

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ ۚ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۗ

And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree (of advantage) over them

Status of Women in Islam

Mohammad Shabbir Khan

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Preface

A few decades back George Bernard Shaw greatly influenced the English readers by his widely read book entitled *The Intelligent Woman's Guide to Socialism*, when he wrote: "When the Mahomedan Reformation took place, it left its followers with the enormous advantage of the only established religion in the world, in whose articles of faith any intelligent and educated person could believe."

To-day the situation is altogether different. Any writer, preferably with a Muslim name, who is prepared to sell his/her conscience in order to traduce Islam and desecrate the Prophet can hope to win applause in the West. He/she would be received with a warm welcome and called an upholder of freedom of writing and speech for desecrating the unlettered man who gave a message to his followers that "The ink of a scholar is holier than the blood of the martyr." Obviously his words were meant for the scholars who uphold Truth.

Without entering into a controversy with any one of such writers who are greatly esteemed in the West and the media, I have decided to write a small book on the "Status of Women in Islam."

The book has been divided into two parts. The first part deals with the status of women in the family structure, the society and

economy based on the tenets of the Holy Qur'an and the Traditions, i.e., sayings of Prophet Mohammad (PBUH). In the family structure we have discussed the status of a daughter, the right given to a girl to choose her spouse, the right of the mother and right of the wife vis-a-vis the husband. The important problems of the dower as a compulsory gift by the husband to the wife and his responsibility to pay maintenance for the family have been dealt with. The more controversial and important problems like polygamy, family planning and concubines have also been discussed. There is a brief discussion on the problem of inheritance as well. An important omission in the discussion of the family structure is that of separation, i.e., *Talaq* and *Khula*, because the present author believes that it needs a separate book by some competent scholar of Islamic Jurisprudence.

In the case of the status of women in society and the economy, the different views of scholars of Muslim Theology, Islamic Studies and Islamic Shariah like Syed Abul Ala Maududi, Asghar Ali Engineer, Afif A. Tabarrah, Syed Ameer Ali and Hasan Turabi have been examined. Their views on the important problem of seclusion (*Purdah*) and the role of women in society and the economy beginning from the rise of Islam to the present time have also been discussed. The problems specially dealt with are in regard to the acquisition of knowledge by Muslim women, their participation in the process of consultation, their rights and obligations in regard to social relations, their participation in building up the social life of the Muslim community and their role in economic activities. There is a small Appendix on the meaning and significance of the term *Riba* with a view to discussing the scope of self-employment of Muslim women and their participation in business, commerce and small scale industry.

Since there is a considerable degree of divergence in between the status of women based on the tenets of Islam and the actual practice, the second part of the book deals with the actual status of women in our country supported by the data

generated by Surveys conducted by some competent scholars in the Jama Masjid Area of Delhi, Oudh, Jaipur, Vidharba Region of Maharashtra, Aurangabad, Hyderabad and South 24-Pargana of West Bengal. The findings of the researchers have also been supplemented by the views of the Core Group appointed by the Government of India, Ministry of Human Resource Development, Department of Women and Child Welfare in the country. A few proposals for reforms have been given towards the end of the second part.

In writing this book I had the great privilege of getting help from some distinguished friends. I am greatly obliged to Professor F.R. Faridi, Director, Institute of Objective Studies, Aligarh who prepared a bibliography on the subject, made available for me a number of useful books written by competent scholars in the field, and spent several hours of his valuable time in clarifying many issues related to the subject. I greatly appreciate the gesture of Professor Hasan Ahmad, Professor of Political Science at the Aligarh Muslim University for having gone through the whole of the type-script. He made the necessary corrections to bring the ideas and presentation in consonance with the subject matter. My friend Professor Kishori Lal very kindly got the whole volume of the Report on *Perspective Plan for the Women 1988-2000 AD* xeroxed for my use. This is a rare and authentic Report of the Core Group Appointed by the Government of India, Ministry of Human Resource Development, Department of Women and Child Welfare.

My youngest daughter, Nusrat, in spite of her preoccupations with her research work was kind enough to go through the whole of the manuscript and make necessary corrections to make the language more presentable.

Needless to add that for opinions expressed and for any deficiencies that might be there in the book, the author himself is entirely responsible.

My special indebtedness is due to my young friend Mr.

Mohammad Akhlaque, who, with great patience worked with me to write down and type out several drafts before it could be finalized. The only thing that I can do for him is to pray for him that he may live a healthy long life to be able to perform more useful service to the cause of the community and the country.

Before I end I must let my readers know that all the references from the Holy Qur'an, unless otherwise indicated, are from Abdullah Yusuf Ali, *The Meaning of the Glorious Qur'an : Text Translation and Commentary*, published by Dar al-Kitab al-Masri 33 Kast EL-NIL ST, Cairo, Egypt and Beirut, Lebanon. So far as the references of the Traditions are concerned they are given in brackets immediately after the Traditions are quoted.

In the end I plead to my readers to pray to God for His Forgiveness for my omissions and commissions in my life. Any suggestions by way of appraisal or criticism from my readers are most welcome.

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May 26, 1995

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PART - I

Status of Women as per Tenets of the Holy Qur'an and the Traditions

And of His signs is that He created for you, of yourselves, spouses that you might find repose in them, and He has planted love and kindness in your hearts. Surely there are signs in this for people who reflect..

The Holy Qur'an

Introduction

It must be underlined in the first instance that piety/righteousness is the basis of the code of conduct of an individual in Islam. No individual - male or female - has been permitted to have 'free sex' in society. But sexual relationship has been considered crucial to social survival through reproduction. It is therefore essential for every society to give its members sufficient freedom for satisfying the sexual impulse. Islam has provided this freedom through the institution of marriage. It is through this institution that men are wedlocked to women, children are produced and the life cycle goes on. While addressing our Prophet, God says:

"We did send apostles before thee, and appointed for them wives and children."

(S.XIII : 38)

The Holy Qur'an is very specific on this point. Neither renunciation from this world nor celibacy is permitted for Muslims. After saying that We ordained upon the believers of Jesus Christ (the son of Mary) to follow compassion and mercy in their turn, God says :

"But the Monasticism which they invented for themselves, We did not prescribe for them: (We

commanded) only the seeking for the good pleasure of God;...."

(S.LVII : 27)

On the other hand, adultery and pre-marital or post-marital sexual relationships have been admonished in the strongest possible language. Says the Holy Qur'an :

"Nor come nigh to adultery: for it is a shameful (deed) and evil, opening the road (to other evils)."

