility of polygamy. She said: "The permissibility of polygamy is open to question." The fact of the matter is that polygamy as permitted is a question of Islamic law in the nature of the categorical decrees. There should be no room for the exercise of individual judgement and for debate. There can only be allowed argument about the implementation of the decrees.

Islam did not order polygamy nor did it impose it but allowed it with certain restrictions and qualifications.

#### *Sharabassy*

As regards the question of equity, to which the reverend Shaikh Taqiyyudīn and Dr. Kaddura referred, we cannot quote only parts of the texts which we adduce. For when we quote the Qur'anic verse: "And ye will not have it at all in your power to treat your wives alike, even though you fain would do so", we should not leave aside the remainder of the verse, which says: "But yield not wholly to disinclination, so that you leave one of them as it were in suspense" (Sura 4/129). This remaining part of the verse convinces us that the intention in the verse is not absolute ideal justice because it is not within man's capacity to attain that. The Prophet Muḥammad said in this connection: "O God, this is my share (of responsibility) for what I am in possession of, so pardon me for what I am not responsible for in what you are in possession of and I am not in possession of." As for the inclinations of the heart, man is not in full control of them, following what the Prophet has said: "The heart of a believer is (like an object) between two of God's fingers, and He turns them about as He wishes." Then how does the Qur'ān order people to abide by His saying: "Then of other women who seem good in your eyes, marry but two or three, or four" (Sura 4/3); and then goes

back on this prescription or contradicts it, although the least insistent degree of command is the one which denotes permission or permissibility? Again the same verse of the Qur'ān says: "And if ye still fear," that is to say that if you become exposed to a situation of fear, then do not take more wives, for a state of fear does not square with having more wives.

Therefore, polygamy is an accepted principle, but the problem is the abuse of it. Abuse in this case cannot always be dealt with successfully by the use of commandments, compulsion or prescriptive law, but can be dealt with through edification in an Islamic atmosphere, and through healthy process of initiation.

### *Shafei*

In my opinion the subject of polygamy should not be pressed upon us here, because the scholars in religion have conclusively dealt with the subject. Possibly, those who have here spoken about the subject of family planning presumed that polygamy increases the population. In my opinion this is a mistake. Polygamy reduces population because a woman who marries a man already married loses part of her fertility because she gets only a part of his virility and his power to procreate. Normally, in such cases, the man is often older than the woman and so he does not tap all her resources of fertility and ability to beget children. But when she marries one of her age, her fertility will be made use of to greater advantage. Therefore, I propose that we do not discuss polygamy.

### *Shamsuddin*

Regarding Dr. Kaddura's remarks on polygamy I would comment: this matter is absolutely not debatable because it is an established indisputable part of Islamic law.

### *(f) Marriage to non-Muslim women*

#### *Tanji*

Mr. Shamsuddin in his paper dealt with the subject of the marriage of Muslims to foreign women who profess a religion other than Islam. Such marriages put the Muslim family in danger of collapse. The historian Ibn Khaldun stated that man is fond of copying the victorious one. Since most of the other countries which do not follow Islam are superior to us in material civilization, the charge of children

will be in the hands of the woman. It may happen that the husband dies before the wife and the children will, therefore, be left in the care of a woman of a different religion who will bring them up in her own beliefs, traditions and customs. The Prophet Muḥammad has said: "Every child when born is the child of nature, and it is his parents who turn him into a Jew or a Christian or a Magian."<sup>1</sup> Therefore, we hope that this conference will put out a recommendation on this case, for there are many a household afflicted by weakness and maladjustment because of marriage to women of foreign nationality.

### *Shamsuddīn*

I should like to comment on the remarks of the reverend Shaikh Tanjī. I did not call for forbidding marriage to non-Muslim women. For marriage to followers of Religions of the Book is something which is established in Islamic law, and has been in practice from the earliest days of Islam until now. So I would ask him to go back to my paper on this subject. I asked that consideration be given to the difference in civilization existing now between Islamic and non-Islamic societies, and to compare it with the difference in civilization existing between them in the earliest days of Islam, that is in the period of the ascendancy of Islam. I also referred to the need for safeguards against the consequences which may, or in fact do, arise from marriage to women of foreign nationality, an increasingly common phenomenon among the Muslim elite which represents the educated vanguard.

### (g) *Civil Marriage*

#### *Zarqā'*

I have heard the reverend Mr. Shamsuddīn deny that there is such a thing as civil marriage in Islam, and that it can possibly be compatible with Islam, and also call for it to be resisted. I wonder what is meant by civil marriage. It may be he wished to refer in what he said to the fact that civil marriage is a matter, an arrangement, which grows up in order to break out of the monopoly in Europe by the church of spiritual authority. The church sought to appropriate

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<sup>1</sup> This tradition is variously translated. The phrase of *'alā al-fiṭra* in the tradition is often understood to mean "a natural disposition to adopt the true religion, which is, in the view of some interpreters, taken to mean predisposition to accept Islam."

to itself the validation of the contract of marriage in such a way that if marriage did not take place in the manner of the church and according to its will and with the payment of the stipulated fees it was not regarded as a marriage between members of the church. Thus when Europe got rid of the church's domination it instituted the system of civil marriage, so that anyone who wished could marry in a registry office, before a justice of the peace without being bound by the church's will. If this is the meaning of civil marriage — that is, not being subject to the approval of a clerical authority which is the arbiter of its validity, in such a way that marriage outside the church is considered to be invalid — then marriage, in Islam, is civil marriage because it takes place in the form of offer and acceptance by a man and a woman in the presence of two witnesses, and does not depend on a religious authority. In Islam there is no clergy. If by civil marriage the reverend gentleman means something else then we shall debate it when he defines for us what it is.

*Shamsuddin*

Civil marriage is a question which faces us nowadays throughout the whole Muslim world and in societies which consist of a mixture of Muslims and non-Muslims, in connection with the call for the formation of a homogeneous nation or society. Civil marriage<sup>1</sup> here does not consist in the way how a marriage contract is drawn up, but rather in the freedom of a woman to marry whomsoever she wishes, Muslim or not, and the freedom of the man to marry anyone he wishes, Muslim or of the People of the Book, pagan or atheist without distinction, and it also means the waiving or setting aside of the legal provisions of Islam on the family in respect of maintenance and economic guarantees for the wife and children. I know that the question is mooted continuously in Lebanon, and behind it there are forces working in order to introduce civil marriage and establish it in practice but they shall not succeed. I believe that civil marriage has been legally instituted in Tunisia — (at this point the speaker was interrupted and told that this was not so). I am sorry, and thank God that this is not so. But I think it has been established in Turkey.

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<sup>1</sup> The kind of civil marriage which is prohibited in Islam is the marriage of a Muslim woman with a non-Muslim man.

(h) *Divorce**Madkūr*

I have a comment to make on what Sahikh Taqiyudīn said on the subject of remarriage with one's divorced wife among the Druzes. He is of the opinion that a man who divorces his wife has no right to take her back within the period of *'idda* (the legally prescribed period of waiting) or after it. Islam has an explicit provision on this subject which is perfectly clear in the texts of the Qur'ān and in the Sunna, as well as in the agreed practice of Muslims since the earliest times, i.e., that there is revocable as well as irrevocable divorce. Revocable divorce allows the man divorcing his wife to take her back by his individual will so long as he alone, by the exercise of his own will, had divorced her. This is Islam's ruling which we should like to make plain and assert.

*Sharabassy*

The reverend Shaikh Taqiyudīn has said what amounts to this: Divorce takes place only in the form of an officially registered decision of a judge (*qādi*) and this decree could become Islamic if we were to give it a title other than judiciary and judge. For we can adopt the principle of arbitration as stipulated in the Qur'ān. The more enlightened commentators on the Qur'ān say that he who appoints the two arbitrators for husband and wife is the guardian, i.e., the ruler, and this ruler delegates this authority to the judge who, in his turn, designates a representative for the wife and one for the husband. If these two representatives agree on something, that becomes a decision which the judge enforces as a matter of course. This obviates for us the onus of seeking a judgement from the judge (*qādi*) in Islamic countries where there is no Islamic judiciary and in remote areas of the Islamic world where there still prevails that system we have previously called the tribal system, in which there is no marriage document, no registration of marriage contracts in court, no judiciary and none of the official form which marriage assumes in advanced Islamic societies.

Therefore, we need to adopt the basis which can be implemented, i.e., the proper Qur'ān basis, and we have no need to adopt a position in which the grounds for divorce cannot be mentioned in every case, and particularly in the case of very intimate and private matters which the husband or wife does not allow to be disclosed before the judge.

Shaikh Taqiyudīn does not grant the legitimacy of a divorced wife returning to her husband, but I should like here that we remember the provision of the Qur'ān in this matter, in the Sura of the Cow, verse 229: "Ye may divorce your wife twice: keep them honourably, put them away with kindness."

*Shamsuddīn*

I am in full support of everything said by Mr. Sharabassy and others on the subject of taking back a divorced woman. This is my stand and there is no need to expatiate on it.

(i) *Women and Public Life*

*Shamsuddīn*

The disparity between man and woman which I and others have spoken about is not one of status but one of function. Woman is not in status inferior to man but her role differs from his in respect of "functionalism".

I should like to comment on the remarks of Mr. Balogun who spoke about justice as between man and woman. We should understand that justice does not mean absolute equality as between two people or two groups but simply means that each should be given his due, or that we should refer to the concept of functional disparity between them so that every functional ability should receive the attention it deserves. Confusion between justice and equality is an error to which many people are prone.

*Shafei*

The question of woman's work is an important one which deserves to be discussed by this conference. If we condemn women — half of the society — to remain idle and unproductive then productivity will be low and, in consequence, we condemn people to remain at a reduced standard of living for a long time to come. And so long as we have entered upon a race with other peoples to raise our standard of living then we must inevitably allow woman to make her contribution to national production and to the acquisition of income.

A number of members of the conference have already mentioned that Islam grants woman freedom of disposal in respect of her property and money. Is it not then our duty to allow her to utilize her leisure

in contributing her share in national production and the raising of the standard of living? If we are determined that she should remain a prisoner in her home far removed from activity then we condemn the people to a life of poverty, idleness and backwardness.

*Mubārak*

As regards woman entering the labour market my opinion is that Islam has granted woman a special position which does not allow her to work outside her house except in times of need.

*Bint al-Shāṭi'*

Mr. Wa'iz has wondered about the question of woman's appearing in society and mingling with men. It is amazing that we should wonder about her mixing with men in the seats of learning and not in other fields which we all know of. Ever since the age of the Prophet and the Prophet's disciples until the end of the era we know as the Islamic renaissance, woman has taken part in learning and academic circles, has mingled with men, has been giving authoritative views of dispensatory nature, has been narrating ancient lore, and regarded as authorities to be quoted by men. If the honourable member were to study the Imāms of our worthy predecessors and the noted leaders of religious thought, among them he would certainly find, in their categories, female scholars, competent enough to allow or disallow points of traditional lore, and ever present in learned assemblies. I should think that talk about the mixing of the two sexes is hurtful to us.

*Sharabassy*

In the contribution of the reverend Shaikh Shamsuddīn there was a fleeting reference which I wish he had enlarged upon, i.e., his reference to the humanity of woman and her femininity. We need to emphasize this aspect, for the more the humanity of woman shines forth the more she preserves her station and dignity. And thus the other half of society will obtain new benefits. I have been saying for a long time now: woman can compel society to respect her if she appears in it as a human being and not as a female. The questions which have been proposed for discussion such as dress, adornment, woman's work outside her home may be resolved in the light of that humanism which defeats the appearance of femininity in the Muslim woman.

## 6. FAMILY PLANNING AND RESPONSABLE PARENTHOOD

*Huzayyin*

The reverend Shaikh Shamsuddīn has spoken about the freedom of the individual to limit the number of his offspring, and the freedom of the small family to be limited in number. But in Islam freedom is linked up with obligations and interdictions, and liberties should not violate or transgress these interdictions in relation to other people. We mean the inviolability of the soul, of money, of religion, of the mind and of personal honour. In the modern family the burdens of responsibility do not fall on the parents alone but also on the state which takes charge of education and guarantees work to the individual when he grows up. It is the state which is responsible for economic development in order to meet society's needs. The question, then, must not be left to individuals but in fact the guardian who is normally in charge of the affairs of his ward should be given full right to have his say. This is true Islam, in my view and the view of most of us. We are all Muslims here; some of us are scholars of religion and jurisprudence, and others, like myself, are secular scholars, but, thank God, with a Muslim mentality. Hence we must strike a balance between the idea of freedom and the idea of responsibility and it is this balance which we are seeking in this conference, and which it is right for every country separately to seek according to its needs.

*Sā'ih*

Mr. Huzayyin has referred to the question of the authority of the guardian in regulating procreation, and he did not wish to leave this to the parents alone. I should like to ask him to make plain what he means by the authority of the guardian, or its relation to family planning. He is correct if he means that the guardian has the right to draw attention to Islam's decrees as they are correctly understood, so that they may be acted upon. But if he means that the guardian has the power to issue on his own rulings of a binding nature, this, in my belief, is opposed to Islam and is impracticable.