(S.XVII : 32)

The Qur'an also explains the characteristics of the Believers as follows :

"Those who avoid the greater crimes and shameful deeds, and when they are angry even then forgive."

(S.XLII : 37)

Since adultery has been treated to be among the greatest of sins, Muslims have been asked always to keep themselves away from it under all circumstances, so that they may possess spotless character. The Holy Qur'an (vide translation by M.Pickthall) says:

"And those who preserve their chastity save with their wives and those whom their right hands possess, for thus they are not blameworthy; But whose seeketh more than that, those are they who are transgressors."

(S.LXX : 29-31)

Regarding the Believers the Qur'an has ordered :

"Those who invoke not, with God, any other god, nor slay such life as God has made sacred, except for just

cause, nor commit fornication; - and any that does this (not only) meets punishment (but) the penalty on the Day of Judgement will be doubled to him,"

(SXXV : 68-69)

Our Prophet has said that "there is no escape from *Nikah* in Islam." (Musnad Ahmad).

Hazrat Somaira relates, "the Holy Prophet has prohibited abstinence from marriage and the world." (Tirmizi - Nasai)

Hazrat Anas says, "The Holy Prophet directed us to marry and prevented us from celibacy." (Sunnan Darimi)

Sa'd bin Hisham thought of observing celibacy and consulted Hazrat Ayisha who replied, "Have you not heard the words of God that We have sent many Messengers before and bestowed upon them wives and children also. This proves that celibacy is not the way of the Believers in Islam. Therefore, shun the idea of celibacy." (Nasai).

Hazrat Ayisha has related our Prophet as having said, "Nikah (marriage) is my *sunnah* and the person who does not follow my sunnah has nothing to do with me." (Ibn-e-Majah)

Hazrat Anas has said that three men enquired from one of the *Umhatul Mominin* (wives of our Prophet) about the way our Prophet used to pray. When she told them about our Prophet's prayer, the men found it was very short. They thought "A shorter prayer was enough for our Holy Prophet because he was a pious (sinless) person. But we are sinners from top to bottom; therefore we must pray more and more." One of them said, "Henceforth, I shall pray the whole night and would never sleep." The second one said, "I shall fast continuously without break." The third one said, "All troubles are caused by marriage and therefore I shall never marry and shall pass the rest of my life in praying to God." When our Prophet learnt the statements of these three persons, he said: "By God, I am the most pious

and most God fearing man among you, but I keep optional (*Nafil*) fast and also discontinue them. I pray at night and also sleep. I also marry women and this is my way of life. Hence, who shuns the way of life is not from me." (Bukhari)

These Traditions prove that there is no place for celibacy in Islam; and any one who wants to follow celibacy for the sake of piety is utterly ignorant of the tenets of the Holy Qur'an and the way of life of our Prophet. The fear of God compels a man to offer prayers as well as fulfil the obligations of marriage. Our Prophet has said: "The dinar (gold coin) which you have spent in the way of God, to free a slave, to help the poor or on your wife and children, only that dinar would fetch the highest reward which you spent on your wife and children."

Considering wife and children an obstacle in the way of love for God, Sa'd bin Hisham divorced his wife and wanted to sell all of his property and give the money for the cause of Jihad. Some people of his Clan came to know of his plan. They came to Hazrat Sa'd and informed him that six men holding similar views had approached the Prophet, but he forbade them from doing so and said: "Is my life not a good example to follow?" (Bukhari)

Usman bin Mazoon had given up his interest in his family members and devoted his day and night in prayers. Our Prophet came to know of this and summoned him. When he came, the Prophet said to him, "Usman, I have not commended asceticism. Tell me, have you given up my Sunnah?" Usman bin Mazoon replied "O Messenger of God, No I am your follower." Thereupon our Prophet said, "My practice is this, that I pray at night and also sleep. Sometimes I keep (optional) fasts and sometimes I do not. I follow the principles of marriage and fulfil my duty of conjugal relationship. This is my way of life. Whosoever goes astray from my way of life, he is not from me. Usman, fear God. As you have duty towards God, you also have your duty towards your wife and children. Hence, make efforts to fulfil all these obligations." (Musnad Ahmad).

Our Prophet received similar information about Abdullah bin Amr bin As and said similar words to him: "Do not get yourself lost in prayers so much so that you forget your duties towards your wife, children and yourself. (Bukhari)

It can, therefore, be concluded that one who does not fulfil his duty towards God is a sinner. Similarly one who neglects his duties towards his wife and children is also a sinner. He will be accountable on the Day of Judgement for not fulfilling his duties.

Islam, it must be repeated, emphasizes that Muslims cannot adopt either celibacy or free sex. I therefore, wish to underline that the present book deals with the status of women as per tenets of the Holy Qur'an and the Traditions and would provide a useful reading for those who believe in Islam or do not have any prejudice against Islam as one of the principal religions of the world which has brought about a revolution in the code of conduct of human beings.

In the light of the above I shall discuss in this book, the status of women in the family structure and then in the society and economy.

This will be the first part. In the second part I shall discuss the status of Muslim women in actual life in our country.

But before I do it, let me first describe, even though in brief, their independent entity in matters of faith and accountability on the Day of Judgement. A woman would have full authority to accept or not to accept the faith of Islam after she attains the age of maturity. Admission to faith is entirely a personal matter and no woman can become a Muslim merely because she is the daughter, sister or wife of a Muslim. At the time of the rise of Islam cases have been found in which the male and female relatives used to have completely different stands in their religious options. God has asked our Holy Prophet in this respect in the following words :

"O Prophet: When believing women come to thee to take the oath of fealty to thee, that they will not associate in worship any other thing whatever with God, that they will not steal, that they will not commit adultery (or fornication), that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and that they will not disobey thee in any just matter, - then do thou receive their fealty, and pray to God for the forgiveness (of their sins): for God is Oft-Forgiving, Most Merciful."

(S.LX : 12)

Hasan Turabi in his book entitled *Women in Islam and Muslim Society* has given examples of eight ladies who adopted Islam as a religion even though their near relatives did not do so. ¹ [Hasan Turabi, *Women in Islam and Muslim Society*, first published by Milestones Publishers, London, 1991, and re-published in 1993 by Islamic Education Trust (Publication Division), P.O. Box. 29, Minna, Niger State, Nigeria.]

On the accountability of a person's conduct in the Hereafter each individual - male or female - would be judged by God on the basis of his/her own actions. In this respect God treats all mankind on equal basis. Says the Holy Qur'an:

"That day shall a man flee from his own brothers, and from his mother and his father, and from his wife and his children. Each one of them, that day will have enough concern (of his own) to make him indifferent to the others."

(S.LXXX : 34-37)

The individuality of a woman is a principle in religion which has been emphasized. The Holy Qur'an has given the examples of the wives of Noah and Lut, whose husbands were both elevated to the rank of Prophethood; but their association

with such righteous men could not be of any use to them; and they were warned of grievous penalty on the Day of judgement. In the case of believers, God has given the examples of Pharaoh's wife and Mary, the daughter of Imran and the Mother of Jesus Christ, who on account of their piety are sure to go to Heaven. Says the Holy Qur'an :

God sets forth, for an example to the Unbelievers, the wife of Noah and the wife of Lut: They were (respectively) under two of Our righteous servants, but they were false to their (husbands), and they profited nothing before God on their account, but were told: "Enter ye fire along with (others) that enter;" And God sets forth, as an example to those who believe, the wife of Pharaoh: Behold she said: "O my Lord; build for me, in nearness to thee, a mansion in the Garden, and save me from Pharaoh and his doings, and save me from those that do wrong;" And Mary the daughter of Imran, who guarded her chastity; and We breathed into (her body) of Our spirit, and she testified to the truth of the words of her Lord and of his Revelations, and was one of the devout (servants)."

(S.LXVI : 10-12)

It may be noted that the wife of Pharaoh, known by the name of Asiya, is one of the four perfect and most respected women of the world. The other three are Mary, the Mother of Jesus, Khadijat-ul-Kubra, the wife of the Prophet and Fatima-taz-Zahra, his daughter. The wife of Pharaoh was in all probability the same who saved the life of the Moses as described in the following verses of the Holy Qur'an:

So We sent this inspiration to the mother of Moses: "Suckle (thy child), but when thou hast fears about him, cast him into the river, but fear not nor grieve: for We shall restore him to thee, and We shall make him one of our apostles." Then the people of Pharaoh picked

him up (from the river): (it was intended) that (Moses) should be to them an adversary and a cause of sorrow: for Pharaoh and Haman and (all) their hosts were men of sin.

(S.XXVIII : 7-8)

The wife of Pharaoh said: "(Here is) a joy of the eye, for me and for thee: slay him not. It may be that he will be of use to us, or we may adopt him as a son. "And they perceived not what they were doing."

(S.XXVIII : 9)

From the above mentioned examples the fact of the individuality of a woman in matter of acceptance of faith and accountability is well established.

Status of Women in the Family Structure

IT has been rightly observed that of all the social sciences, sociology is most directly related to the problems of human relationship in society. Among the important relationships discussed by the sociologists the most important one is that which prevails within the family system- 'between the sexes, spouses, parents and children.' Thereafter sociology concerns itself with large social groupings such as the community and the society at large. Since the purpose of the present study is to find out the status of women in Islam as laid down according to the verdict of the Holy Qur'an and Traditions *i.e.*, sayings of the Prophet Mohammad (Peace be Upon Him), it is proposed to start with the status of Muslim women in the family structure.

STATUS OF A DAUGHTER

Let us first discuss the question of the birth of a daughter in the family. In the pre-Islamic Arabia, during what is generally called *Jahiliya* period, the birth of a daughter was considered a matter of shame and disgrace; and in many cases the daughter used to be buried alive or killed by the parents. The

Holy Qur'an describes this phenomenon as follows :

"When news is brought to one of them, of (the birth of) a female (child), his face darkens, and he is filled with inward grief ! With shame does he hide himself from his people, because of the bad news he has had! Shall he retain it on (sufferance and) contempt, or bury it in the dust ? Ah! what an evil (choice) they decide on?

(S. XVI : 58-59)

Similarly, the feeling of the father during *Jahiliya* period at the news of the birth of a daughter has been described in the Holy Qur'an as follows :

What! Has He taken daughters out of what He Himself creates, and granted to you sons for choice? When news is brought to one of them of (the birth of) what he sets up as a likeness to (God) Most Gracious, his face darkens, and he is filled with inward grief !

(S. XLIII : 16-17)

● Some of the pagan Arabs believed that the daughters were born because of the wishes of God. In their own life they hated to have daughters. Since they considered the sons primarily the source of strength, they thought that the sons born were on account of their own glory. Says the Holy Qur'an :

- And they assign daughters for God ! -Glory be to Him!
- and for themselves (sons, - the issue) they desire !

(S. XVI : 57)

We find that according to Traditions our Prophet felt very grieved on the news given to him that a father killed his daughter because of the feeling of disgrace. For instance, a man related his own action during the Days of Ignorance to our Prophet :

"I had a little daughter who loved me very much. Whenever I called her, she came running happily towards me. One day I called her. As usual she came running and then followed me. I took her to a nearby well and pushed her in. At that moment she cried, "Father, Father." The Prophet of Islam was shocked to hear it, and his eyes were filled with tears." (Sunan Darimi).

It is stated that Qais bin Asim, before he embarrassed Islam had buried alive about eight daughters during the Days of *Jahiliya*. (Tafsir Ibn Katheer).

It has also been said in the Holy Qur'an that any one who killed his daughter will be accountable to God on the Day of Judgement. Says the Holy Qur'an :

- When the female (infant), buried alive, is questioned - for what crime she was killed?

(S. LXXXI : 8-9)

Our Prophet has repeatedly given instructions that those who have the same regards for daughters as for sons will be rewarded by God on the Day of Judgement. For instance, he said, "A man who has a daughter and he neither despises her nor buries her alive, nor prefers son to daughter, God will admit him in Heaven." (Abu Dawood). Similarly, Abu Sayeed relates that the Prophet said, "Whoever brought up three daughters and treated them well, Heaven is for him." (Abu Dawood and Tirmizi).

- The Holy Qur'an has emphasized that it is only in the power of God whether He creates son or daughter or none; and not in the powers of the parents. Says the Holy Qur'an :

To God belongs the dominion of the heavens and the earth. He creates what He will (and plans). He bestows (children) male or female according to His will (and plan), or He bestows both males and females, and He

leaves barren whom He will : for He is full of knowledge and power.

(S. XLII : 49-50)

RIGHTS TO GIRLS TO CHOOSE SPOUSE

Once the daughter attains the age of maturity it is only she (and not the parents) who can choose her spouse. "On the basis of the uniform principles of Islamic jurisprudence", says • Hasan Turabi, "a Muslim woman enjoys the same capacity and freedom as enjoyed by a man. She too can propose to a man for marriage orally or in writing; she can freely choose her spouse, reject a suiter she does not like..."¹

• Ummah bint Abi'l-As was a lady companion of the Prophet who proposed marriage in writing. She sent a letter to Al-Mughirah bin Naufal saying. "If you feel you stand in need of us, then proceed." Thereafter Naufal proposed through her cousin Al-Hasan who then solemnized the marriage. (Al-Isabah).