*Huzayyin*

I should like to comment on the remarks of Shaikh Sā'ih by saying that I did not intend to suggest — immediately or remotely — that the family should be organized by laws, nor that the guardian should be given authority over it or entrusted with the organization of the family. But it is for the guardian to say that the policy of the state requires an increase in population or the organization of an increase or decrease in the population. That is the undisputed authority of the ruler. It is for the ruler also to arrange for incentives, positive or otherwise, to achieve this policy of his.

*Madkūr*

What I have to say is more like a recommendation and I do not know whether you will agree with me in this or not. People may be unaware of some of the provisions of Islam and so behave in a way which would be a discredit to these provisions, while Islam itself is quite beyond reproach. Some foreign writers on economics have even exceeded all bounds and have written articles with titles such as *The Decline of Islam* based on what appears to them to be backwardness and imprudent conduct of public affairs in Islamic countries. Even though Islamic countries adhere in theory to Islamic values and laws, they, in practice, have turned away from a great many of them. But it should be stated that such conduct as this is no way a reflection on Islam. So I may allow myself to recommend that in every country institutes should be set up to study the subjects which allow anyone wanting to get married to become familiar with Islam's laws on marriage and the rights of husband and wife, so that each may deal with the other in a truly Islamic manner by which we guarantee the stability of married life and its continuance.

*Sharabassy*

Instead of calling in our Islamic societies for what is known as sex education in our schools I should like us to teach in our schools, institutes and universities what Mr. Madkūr referred to, i.e., the preparation of the young woman in her institutes and the young man in his institutes and colleges for a healthy married life. This kind of guidance could include sexual questions in a scientific manner not in such a way as to lead to sexual excitement or eroticism.

When we were reading at Al-Azhar University we were taught

everything connected with sex, but within the framework of Islamic jurisprudence and the provisions of Islamic law. This knowledge was apprehended in a spirit of awe and reverence and not as a body of information for sexual excitement.

## 7. ISLAM, TRANSITIONAL DEVELOPMENT AND CHANGE

### *Sharabassy*

One wonders what is meant by transitional development. No one has explained it to us. Is it simply mere change, or mere alteration or transition from one state to another? Or is it evolution from one stage of development to another? Or is it progression from the good to the better or from the bad to the good? I think this point is in need of further elucidation.

Then, where is the locus of development which we have in mind for society? Is it development in beliefs? Or in worship? Or is it development in laws and provisions which have become established and fixed and taken on a character of permanence by dint of being an indisputable divine ordinance? Is a move from a decent Muslim household to its opposite to be considered as development? Is moral turpitude to be considered a kind of development? Is it considered that blind conformity to a non-Muslim society is a kind of development? In my belief all this needs to have limits marked out for it and clear features so that we can agree, if only approximately, on what we mean by development and on the areas which are open to development. For, as is well known to you as scholars, and to me, it is recognized that there are matters which are not subject to development at all.

### *Shafei*

Development in my view is a transition to what is better, as implied in the English word 'development'. I would have liked the word to be replaced by some other, or to be dispensed with, or to have in its place a word which expresses growth (*tanmiya*). For this concept, among all peoples aiming to raise their standard of living, has the aim of increasing goods and services.

### *Shamsuddin*

Mr. Shafei, in reply to the questions of the reverend Shaikh Sharabassy, dealt with the subject of development and gave it as his

judgement that development was always for the better. My discussions were free from the word "development" and I used instead the word "change". What is taking place nowadays is not always a change for the better. We have to recognize, in common with the European humanistic thinkers, that material progress has outstripped spiritual and humanistic growth. We should therefore, not be taken in by the tinsel or glitter of material progress of civilization to the extent of neglecting or omitting to build up personality and human selfhood which should be our prime concern as Muslims.

### *Najjār*

Development in sociological terminology means every positive social change which is directly proportional to the duration of time prior to the change. I propose that the word "development" be replaced by "social change" because it is more comprehensive and more indicative of the intention of our discussions.

### *Huzayyin*

The contradiction which seems to exist between Islam and development is merely an apparent one. Islam differs from other religions in being one of conservatism, on the one hand, and of development, on the other. Conservatism with some may go to the extent of inflexibility and rigidity, but even in this case it is still acceptable. It is a religion of conservatism, inasmuch as it involves strict adherence to the principles and rules of Islam. And it is absolutely out of the question that any of its basic rules should be subject to development or change or improvement, and Islam has survived throughout the ages because it has preserved its identity and has been tenacious of its principles. The so-called rigidity with which Al-Azhar was reproached by certain ignorant people in the last century is nothing but the secret of the survival of Islam. We should concentrate on this aspect because what they spoke about was not rigidity but simply adherence to the truth.

But social dealings and intercourse — which covers relations between individuals, between individuals and the state, between Islamic states and between the Islamic world and the rest of the world — all this is subject to the law of change and development, the law of life. This is God's law on earth, and we must exert our best efforts in all those fields which are subject to development and change. If

we tend towards rigidity then we have also condemned our life to rigidity.

Hence the apparent contradiction between Islam and development. Muslims must unavoidably adhere to the principles and bases of Islam, but they must at the same time develop in what concerns the lives of society and individuals. The only restriction of this development is that it should in no way affect the bases of Islam; otherwise Islam will be lost.

What is the nature of development? Dr. Shafei has called it "growth", the modern term in use among scholars. This word is not ambiguous, while "development" is. But let us come to an agreement on some designation or other, for the important thing is the thing named.

"Growth" is something necessary because we live in a large world, in which we are a minority, by a long way. We have to accept this. This does not mean that we must remain as we are. For, as we can deduce from history, we can be an active, effective minority. Islam itself did not spread by virtue of a church or missionaries, but through the agency of a minority of devoted Muslims.

The bases, principles and laws of Islam can give a lead to the Islamic and the non-Islamic world. But this requires work for the sake of growth or development. This has two aspects: material, and moral or spiritual. There is no doubt that the Western world has made enormous progress materially through technology and science and through putting them into the service of society. But the Western world is completely retarded in spiritual growth.

If we look at ourselves we find that we have the basic elements for material growth (through the resources we possess) and for spiritual growth. We should regard growth and development as being at the same time economic and spiritual. Confining development to the material side is not consistent with Islam and does not make use of its positive assets, namely, the strength of its beliefs, its religiosity, its spirit and the practice of its religion and its serving as a guide in all aspects of life. We should look at everything of all this in this conference, and we should also not let material growth divert us from moral and spiritual growth and development.

After this I should like to give a little more detailed attention to material growth because we shall easily agree on spiritual growth. We have to apply the scientific method in the realm of material growth, for the scientific method is the method of Islam.