The Prophet has said that a woman should not be married without her own authority and consent. He has ordered : "Do not marry a non-virgin except on instruction nor marry a virgin except with her permission; and her silence may go for permission." (Bukhari).

Whether a girl is a virgin or not, the Prophet would not allow her marriage under compulsion. Ibn Abbas stated that a girl came to the Prophet and told him that her father had got her married without her approval. The Prophet gave her complete freedom to choose whichever course pleased her (Reported by Abu Dawood, Ahmad and Ibn-e-Majah).

• A girl came to the Prophet and complained that her father had married her to his nephew against her wish. The Prophet gave her the choice of rejecting the marriage. But she said to the Prophet, "I endorse what my father did, but I wanted to show

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to women that parents have nothing to do in the matter." (Ibn-e-Majah).

Similarly in another case, a man married his daughter to a rich man. The girl complained to the Prophet that his father married her to his wealthy nephew with the idea of getting some benefits. The Prophet said, "if you do not like this marriage then you are free." She said : "I uphold my father's decision but I complained to you to tell other girls and women that their fathers have no right to marry them against their will." (Masnad Ahmad).

This shows that a girl after attaining her maturity has a right to choose her own husband. However, after her consent is forth-coming, it is considered more appropriate that her marriage with her chosen spouse should be solemnized by her parents/guardians.

A point which has attracted the attention of the scholars of Islamic Shariah is that in case a minor girl is married to a boy/man, is it possible for her to dissolve it after her attaining the age of maturity? There is no verdict of the Holy Qur'an in this connection which might decide it one way or the other. The only argument presented in support of the view that she cannot dissolve marriage is that at the time when the girl was a minor her marriage was arranged by the parents/guardians, always in the interest of their daughter/ward, because they are the greatest well-wishers of the minor girl at the time of her marriage. And, therefore, on attaining her maturity she can be given no authority to dissolve her marriage. This idea has been presented and supported by Imam Surkhasi, in his book *Al-Mbasut*. He says that Hazrat Abu Bakr solemnized the marriage of Hazrat Ayisha with Prophet when she was a minor. Subsequently on attaining her maturity our Prophet did not ask Hazrat Ayisha whether she wanted to continue her marriage or dissolve it. Nor did Hazrat Ayisha on her own at any time declared that she wanted to dissolve her marriage with the prophet on account of the fact that she did not like the decision taken by her father when she was a minor.

But the conclusion reached from the above illustration seems to be erroneous. If a person did not sell his house, it does not necessarily mean that he did not have the right to do so.

Further, this contention of Imam Surkhasi does not appear to be reasonable on the basis of the following arguments :

• First, there is a Tradition which says that the Prophet solemnized the marriage of the daughter of Hazrat Hamza when she was a minor with Umar bin Ali Musallima, and, immediately thereafter, our Prophet ordered that on attaining the age of maturity Hazrat Hamza's daughter had the right either to accept that marriage or dissolve it.

Second, it is contradictory to say that a major girl is given complete right to choose her own husband; but this right is taken away from another major girl if she was married at the time when she was a minor. If she realizes that she did not like the man/boy with whom she was married when she was a minor then, she has the right to dissolve it, like any other major person after attaining maturity.

Third, it is presumed in the contention of Imam Surkhasi that when the parents or the gurdians of minor girls arrange the marriage of their daughters or wards it is invariably in the interest of their children. In many cases it has been found that the parents/guardians of the minor girls rush into the marriage of their daughters/wards without taking fully into consideration all the circumstances of the family of the boy/man with whom the marriage is arranged.

Fourth, it is always possible that the parents marry their minor daughter considering it in her best interest. Subsequently when the girl attains the age of maturity she realizes that her husband is a completely incompetent fellow or is not able to earn enough to give her the minimum standard of living.

And finally, after attaining the age of maturity, if the girl does not like her husband it is extremely difficult to prove that the action of the father was not necessarily in her interest.²

An interesting incidence in this connection worth mentioning is that there was a slave girl whose name was Barerah. She was married to a slave, a man named Mughees. They remained wedlocked for some length of time and had children. After some time Barerah became free and refused to live with Mughees arguing that a free woman was not bound to remain wedlocked to a slave. However, Mughees loved Barerah very much. He was so upset that he kept following Barerah through the streets of Madinah, weeping, so that tears flowed down his beard. Seeing his miserable state, the Prophet said to Barerah: "Barerah; fear God and think of the love and misery of Mughees. He has been your husband so long and you have borne his children as well." Thereupon Barerah asked the Prophet. "Are you ordering me to remain his wife?" The Prophet replied. "No, how can I order you? I am just recommending his case to you." She said. "Then I did not need him." (Bukhari)

This shows that in matters of choice of the spouse by a girl/woman even the Prophet believed that he did not have the authority to compel her to remain wedlocked to a boy/man whom she did not like. How then can the parents think that they can have an authority to decide who the spouse of a daughter must be?

RESPECT FOR PARENTS WITH SPECIAL REFERENCE TO MOTHERS

Before we discuss the problem arising out of the relationship between two sexes. *i.e.*, husband and wife, let us first discuss the relationship of the children with their parents particularly with reference to mothers. God has asked the whole community of Muslims to worship none but Himself who is worthy of being worshipped. Then in the same verse and the following one He asks each individual to hold his/her parents in the

highest esteem, both of the them or whosoever might be living when the individuals have grown to maturity. The exact language of the Holy Qur'an is very emphatic. It runs as under:

Thy Lord hath decreed that ye worship none but Him, and that ye be kind to parents. Whether one or both of them attain old age in thy life, say not to them a word of contempt, nor repel them, but address them in terms of honour. And, out of kindness, lower to them the wing of humility, and say: "My Lord ! bestow on them Thy Mercy even as they cherished me in childhood."