It may be said that Muslims do not avail themselves of planning, but no one can doubt that they apply themselves to scholarship and learning and the scientific method. One of the sacrosanct things in Islam is the mind. Islam is the only religion which respects the intellect. Moreover, the use of the intellect is not possible, except through the scientific method which requires that one should make accuracy his business.

Here is an example for you of the adoption of the scientific method in the field of development and growth. Development is measured in terms of the size of the individual's income. Let us suppose that the average per capita income in the developed countries is \$1000 p.a. and that the per capita income is \$150 p.a. in the countries politely known as "the developing world" (including the Islamic world) even though they are in fact backward. The difference is \$850. If we continue at the present rate of progress the difference in 20 years will be \$1700. Thus the gap between us and the West will have grown many times wider. This blatant discrepancy will not be confined to income but will go beyond it to the size of the population.

#### *Marrak*

Dr. Huzayyin pointed out that material technical development has gone very far and that we possess a store of spiritual doctrines in a state of purity. I accept this but would say that if this spiritual deposit is not translated into conduct and action on our part it will remain empty words. Moreover, if the alert intelligent Muslim mind does not work to give concrete expression to that spiritual deposit it will be a curse upon us, not a source of help.

#### *Karmi*

I recall the words of a sociologist who said that the nation remains a nation if assimilation is quicker than change. This means that circumstances compel a nation to change, and if the changes take place too quickly to be assimilated then the nation loses the supports of its existence. Therefore, we must strike a balance between change and its assimilation. Present-day civilization is a kind of tidal wave sweeping over the Islamic and non-Islamic countries. As a result we face a problem, viz., do we change or do we remain as we are? The ideal way would be for us to change whilst preserving our Islamic traditions and foundations.

*Sharabassy*

I should like to draw attention once again to our need to agree on the meaning of "development" as I have heard six words used for it: "development", "growth", "change", "transformation", "progress" and "renewal". This shows that there is no common denominator in the understanding of the word "development".

*Hathout*

There are, in my view, four manifestations most characteristic of development at the present time.

1. *Departure from religion*: 40% of the world's population officially embrace atheistic creeds which do not believe in the existence of God. The rest of the world is under attack from ideas which aim at driving it to atheism. The Islamic world is not untouched by all these ideas. Anyone like me who is engaged in teaching students knows that the educated — students and professors — have begun to move away from religions, including Islam. I recommend the conference to look, first of all, for the causes of the departure of these people from religion, and secondly, to look for the reasons for the success of atheistic ideologies in attracting them and how we may infix Islam in the hearts and minds of Muslims both young and adult. I believe that if we were to present Islam in an interesting and attractive manner we would be able to save Islam for the Muslims and solve many problems. For when Islam permeates our souls, our actions will be done in keeping with its spirit and its teachings.

2. *The population explosion.*

3. *The growth of political ideologies*: We have heard many Muslims praising the free-enterprise system, as resembling this or that in Islam. Or we have heard many of them praising the socialist or the communist or the capitalist system for the same reason. The criterion should be that we say that such-and-such an Islamic system is worthy to be followed, not that we should follow some other system because it resembles Islam in some way or other.

4. *Science and learning*: Without science, knowledge and learning the Muslims will be of no account. Islam is in an excellent state but the Muslims are not. To seek knowledge is an obligatory duty and it is not sufficient for us to say that this science or that is in Islam.

(See the Qur'ān, the Sura of Fāṭir, verse 28)<sup>1</sup>. In spite of this saying of ours it is not we but others who are making inventions and discoveries. The problem then, is a problem of knowledge.

### *Majul*

I have been struck in today's debates by the way in which the conference has gone over from debating affairs of the individual and the family in Islam to debating social aspects and affairs of society, or more precisely to the question of preserving Islamic society and strengthening it in the face of social changes, and I would ask you to allow me to make a few remarks.

Whilst the foundations and basic teachings of Islam are fixed and unchangeable, social life and the material world are changing. Changes in the nature of the world around us are due to a number of factors. Among these is man's endeavouring to exploit nature to serve his purposes. The fact is that man's interaction with nature proceeds by its own peculiar logic. Many of man's actions produce unexpected results which affect both nature and society. The problem facing Muslim society is how to set bounds to such results as these and reduce their dangers to society and religion itself. We may not restrict ourselves to looking in Islam for justification or an explanation of what we want or of what we cannot control. We must have control over the resources of nature (which God has put at our disposal) as well as over social changes in the light of Islam's teachings. In other words Islam must have control over the changes taking place in society and nature.

Permit me to say that some Islamic scholars have recourse to an apologetic style or to exaggeration in defence of Islam when they assert that it contains principles which will guarantee adaptability to the circumstances of the modern world, all this while they should be more positive. It is to Islam that a great deal of credit is due for the creation of what we may call modernization or more correctly, for the creation of the modern attitude, through its emphasis on the primacy of thought, its encouragement of learning, through its considering knowledge to be a bounder duty on every Muslim, its urging people to reflect on life and the universe and its insistence on scrutinizing and thinking. Islam generates the attitudes from which the modern viewpoint is formed. Therefore, it is far from the truth to

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<sup>1</sup> "Such only of his servants as are possessed of knowledge, fear God."

say that modernization (or the modern attitude) is the product of the Western world alone. I believe that being Western or aping the West is not the same as modernization. Being Western includes values some of which are at variance with Islam or hostile to it. Modernization or the modern attitude is clearly different from being Western. The insistence of some European and American scholars in considering Westernization to be conterminous with modernization is not merely a denial of the debt world civilization and human progress owe to Islam but is one of the covert forms of intellectual and cultural imperialism.

On the basis of this we must look at modernization in its Islamic contest, and in the light of the credit due to Islam for creating it. I should like to define modernization and briefly explain its significant features. Modernization embraces: (a) The use of the best technical and practical means for solving problems of the family and social and economic problems. But in this connection we must proceed in the light of the principles of justice, mutual sympathy and equality in Islam. (b) The use of technological means to prevent waste of energies and to exploit resources to the greatest extent for the sake of the cohesion and protection of Islamic societies.

#### 8. POPULATION EXPLOSION AND POPULATION STUDIES

*Karmi*

I do not know whether there have been carried out in the Arabic and Islamic worlds demographic studies of the family which would enable those concerned with family matters to organize the family. If such studies have not yet been carried out I propose they should be, and comprehensively.

*Shamsuddin*

Dr. Omran has spoken about the population explosion in the world. The subject of our discussions is the Islamic world and we are not responsible for the population explosion outside of it, nor responsible for finding solutions to this problem.