(S. XVII : 23-24)

It is to be noted that in the Arabic text of the above-mentioned verses of the Holy Qur'an the word '*tabudu*' has been used for the worship of God, a verb used in plural cases, which implies that it has been addressed to the whole community of Muslims; whereas in the case of respect to parents, the Arabic words '*ta'qul*' and '*qul*' are used which are used in individual cases. Hence, the whole community has been asked to worship none but God and each individual has been asked to respect his/her parents. The expression 'lower to them thy wings' is a metaphor. Abdullah Yusuf Ali has explained it as under : "The metaphor is that of a high-flying bird which lowers her wings out of tenderness to her offsprings. There is a double aptness : (a) when the parent was strong and the child was helpless, parental affection was showered on the child : when the child grows up and is strong and the parent is helpless, can he do less than bestow similar tender care with gentle humility : for does not parental love remind him to the great love with which God cherishes His creatures? There is something here more than simple human gratitude: it goes up into the highest spiritual region."³

It can be further added that we have been asked to honour them on more crucial grounds. In the first place not merely respect, but cherishing kindness, and humility to parents, are commanded. In the second place, this command is bracketed

with the command to worship the one God : parental love should be to us directly blessed love. Nothing that we can ever really compensate for that which we have received. In the third place, our spiritual advancement is tested by this : we cannot expect God's forgiveness if we are rude or unkind to those who unselfishly brought us up.

In the following two verses of the Holy Qur'an, God specifically shows the reasons as to why we are to respect our parents. Says the Holy Qur'an :

And We have enjoined on man (to be good) to his parents : in travail upon travail did his mother bear him, and in years twain was his weaning : (hear the command), "show gratitude to Me and to thy parents : to Me is (thy final) Goal."

(S. XXXI : 14)

And further and with greater detail God says :

We have enjoined on man kindness to his parents : in pain did his mother bear him, and in pain did she give him birth. The carrying of the (child) to his weaning is (a period of) thirty months. At length, when he reaches the age of full strength and attains forty years, he says, "O my Lord: Grant me that I may be grateful for Thy favour which Thou hast bestowed upon me, and upon both my parents, and that I may work righteousness such as Thou mayest approve; and be gracious to me in my issue. Truly have I turned to Thee and truly do I bow (to Thee) in Islam."

(S. XLVI : 15)

It may be noted that in the above mentioned two verses the respect that God has enjoined upon a Muslim to his/her parents is mentioned after the worship of one God. We have seen that God has enjoined upon the Muslims to be good to parents

because parental love for us is unselfish- a virtue which is possessed only by God ; and that is the reason why again and again it is emphasized that parents are to be respected next only to the worship to God .

We believe that to serve the parents is the common teaching of all religions. However, our Holy Scripture deals with the subject very exhaustively. It ordains a man not only to treat his parents with kindness and consideration but *also provide for their needs with his money*. Says the Holy Qur'an :

They ask thee what they should spend.... Say : whatever ye spend that is good, is for parents and kindered and orphans and those in want and whatever ye do that is good - God knoweth it well.

(S.II : 215)

A few principles about the proper behaviour towards the parents are also laid down. First, the man/woman should treat them with kindness and courtesy. In old age, a person generally gets sensitive and irritable and the slightest opposition puts him/her out. He/she flares up at little things. Men/women are advised to make allowances for the petulances, irascibility and other natural shortcomings of their old parents, to be indulgent towards them and to humour them wherever it is possible to do so. They should not criticise them but display the utmost courtesy and humility when they talk to them.

Secondly, the Prophet has said that a person has not served his/her old parents well and not waited upon them, is indeed reprehensible and will not enter Heaven. (Muslim). It is not enough that a man/woman is himself/herself kind and courteous to his/her parents. He/she should also not act in any way as to encourage others to be discourteous to them. The Prophet has also said that it is a great sin to abuse one's parents. One of the companions asked him : "O Prophet ! Is there any person who abuses his parents ?" The Prophet replied: "Yes, one man abuses the father of another man who

in turn abuses the first man's father; the former again abuses the second man's mother, and the later, in return, says equally cruel things about the mother of the first man." This is how parents are affected through the folly of their children.

Thirdly, it is to be noted that the Holy Qur'an accords the mother a greater right to obedience because she suffers more than the father for the sake of the children, and she also shoulders greater responsibility for their up-bringing and training as shown in S.XXXI:14.

In the verse of the Holy Qur'an there is first a general command to protect the rights of both the parents, and then particular attention is drawn to the rights of the mother; for she has borne greater suffering for the sake of the children. Hence her rights have priority over the rights of the others.

It is narrated by Abu Huraira that a person came and enquired of the Prophet: "To whom should I pay respect most and be affectionate?" The Prophet said: "To your mother." He again asked, "To whom?" The reply again was: "To your mother." Again for the third time when he asked the same question, the reply was: "To your mother." After this when he asked, "To whom next?" The Prophet replied: "Next (to mother) your father", (Bukhari). From this it is clear that in the Holy Qur'an, and in the Traditions mother occupies a very high position.

However, it must be underlined that this does not mean that a person should obey them if the parents ask a man/woman to do something against the Shariah or if compliance with their wishes constitutes heresy. We obey our parents because it is our moral duty, but if they teach heresy and draw us away from God—the source and fountain of all goodness and morality—then surely we must refuse to obey their orders. Even while disobeying them in such matters, we should serve them well in matters of their personal needs and comfort, as that is our bounded duty. Says the Holy Qur'an:

But if they strive to make thee join in worship with Me things of which thou hast no knowledge, obey them not; yet bear them company in this life with justice (and consideration), and follow the way of those who turn to Me (in love) : in the End the return of you all is to Me, and I will tell you the truth (and meaning) of all that ye did.

(S. XXXI : 15)

This shows the emphasis laid by the Holy Qur'an and the Traditions on one's service to parents. Even if they hold heretical beliefs, we are ordained to help them.

The Holy Qur'an by using the words 'the way of him who turns to Me' has shown that by serving our parents we come nearer to God. The Traditions too exhort us to help and serve the parents, particularly the mother. Our Prophet had placed *Jihad* (i.e., Holy war) *only next in priority* to timely prayer and service to parents. The *same* subject is dealt with in another Tradition. Ma'viah bin Fatima states that his father approached the Prophet and said : "Oh Prophet ! I wish to join the army which is engaged in Jihad and I have come to seek your advice in the matter." The Prophet asked : "Is your mother alive?" "Yes", replied Ma'viah bin Fatima. The Prophet then said : "*Serve your mother, for Heaven lies under her feet.*" By that the Prophet meant : "You want to take part in Jihad so that you might find favour in God's eyes, and thus get a place in Heaven. But then, go and get all that without fighting in Jihad; *serve your mother well and earn her approbation, for Heaven lies at her feet.*" This duty is obligatory on man whether his parents are Muslims or non-Muslims. (Bukhari)

It has been pointed out that if a man/woman's parents happen to be non-Muslim, he/she is not thereby absolved from the duty of loving and serving them. If the parents are unbelievers, respect and service to them is no less obligatory than it would be if they were Muslims. It is narrated by Hazrat Asmah (one of the wives of our Prophet) that her mother once came to her before embracing Islam. She thereupon sought the

Prophet's advice, whether she could maintain good relations with her. The Prophet replied : "yes, maintain good relations with mother and do good to her."⁴

RELATIONSHIP BETWEEN MAN-WOMAN AND HUSBAND-WIFE

Let us now proceed to discuss the two important aspects of the relationship between the two sexes--male and female and husband and wife.

In Islam the equal status of both the sexes-male and female-has not only been recognized but insisted upon. If sex distinction which is due to biological reasons does not affect the spiritual status of the two sexes, still less would it affect the status in worldly affairs. This idea has been underlined in the following verses of the Holy Qur'an :

Whoever works righteousness, man or woman, and has Faith, verily, to him will We give a new Life, a life that is good and pure, and We will bestow on such their reward according to the best of their actions.

(S. XVI : 97)

"Never will I suffer to be lost the work of any of you, be he male or female : ye are members, one of another :

(S. III : 195)

For Muslim men and women, - for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in God's praise, - for them has God prepared foregiveness and great reward.

(S. XXXIII : 35)

"He that works evil will not be equited but by the like thereof : and he that works a righteous deed - whether man or woman - and is a Believer - such will enter the Garden (of Bliss) : therein will they have abundance without measure.

(S.XL : 40)

Book : Women in Islam : Spirit & Progress.

•Zeenat Shaukat Ali has said that the "notion that woman was derived from the rib of Adam is alien to Islam."⁵

A careful study of both the Holy Bible and the Holy Qur'an verifies her statement. The Holy Bible says about the birth of Eve :

That after Adam was created no suitable helper was found for him. So the Lord God, caused the man to fall into a deep sleep; and while he was sleeping He took one of the Man's ribs and made a woman from the rib that He had taken out of the Man. And He brought her to the Man."

The man Said.

"This is now bone of my bones and flesh of flesh; she shall be called 'woman' for she was taken out of man."⁶

The man and his wife were both naked, and they felt no shame; probably because, they were not aware of the sexual relationship.

Subsequently, according to the Holy Bible, Eve persuaded Adam to eat the forbidden fruit which led both Adam and Eve to realize their nakedness and fall for both of them from Heaven. The Holy Bible says -

"When the woman saw that the fruit of the tree was good for food, and pleasing to the eye, and also desirable for gaining wisdom, she took some and ate it.

She also gave some to her husband, (Adam), who was with her, and he ate it. Then the eyes of both of them were opened, and they realized that they were naked; so they sewed fig leaves together and made covering for themselves."⁷

Then the Holy Bible goes on to add, that God said to Adam;

"Have you eaten from the tree from which I commanded you not to eat?"

The man said,

"The woman You put here with me - she gave me some fruit from the tree, and I ate it."

Thereupon the God ordered both Adam and Eve to leave the Heaven and go to the world to face the consequences; that of leading a difficult life. The Holy Bible narrates this whole story of the fall of man in the following language :

To the woman He said,

"I will greatly increase your pains in child-bearing; with pain you will give birth to children.

Your desire will be for your husband, and he will rule over you."

To Adam He Said,

"Because you listened to your wife and ate from the tree about which I commanded you, 'You must not eat of it.'

"Cursed is the ground because of you; through painful toil you will eat of it all the days of your life. It will produce thorns and thistles for you, and you will eat the plants of the field. By the sweat of your brow you will eat your

food until you return to the ground, since from it you were taken; for dust you are and to dust you will return."⁶

This clearly indicates that according to the Biblical story of Genesis the wife has been commanded by God to be the subserviant of the husband and the husband would always rule over her. Her desire would be nothing but whatever the husband desires her to do.

• In the Holy Qur'an, on the other hand, Surah IV entitled 'Nisa' or 'the Woman' gives the details of the creation of all the human beings in the following manner :

O mankind ! reverence your Guardian-Lord, Who created you from a single Person, created of like nature, his mate, and from them twain scattered (like seeds) countless men and women;

(S. IV : 1)

In the Holy Qur'an both Adam and Eve have been treated equally responsible for the guilt on account of which both of them were asked by God to leave the Heaven. Says the Holy Qur'an :

We said : "O Adam ! dwell thou and thy wife in the Garden; and eat of the bountiful things therein as (where and when) ye will; but approach not this tree, or ye run into harm and transgression." Then did Satan make them slip from the (Garden), and get them out of the state (of felicity) in which they had been. We said : "Get ye down, all (ye people), with enmity between yourselves. On earth will be your dwelling place and your means of livelihood - for a time."

(S. II : 35-36)

The second important issue raised by Zeenat Shukat Ali is about the revelation. She says : "Revelation which is God's

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greatest gift is granted to both men and women."⁹ In support of her contention she has quoted the following verses of the Holy Qur'an :

Behold ! the angles said : "O Mary ! God hath chosen thee and purified thee - chosen thee above the women of all nations.

(S.III : 42)

And further,

So we sent this inspiration to the mother of Moses : suckle (thy child), but when thou hast fears about him, cast him into the river, but fear not nor grieve : for we shall restore him to thee, and We shall make him one of our apostles."

(S. XXVIII : 7)

The Providential plan as indicated in this revelation to the mother of Moses was that the wife of Pharaoh was to pick up the child from the river and bring him up.

• The revelations sent to mothers of Moses and Jesus Christ, show that in Islam women have been treated with great reverence.

In Surah IV, verse one, we have noted the way in which Adam and Eve were created by God and from whom countless men and women were born. The same verse goes on to say :

Reverence God, through Whom ye demand your mutual (rights), and (reverence) the wombs (that bore you) : for God ever watches over you.

(S.IV : 1)

This clearly indicates that Muslims have been asked to hold women in the highest respect. They have been asked to revere

God Who produced them, the mothers who gave birth to them and the wives through whom they are expected to continue their linear succession. Perhaps, *there could not have been an order in which men are expected to keep women in greater respect than the little phrase asking them 'to revere the womb.'*

Before drawing any meaningful conclusion regarding marriage in Islam and the status of wives it is essential for us to understand that Muslims are governed according to Muslim Shariah, the chief sources of which are the Holy Qur'an the Traditions, *Ijmah* and *Qiyas*. The Holy Qur'an is treated by Muslim as the word of God Himself; and the Traditions are the sayings and doings of the Prophet. These were collected and written by scholars who were very capable and diligent in their work and wrote whatever they did on the basis of the utmost sincerity and honesty. The Holy Qur'an and the Traditions were the main sources of Islamic Shariah in early years of Islam. With the passage of time certain new problems arose which could not have been decided by the verdicts of the Holy Qur'an and the Traditions. Such problems were decided on the basis of the established principles of *Ijmah* i.e., by consensus of opinion among the jurists who were considered to have a complete understanding of the Holy Qur'an and the Traditions. And when the question could not be solved by the Holy Qur'an, Tradition and *Ijmah* then the jurists used their own judgement and discretion to make certain deductions on the basis of reason, analogy and logic. This was known as *Qiyas*. However, it is necessary to point out that the ideas based on *Ijmah* and *Qiyas* could not be in contradiction to the basic tenets of the Holy Qur'an and the Traditions.