*Omran*

Regarding Mr. Karmī's remarks I believe that we do not possess many such demographic studies on the family, and further believe



that there is a pressing need for them. We live in an age in which planning at the level of the group or the nation is on a basis of science and statistics. Scientific methods must be followed in such studies including a knowledge of the social demographic and intellectual changes being witnessed by the Islamic world. The Centre for Demographic Studies represented by Dr. Huzayyin has carried out a number of these researches. As for myself I am carrying out studies for the World Health Organization which I call "epidemic studies" in a number of countries, including Lebanon and Egypt, Syria, Turkey, Iran, Pakistan, India and the Philippines. During my study I am carrying out a comparison of groups of Muslim families from one of these countries with groups of non-Muslim families in the same country, in search of the reasons for our backwardness.

Regarding Mr. Shamsuddīn's remarks, to the effect that we are not responsible for the population explosion outside the Islamic world because this community has its own distinguishing features, I should like to emphasize that all societies resemble one another, that demographic and epidemic changes in societies are basically similar and that the differences between them are trifling. But let us suppose that the changes in the Islamic world are not the same as those in other societies. This does not exempt us from becoming acquainted with the way we differ from them. We ought to study the conditions of other countries so as to take from them those things which have improved them and reject those which have corrupted them. We must avoid on the one hand blind imitation, and on the other isolation from the world.

It is now clear that the highest rate of increase in population, 3% p.a., takes place in the most backward societies, whether Islamic or not. The question is not one of Islam or non-Islam; it is a matter of change and development. I should like to recall to your attention another fact of the situation which non-Islamic societies have known and from which Islamic society is now suffering, namely, that population pressure forces the family to resort to illegal, or as it is known, criminal abortion, a thing which is surely deplorable. I have statistics which indicate that a large number of Muslim mothers are having recourse to this means because they do not have the benefit of the means of contraception, while they wish to limit the numbers of their offspring.

In this field we must benefit from the experiences of other countries: history teaches us significant lessons.

*Bint al-Shāṭi'*

I do not find available to us statistics about the Islamic peoples which show the population and average income. There are some very poor and some very rich peoples. It is for statistics to help us to know what is in our interests and what is necessary regarding decisions to be taken and recommendations to be adopted. We also need accurate knowledge of the average growth of the family and the reasons for it. Is the large size of families due to a desire to procreate? Or is it the result of other factors with more effect, such as advances in health services and awareness? We must know these things to know what is in our interest, because religion is interest and advantage.

*Huzayyin*

Some people have spoken of the necessity for carrying out scientific studies, and I add my voice to these. This shows real awareness of the value of science and study. I wish to emphasize that superficial studies are harmful and misleading and that there must be a serious and accurate study. The Demographic Centre in Cairo has spent two whole years bringing out this book you see in my hands<sup>1</sup> which studies population and its increase in ten of the Arab countries. Twenty people took part in its preparation. The centre expended on it more than \$10,000 of U.N. money. The Islamic Sciences Academy in Cairo is preparing another population study for the Islamic countries on a different model, which will take longer. The initial results indicate that Islamic society is one of the societies known as a youthful society, i.e., that the proportion of those below 15 or 20 years of age exceeds those older than that. This means that the proportion of those who have to be maintained by parents is much higher than among their counterparts in advanced societies. It is 40% or more while in advanced societies it may not exceed 20-25%. Therefore, the Muslim is striving to develop while carrying a burden of seven children, whereas non-Muslims have only two or three to carry. This is the fact we are looking for and which should urge us on to search for the truth.

Is it not a religious duty on us, not that we know this, to do something about it? Are we to be content with this marvellous image

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<sup>1</sup> "Demographic Standards and the Growth of Population in Arab Countries", Demographic Centre, Cairo 1970.

of religion while leaving society to remain backward? We should strive to make the image of society a faithful image of the truth, i.e., the image of Islam.

### *Hathout*

I should like to say that the population explosion can be met by methods other than family planning. Any state could provide means of subsistence to twice its population if it lived in peace. Every country also which burns its wheat surpluses could offer this surplus to those who have no food. Every rich Islamic state could give some of its wealth to poor Islamic states. All Islamic wealth which lies idle is a reproach to Islam. Similary with all good cultivable land neglected by its owners, and all land having mineral deposits which is not exploited, and every dinar wasted in smoking and drinking whisky, entertainments and luxuries. We should look into all these before discussing the numbers of Muslims. I say this although I am a doctor and give prescriptions for contraceptives.

### *Sharabassy*

Dr. Omran in the course of his contribution on population made mention of the Qur'ān verse in the story of Joseph and the lean and the fat years. It seems to me this verse is unrelated to under-or over-population. The state of affairs described in the verse relates to the exercise of providence in saving some of the produce in the years of abundance for years of scarcity.

Moreover, the Qur'anic verse: "And when we willed to destroy a city, to its affluent ones did we address our bidding; but when they acted criminally therein, just was its doom, and we destroyed it with an utter destruction" (Sura 17/16), does not help him, in my opinion, in the place he quotes it. The verse could be more indicative of under-population than over-population, because a small population gives these well-to-do people the opportunity to indulge themselves; whereas if there was a large population they would not be able to immerse themselves in pleasure and luxuries, in which case God's judgement of torture and destruction would fall on them.

As regards Dr. Omran's remarks on over-population, while I support the request for carrying out population studies for the Islamic world I should like to say that this judgement does not apply to the whole Islamic world. For some Muslim countries it is not correct to say that there is a population explosion, or even an average number

of inhabitants. As you and I know some countries are in need of inhabitants and they could absorb millions more.

Dr. Omran said there are verses in the Qur'ān which call for a small population. It is hard for me to recall a single one.

He also says that in Christianity there is nothing which calls for reducing the size of the population. If this is the case then why does the call for family planning come from the Christian countries? Is this a kind of contradiction or is there some other reason?

*Majul*

Dr. Omran pointed out that some verses of the Qur'ān call for large families and others call for reducing the population. I believe he is right in saying there is no contradiction here and that these verses must be linked to the circumstances of their revelation and their significance.

## 9. MUSLIMS AND BACKWARDNESS

*Sardari*

The religion of Islam is characterized by flexibility and contains elements which guarantee its responding to and facing up to every change and everything new. But while the world has met successfully the new challenges and circumstances, we have not adopted the means for progress. I should like to enquire; what prevents us from making use of religion in the field of progress, including the progress of the family?

So long as there is resistance to progress the family and ourselves will remain as we are. The responsibility for backwardness is ours. It is no secret that there is a resistance to progress and that this brings harm upon us. Throughout this century we have been negative. Whereas Islam in the first epoch adopted the means of culture and progress, in this age we have let other get ahead and we have been remiss in following them.

Why do we not ask the distinguished scholars among us about the reason for our reluctance in catching up with the procession of modern civilization and thought? Why do we not ask them what they intend to do?

*Shamsuddin*

Mr. Sardari has referred to Islam and backwardness, and to scholars and backwardness and I should like to make a general observation which must be taken account of in this session, and in every other session and in fact in every position man takes up. This is that frequently we fall victim to what is called the theory of the unifying factor, i.e., that we explain things and events and attitudes by one factor. Therefore, some people put Islam in the dock and consider it to be responsible for our backwardness. But maybe our bypassing of Islam in some cases and our misunderstanding of it in others are responsible for our backwardness. This is apart from other factors which are definitely not Islamic and which you all know. Are the *'ulamā* responsible for backwardness? Why are rulers not responsible for it? And why are not economists and engineers responsible for it? And why is not every force and every basis in society responsible for it?

*Bint al-Shāṭi'*

The history of Islam has witnessed Islamic societies which had a leading role in human civilization. Then Islamic societies became backward and perhaps they became backward only because they moved away from Islamic teachings. Their understanding of Islam got distorted. We have departed from many values, ideals and decrees, and we have been lured by imported goods which are inferior to those we have. We women have been enticed by foreign goods. I wish to emphasize that the Muslim woman has exercised — and she has the right to exercise — every right which modern society is prepared to envisage for woman. Woman has derived these rights from Islamic origin. I myself have exercised every right of modern women derived from Islamic origins. Even my husband — I chose him, just as Khadija chose the Prophet Muḥammad. My father was unable to marry me off to someone I dislike. I engaged in studies because learning is a bounden duty for every Muslim. And I am a Muslim and obliged to observe the precepts of Islam.

*Majul*

May I say a few words about your Muslim brethren in the Philippines. I begin by saying that we in the Philippines devoutly wish that the other Filipinos would convert to Islam as good Muslims.

But the regrettable fact is that the Filipino Muslims (10% approximately of the population) mostly suffer — except in very few cases — from poverty, ignorance and bad health conditions. May I ask what this conference can say to them? The non-Muslim Filipinos, because of their ignorance of Islam, put on Islam the responsibility for their Muslim compatriots' backwardness, or at least they believe that Islam cannot help them. The fact is that what we need among our Muslims is quality not quantity. If we raised the standard of the Muslims the rest would respect and admire them and might convert to Islam.

*Madkūr*

Mr. Shamsuddīn touched on the subject of Islam and backwardness. The fact is that this is a bitter truth. One of the newspapers published an article entitled "*Islam and Backwardness*"! Islam is innocent of this charge. The reason for it is Muslims. I have dealt with this topic repeatedly elsewhere and said that the writer's excuse for what he wrote is that he adopted this image from the actual state of the Muslim countries and thought that the common factor among these Muslim countries is their backwardness. I added to this that these Islamic countries do not abide by the decrees of Islam. The Muslims of these countries do wrong to Islam in the sense that they are unaware of it. The fault is not in Islam but in the Muslims.

*Amīna al-Sa'id*

If we face the question posed from the angle of the actual state of the Islamic peoples and are truthful with ourselves we find that the Islamic peoples wherever they are have become extremely backward and their position is now at the end of the procession, or rather a long way to the rear of the procession.

I have visited most countries of the world many times and seen with the deepest regret that non-Muslims are in a position of superiority to the Muslims. In India, Thailand and Indonesia, in the communist countries and elsewhere we find the non-Muslims much more advanced than the Muslims. How did things come to this pass?

This is the question to which the conference should give priority and should answer correctly. For my part I assert that the Islamic religion is innocent of the responsibility for this deterioration. It is the religion of religions and has all the basic elements which fit it for all times and places, answering to all the requirements of development in its most elevated and soundest senses.

The origin of the malaise in fact is the misconceptions imposed on the Islamic peoples and the stopping of genuine scientific endeavour to help the Muslims to keep pace with life, or rather the violent resistance which the need for reform meets from those who have the capacity to explain religious concepts.

The youth of the rising generation — the weapon for the future — are on the point of being sceptical about their religion because whenever they look around them and see backwardness, obstinacy and resistance to reform, it occurs to them that it is religion which is the culprit. This is a great mistake. Islam in its true form is the religion of renewed life, and is rich in the things which keep pace with every age, and responds to all needs, but it is rigidity which has led to the deterioration of the Islamic peoples, diverted the overwhelming and ignorant majority from understanding the essence of their religion and made the Muslims preoccupied with bodily pleasures and the joys of this world at the expense of implementing the principles of their religion and arriving at the spirit of these principles.

10. THE RESPONSIBILITY OF THE 'ULAMĀ (RELIGIONS SAVANTS) FOR THE BACKWARDNESS OF ISLAMIC SOCIETY

*Sardari*

We must follow the world and keep pace with progress and the responsibility lies on us to lift the Muslims up. We are responsible for the relative backwardness in which we find ourselves.

*Shamsuddīn*

Why should the scholars of religion alone bear this responsibility? Why is it not also borne by rulers, engineers, economists and others?

*Madkūr*

Mr. Shamsuddīn asks why responsibility is placed on the 'ulamā alone, not on doctors, engineers and economists? Reverend gentlemen! We are talking about the religious aspects of the matter. These aspects are the object of enquiry of the Muslim scholars first, for it is they who should provide religious knowledge for people. It is they who should explain the decrees of Islam on every matter of significance these days. The doctor, the engineer and the economist do their research from their own angle. Knowledge of what the decrees of

Islam have decided on is the duty of the Muslim scholars. For the must look with the eye of the present time and in the light of people interest, at all matters of moment. I have said that I do not intend thereby to go along with every new phenomenon: I simply make call for careful scrutiny.

*Amīna al-Sa'īd*

It is a matter of regret to me that in this age when science has reached the stage of enabling man to walk on the moon we are still subject in many of our religious concepts to individual judgements which are of very ancient date. We are still ruled by legislation based on these judgements which are outdated and no longer fit to meet the needs of the age we live in, at a time when our contemporaries are able to present us with new ideas to solve our problems, remove the obstacles from our path, and raise us up to the level of civilization which does honour to our religion and deprives our enemies of the opportunity to denigrate it and charge it with responsibility for our ignorance, poverty and civilizational backwardness.

The Muslim peoples will never have much standing nor will their scientific, economic and cultural conditions improve in the shadow of the present situation.

We charge our scholars with the responsibility for saving the Islamic peoples from their ordeal and they must present to us devised rulings to be in keeping with the spirit of Islam and capable of meeting their pressing needs, so that the Islamic peoples may be able to stand on their own feet and restore to Islam its reputation.