PURPOSE OF MARRIAGE AND FAMILY

• Marriage for the individual ensures sexual and psychological satisfaction of having children. Collectively marriage ensures a two-fold survival, viz., that of the group and of its culture.¹⁰

Marriage authorises persons of opposite sex legally and socially to engage in sexual relationship. It has been very aptly pointed out that the "family and marriage originate from the complementary biological and social drives of man, and without family there could be no preservation of the species and culture; without sexual relationships there could be no family. All religions of the world, in one way or another, advocate marriage. Islam is no exception. In the normal course of activity, a Muslim is expected to establish a family procreation. The Holy Qur'an clearly indicates that marriage is a religious duty and a moral safeguard as well as a social necessity. It must however be fulfilled only by those who are capable of meeting responsibilities involved in marriage."¹¹

Says the Holy Qur'an :

Marry those among you who are single, or the virtuous ones among your slaves, male or female: if they are in poverty, God will give them means out of His grace: for God encompasseth all, and He knoweth all things. Let those who find not the wherewithal for marriage keep themselves chaste, until God gives them means out of His grace. And if any of your slaves ask for a deed in writing (to enable them to earn their freedom for a certain sum), give them such a deed if ye know any good in them; ye give them something yourselves out of the means which God has given to you. But force not your maids to prostitution when they desire chastity, in order that ye may make a gain in the goods of this life.

(S. XXIV : 32-33)

We have already noted in the Introduction that Muslims have been enjoined not to consider sex as a shameful thing nor has celibacy been considered to be a virtue. In fact it is suggested to be a sign of sin to abstain from rightful sex with the wife.

The Believers have been asked to treat wives as tilth. Just as a good husband-man tries to take the best care of the tilth, the husbands have also been asked to take care of their wives and have sex with them. In the purity of sex with them, apart from the physical relationship, there is the spiritual aspect as well. We must never forget the fact and that we are answerable to God. The Holy Qur'an says :

Your wives are as a tilth unto you; so approach your tilth when or how ye will; but do some good act for your souls beforehand; and fear God, and know that ye are to meet Him (in the Hereafter),.....

(S. II : 223)

This shows that sex is as much a solemn fact as any other in life; and even in these matters there is a spiritual aspect.

Since sex bears to the highest spiritual harmony in life, it is feared that the differences in the faiths of husband and wife might lead to more than imaginable differences in the fulfilment of the objectives of marriage. That is the reason why God has forbidden marriage between the Believers and the Unbelievers. The Holy Qur'an is very specific on this point. To quote from the Holy Scripture :

Do not marry unbelieving women (idolators), until they believe : a slave woman who believes is better than an unbelieving woman, even though she allure you. Nor marry (your girls) to unbelievers until they believe : a man slave who believes is better than an unbeliever, even though he allure you.

(S. II : 221)

It must be pointed out that this order should not be mistaken to be an order against what we call a secular society. A secular person is not expected to forget the basic tenets of his religion. Every individual living in a secular society is free to have his own faith provided that he has respect for members of other

communities belonging to other faiths. In matters of marriage, it is an altogether different thing. It has been very aptly pointed out: "Marriage is a most intimate communion, and the mystery of sex finds its highest fulfilment when intimate spiritual harmony is combined with the physical truth. If religion is at all the real influence in life to both parties or to either party, a difference in this vital matter must affect the lives of both more profoundly than the differences of birth, race, language or position in life. It is, therefore, only right that the parties to be married should have the same spiritual outlook."¹² If the husband, wife or both do not have faith in their religions it is an altogether different matter for them. But it is not the essence of a secular society like ours that people should not believe in their respective religions. What is required is that they should have respect for each other's religions.

We have noted that God had enjoined upon the Believers to have respect for women; and He has insisted again and again on equality between the two sexes. The Holy Qur'an says in regard to the position of husband and wife :

And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree (of advantage) over them. And God is Exalted in Power, Wise.

(S.II : 228)

In his address to the Fine Sex, Sheikh Rashid Fida comments on this verse, saying : "This graceful verse combines in its conciseness that which needs a large volume to be clarified.

It offers a general principle which says that women are equal to men in all rights. It provides the husband with a sort of scale to balance his treatment of his wife in all cases and situations, so that before he asks her to do something, he remembers he has to do the same himself in return for her. It is not fair to have one treat the other arbitrarily. Married life can function well only through mutual respect, as well as the respect of the partner's right."¹³

The reason why husbands have been suggested to have a 'degree of advantage' over the wives has been subsequently explained as follows :

Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what God would have them guard.

(S.IV : 34)

The exact Arabic word *Qawwam* in the above mentioned verse of the Holy Qur'an, according to Abdullah Yusuf Ali, stands for one who is firm in another's business protects his/her interest, and looks after his/her affairs : or it may indicate standing firm in his own business, managing affairs with a firm hold on them. So far as the sentence 'righteous women are devoutly obedient and guard in absence what God would have guarded them' is concerned it may also be rendered as "and protect (the husband's interest) in his absence as God has protected them." If we take the rendering as given in the text, the meaning is, the good wife is obedient and harmonious in her husband's presence and in his absence guards his reputation and property as her own virtue, as ordained by God. If we take the second rendering as given in this paragraph we reach the same results in a different way: The good wife in her husband's absence, remembering how God has given her a sheltered position; does every thing to justify that position by guarding her own virtue and his reputation and property.¹⁴

This shows that the husband has an obligation to maintain his wife and the family; and the wife on her part has got an obligation to guard her own virtue and the husband's reputation and property.