*Lam'ān Zaki*

We live today in a world which faces us with many challenges. These challenges can be met by a flexible liberal religion such as Islam if the religious leaders have deep and extensive study and care for the Islamic values as well as having a modern outlook and knowledge of modern science, and are also up to date with intellectual and spiritual development in the world.



## 11. RELIGIOUS SAVANTS AND LEARNED MEN OF SCIENCE

*Shamsuddīn*

Dr. Omran spoke about the increase in world population and invoked in his remarks some verses from the Qur'ān. I believe that to give certain interpretations of these verses may cause a great deal of dispute as to whether the interpretations are based on specialist knowledge of exegesis or based only on personal viewpoint or judgement.

*Omran*

With reference to Mr. Shamsuddīn's remarks I must admit I am no specialist in religion. It is not for me to act as an exegete of the Qur'ān or the traditions for the benefit of people, but I explain it to myself. And I am alone responsible before God for my understanding of the Qur'ān, not anyone else. For if I err and my error is the result of a "fatwa" of one of the religious scholars this scholar will not take my place before God. The Muslim is personally responsible for his understanding of the Qur'ān and traditions, of the consensus of the 'ulamā and of analogy, these being the four principal bases for Islamic jurisprudence. No one can stop me from citing the Qur'ān, and understanding it, and adopting interpretations which satisfy my conscience as a Muslim. Still, I am obedient to the scholars of religion because they are more learned than I am. But after they have given me advice I am responsible to God, not they. We shall never let the scholars in religion set us aside because we have not graduated from Islamic universities, nor can they set us aside because we are not proficient in religious knowledge. Study of religion is a duty on both them and us. They are more learned than we, that is true but they are not more virtuous in God's eyes because the basis of favour in God's eyes is piety, and they know this better than we do. They need our sciences and we need theirs. Through the co-operation of the two parties the Islamic state will arise.

*Bint al-Shāti'*

Mr. Omran has raised the question of specialization. I am amazed to hear him say that everyone has the right through being a Muslim to understand the Qur'ān by himself according to his own lights. This is right when he understands it for himself but not when

he speaks to other people of his understanding. If I committed a traffic offence I would go to a lawyer because only people specialized in law have dealings with the judiciary, although understanding of the traffic offence is an easy matter. There is a difference between a person reading the Qur'ān for himself and his reading for other people. His reading it to people on bases other than the proper ones of the "Readings" is not permissible. Recital of the Qur'ān is a science, and if a person reads in accordance with it he makes pauses where they should be, makes elisions at the proper places, and causes one word to govern another as it should. And just as we do not imagine the most learned of us in Arabic and Islam should understand mathematics at the lowest level, similarly we do not imagine the most learned person in demography or law or physics or chemistry should have perfect knowledge of the basics of Arabic and Islam. It is a question of specialization. Although, for example, Imām Mālik lived near the times of the Prophet and there were many devoted followers in Madīna of the school of the Prophet, all Muslims and all men who had learned the Qur'ān by heart, no "*fatwas*" were issued while Mālik was in Madīna.

#### *Madkūr*

Mr. Omran feels that he wishes to exercise individual judgement in explaining the Qur'ān. Allow me to tell him that the understanding of the Qur'ān is not necessarily for every one who reads it. Exegesis must be left to those specialized in understanding it and in the knowledge of its provisions. Am I allowed to pronounce a "*fatwa*" on medicine, or come out with medical theories, or pronounce on engineering or economics? I must here refer to the engineer, the doctor or the economist. If I am in doubt about some matter or a question which happens to arise on some matter in which I am not a specialist I should refer to the specialists, because only then I am sure of the soundness of the point of view I have reached.

Dr. Bint al-Shāṭi' has said that we have no right to enter upon the field of the exercise of individual judgement and that everything is supposed to go back to considerations of the general interest or general good. But who is it who makes clear that this interest is a legal one, accepted by the Sharī'a legislator, and that that interest, on the other hand, is one which the legislator has not abrogated, if he is not using individual judgement? Scholars in jurisprudence exercise individual judgement in order to become acquainted with the general interests. Not everything which the individual believes to be of general

interest is in fact an interest worthy of consideration. There are interests which have been annulled and ones which are accepted, and there are others concerning public welfare which have not been codified properly in which the scholars plunge in search of God's decrees, in order to accept them or reject them.

### *Hathout*

As Dr. Bint al-Shāṭi' has said we are all Muslims, but each of us has his specialization. I resent this discrimination in between the Westerner's suit and the Shaikh's turban, between the Shaikh and the Effendi. Specialization is an established fact and is at the heart of medicine. I am a gynaecologist but before performing an operation on a woman I seek the help of a surgeon and an internist to learn their views. Similarly in Islamic jurisprudence not only the specialists in Islamic law should address themselves to it. In the civil sciences also not only specialists in them should apply themselves to their study, but these specialists should co-operate with other specialists in allied disciplines, so as to learn the latest results of research in them. Every one of us has his speciality; in chemistry, or physics, war strategy or Islamic law, and when authoritative pronouncements are made all specialists should all take part in their promulgation.

## 12. INDIVIDUAL JUDGEMENT OR DISCRETION (*IJTIHĀD*) AND THE RESPONSIBILITY OF THE 'ULAMĀ FOR THE DEDUCTION OF RULINGS

### *Shamsuddin*

Dr. Madkūr pointed out in his contribution that the legal texts in the Qur'ān and the Sunna are presumptive in nature. No doubt there are texts of a presumptive purport, in juristic sense; but we cannot agree that all legislative texts are presumptive. Most of them are marked by clarity and what is technically termed as *zuhūr* (clearly apparent meaning) which is sufficient for a categorical judgement of Islamic legislation to be reached.

Dr. Madkūr also referred to the change of provisions or judgements. We do not understand what is meant by the change of provisions. There are no provisions which change but only topics which are renewed but based on general foundations previously in existence. Islam is not subject to change, because it cannot overstep itself, and because it is inalterably fixed in its intrinsic feature as revealed by

God. But what happens is merely a change in the conditions of life. These conditions react on the general principles. It is not for the legislator to deal with the minute details in real life, but only to lay down the broad principles.

Mr. Wā'iz wondered about trade unions and Islam's attitude to them. In my opinion there is absolutely no objection in Islamic law to what is known as collective bargaining, which preserves the rights of all parties, not to any group of people organizing themselves in a certain trade union, making agreements with employers collectively not individually so as to strengthen their position. This is not foreign to Islam; in fact it is at the heart of Islam because exchange of contracts in Islam is freely undertaken.

I hope that what I have just said is a reply to what Mr. Marrak said, to the effect that religion is tantamount to renewal in legislation.

Mr. Najjār said that this conference is competent to issue a particular individual pronouncement on certain questions. It is not competent to issue "*fatwas*": it is an arena for ventilating points of view which those competent to exercise judgement and issue "*fatwas*" can deal with.

### *Madkūr*

Regarding Mr. Shamsuddīn's remarks on presumptive texts I should like to emphasize that I meant only those matters on which no categorical text was available, or no previous consensus of opinion. In this way I have made a distinction between the categorical texts, which do not bear more than one meaning — and these should not be a subject of dispute — and those texts which are presumptive in their import, which bear more than one meaning. It is in these that individual judgement can be exercised.

Mr. Shamsuddīn objected to the term "change of the provisions, or decrees". I insist on it, because the change of the decree follows on the change of the subject. One subject has a particular "*fatwa*" relating to it, and if there is a change in the aspect of general interest then in consequence there will be a change in the decree relating to it. The evidence and examples I adduced in my paper which are from the days of the Prophet's companions and followers, from the days of the Imāms to the present time — made it clear that those protagonists issued pronouncements on a particular subject, so that if the aspect

of general interest changes for the same subject, the pronouncement on it will change.

*Marrak*

Mr. Shamsuddīn wondered what I meant by the renewal of legislation, to which question Dr. Madkūr addressed himself. I should like to give a well known example. Those called in the Qur'ān (9/61) by the phrase "these whose hearts have been reconciled" used to receive their stipend out of the public funds of *zakāt* (almsgiving contributions) when the Prophet was alive, in accordance with the Qur'anic prescription, and likewise in Abū Bakr's time. But the Caliph 'Umar did not grant them this right, acting independently, on the basis of his own understanding of the intent of the Qur'anic verse. Perhaps in 'Umar's action is an incentive to all who are characterized by moral courage to try and interpret religious texts in a sober-minded way.

*Bint al-Shāṭi'*

As I see it the problem of family planning is not a question of individual judgement and its legality, or permission to use it. From among the totality of the principles of legislation it is sufficient that it be based on the two principles of interest and necessity. Religion is general interest. And consideration must be given in legislation to necessity. First we must be convinced that there is a necessity in the matter, and that there is interest. And in order to be sure of both necessity and interest we need the research and studies referred to by Messrs. Karmī and Omran.

*Dusūqi*

I hope that this nation which has advanced morally and spiritually will likewise advance materially. The key to progress, however, does not lie in any opinion or thought brought in from outside but in our religion, the true one. We bore the torch of progress and led the world while it was floundering in the dark; so why should we not carry it once more and light the way for ourselves and others?

*Sharabassy*

Mr. Shafei in his remarks emphasized the Qur'ān and the Sunna as being the basis of legislation. The word basis is very important;

but I am afraid it will make us forget the other sources of legislation. There is the rest of the ten sources<sup>1</sup> which the jurisconsults relied on, especially the Mālikite school. If we recall the other remaining sources derived from the Qur'ān and the Sunna, it will help us in the matter of individual judgement about which we talk in a conference such as this, so that we can seek their help to treat exhaustively the decrees and Islamic directives which we want, and of which we are in such dire need.

*Sahnoun*

My attention was drawn to what Mr. Sharabassy said in his opening remarks to the effect that he is offering his own construction of the religious texts without putting on anyone else the responsibility for this construction. We would have accepted this if someone else had said it or if we had heard it from Dr. Omran because he is, as he admitted, one of the laymen in matters of religion. The reason for this is that what Mr. Sharabassy says now, after his thoughts and opinions have already been published in his writings and in the papers presented to this conference, and in his summary and his commentaries, is no longer a private personal matter. Other people have already copied his views, including Mrs. Amīna al-Sa'īd.

Mr. Nasaruddin remarked in the resumé of his paper that the spermatozoon and the ovum do not amount to a child. I would like to know here if the gentleman is a doctor, specialist enough in embryology that he can assert this fact.

*Sharabassy*

I do not know why Mr. Sahnoun — may God reward him! — does not agree with my saying that this is what I understand personally by Islam's principles and teachings. If my good deeds of which I am proud are just faults then tell me how I should apologize. Did he want me to say: "Dr. Sharabassy said that Islam in his opinion is so-and-so, so listen to me and obey?" This is unfair, Mr. Sahnoun. I said that this was what I understand as a student of Islam, and the fact of the matter is that despite the 40 years I have spent at Al-Azhar

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<sup>1</sup> The sources of legislation in Islam are ten: the Qur'ān, the Sunna, consensus, analogy, uncodified principles for general welfare, *istiṣhāb* (rule of concomitance), provision of expedients, the example of the people of Madīna, custom, and preference (*istihsān*).

I am still a student, and still aware of my need to learn. I said that was what I understood: there it is, you may wish to contradict it or give it your support. You can accept some of it and reject some of it. As the Imām of Dār al-Hijra, Mālik b. Anas said: "There is no one of us, but something is taken from him and something is turned back to him, except the owner of this garden. And I am fit only to be the servant of the owner of this garden." May the best of peace be upon him!

### *Hathout*

What some people do when they derive two names and give them both to a road and advise us to take one road rather than the other — as Mr. Karmī did this morning when he said we have two roads ahead of us, the road of science and that of religion and we must take the road of science — what these people do is inadmissible in Islam. In Islam there is but one road, that of Islam, and in it there is a combination of science and religion together. But when the telephone was invented some one, standing up for what he thought to be the law and proclaimed that there was a demon in it. And when man landed on the moon a vice-president of an Islamic university in an Islamic country got up and said that anyone who said man had got to the moon was an infidel. The *effendis* can do no other than read the Qur'ān and issue *fatwas* and have only themselves as their authority in this respect. This rivalry between men of science and men of religion should happen, otherwise the *effendi* is compelled to choose between two things: either abandon religion, as happened in the West or, cling to his religion, with himself as the only aid to understand religious texts, and work out therefrom Islamic provisions and decrees.

### *Najjār*

My remarks bear upon those of Mr. Hathout about the integration of the Muslim personality. I have a strange feeling whenever I hear one of the scholars in this conference use the expression "man of religion" for "a scholar in religious science". The phrase strikes the ear in a strange annoying manner, for in Islam there are not those who are men of religion and those who are men of this world. "Man of religion" is a clerical term, far removed from Islam. "A man of this world" is an epithet for a man engrossed in the pleasures of this world and diverted from Muslim ethics. I do not believe that among us here

there is a man of religion and a man of the world in either of these two previous senses. There are merely scholars in religion and scholars specializing in other disciplines. Therefore, I beseech members of the conference to stop using the two terms. All Muslims are obliged to follow the precepts of Islam and there is no distinction between them — in their relation to religion — but there is distinction between them only in piety and their relation to knowledge.







# Islam & family planning