When women are living within the code of conduct as laid down by Islam, no one has the right to lay a charge of infidelity

against them. If any one does make a charge then God has laid down strict punishment. For laying down such a charge he will have to present four eye-witnesses to prove what he says (as against two in other cases); and if he is not able to prove the allegation then the punishment laid down in the holy Qur'an is as follows :

•And those who launch a charge against chaste women, and produce not four witnesses (to support their allegations), - flog them eighty stripes; and reject their evidence ever after: for such men are wicked transgressors;

(S.XXIV:4)

It is obvious that in a secular country like India the punishment of 'flogging the men with eighty stripes,' will not be given because we will have to follow a different legal procedure. But good Muslims understand and act on the underlined principles which protect the honour of womenhood. •Abdullah Yusuf Ali has added that according to Imam Abu Hanifa "Neither the stripes nor the incompetence for giving future evidence is cancelled by repentance, but only the spiritual stigma of being 'wicked transgressors'. This, of course is the most serious punishment though it cannot be enforced in the courts."¹⁵

Sometimes the chaste women are 'indiscreet' because they think that no charge can be levelled against them. In the case of laying charge against such women God has said that the person who does it will have a grievous penalty for such a charge or such an action in this world and the Hereafter. Says the Holy Qur'an :

Those who slander chaste women, indiscreet but believing, are cursed in this life and in the Hereafter: for them is a grievous Penalty, - on the Day when their tongues, their hands, and their feet will bear witness against them as to their actions.

On that Day God will pay them back (all) their just dues, and they will realize that God is the (very) Truth, that makes all things manifest.

(S.XXIV : 23, 24 & 25)

Therefore it should be clearly understood that laying charge against chaste women will not only mean degradation of such men in this world but very serious and grievous penalty on the Day of Judgement.

According to a Tradition the Prophet has said that a husband is not only a maintainer and protector of his wife, but will also be responsible for the actions of his wife and children and will be accountable for them on the Day of Judgement.¹⁶

The distinction between the two sexes is based on the fact that men are supposed to do harder work as compared to women.¹⁷

MAINTENANCE

The husband has to spend money for the maintenance of his wife and family. However it must be noted that the Holy Qur'an has not laid down any specific amount for the purpose; nor has our Prophet said anything about it, Says the Holy Qur'an :

Let the man of means spend according to his means; and man whose resources are restricted, let him spend according to what God hath given him. God putteth no burden on any person beyond what he hath given. After difficulty, God will soon grant relief.

(S.LXV : 7)

• Syed Abul Ala Maududi gives the opinion that those who are greatly influenced by the Western culture easily accept the verdict of the Holy Qur'an when it says that "The women shall have rights similar to the rights against them according to what is equitable"; but they feel greatly disturbed with the other part

of the verse that "man have a degree (of advantage) over them". And he adds that when it comes to the explanation of the reason of the degree of advantage over women, the Holy Qur'an explains that "Men are protectors and maintainers of women," then they try to find some excuse or the other to reinterpret this verse in such a way that it might lose all of its significance. This is because the influence of Western culture on them has made them feel that wives and husbands are equal in all respects. This has made them feel that under no circumstances, should the husbands be considered "maintainers and protectors of their wives." Similarly, under no circumstances should it be laid down that the "righteous women" are "devoutly obedient" to their husbands.¹⁸

According to Syed Abul Ala Maududi husbands have been considered the protectors and maintainers of their wives for certain specific reasons. In the first instance, in any social structure there must be some one who should be able to organize it and should have the managerial capability to run it smoothly. In the family structure it is the husbands who have been assigned this duty. They have been assigned this responsibility for the following reasons :

First, it has been enjoined upon the husbands to give dowers to their wives immediately after the consummation. This is a free gift which they have to give under all circumstances, Says the Holy Qur'an :

Thus hath God ordained (prohibitions) against you : except for these, all others are lawful, provided ye seek (them in marriage) with gifts from your property, - desiring chastity, not lust. Seeing that ye derive benefit from them, give them their dowers (at least) as prescribed; but if, after a dower is prescribed, ye agree mutually (to vary it), there is no blame on you, and God is All-knowing All-wise.

(S.IV : 24)

Secondly, it is the responsibility of the husbands to give their wives and family their maintenance. We have already discussed it earlier.

The third reason is that it is the responsibility of husbands that they should deal with their wives with affection and respect. God has said that if any one of you does not like your wife, even then you must be kind to her and deal with her with equity, because it is as well possible that you dislike her and God might bring a lot of good to you through her. Says the Holy Qur'an :

On the contrary live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing, and God brings about through it a great deal of good.

(SIV : 19)

It has been further ordained that the believers are forbidden to inherit women against their will. It was the custom in the days of ignorance that a step-son or brother used to take possession of a dead man's widow or widows even if they did not like it. The Holy Qur'an has forbidden it in the following verse :

O ye who believe : Ye are forbidden to inherit women against their will. Nor should ye treat them with harshness, that ye (may take away part of dower ye have given them - except where they have been guilty of open lewdness;

(SIV : 19)

On the part of the wives, their obligation is to be obedient to husbands and to safeguard their husband's interest and property; and if there are any matters of confidence they should not be leaked out.

Syed Abul Ala Maududi has further said that the verdict of the Holy Qur'an has been explained by the following Traditions of our Holy Prophet :

(a) Women have been asked not to entertain those men whom their righteous husbands do not like.

(b) The best women among you are the ones' that when you see them you are delighted and if you ask them to do something which is in consonance with Islamic Shariah then they obey you; and

(c) In the presence of her husband the wife should not keep fast except during the month of Ramadhan without the permission of the husband.¹⁹

It must be added that the wives have been asked to be obedient to their husbands only if they do not ask them to do anything which is not permissible in the Islamic Shariah. For instance, if husband asked his wife not to offer prayer or keep fast or to drink wine she should disobey him.²⁰

It must be underlined that in the rights and duties of the husbands and the wives it is absolutely essential that every one should exercise the rights and duties with moderation and should not under any circumstances exceed the limit. The Holy Qur'an says :

And any who transgresses the limits of God does varily wrong his (own soul).

(S.LXV: 1)

Two Sociologists, Farhat Yasmeeen and Shadbano Ahmad have very aptly described husband's and wife's obligations to each other in the following manner : "The reciprocal nature of the family in Islam is well established. Both the husband and wife have a duty towards each other. The husband is required to ensure companionship to the satisfaction of his wife. Some of the jurists even conclude that a husband has no right to force his wife to do the house-work. (Levy, 1957). She has no legal obligation for such work as it is not required by the legal contract. Housework is only recommended for the happiness

of the family and for the perpetuation of family. (Levy, 1975, pp. 90-99). The legitimate sexual access is considered to be one of the important aims of marriage. All sexual intercourse outside the marital relationship are prohibited. There is a taboo against fornication. Therefore, it is a wife's obligation to be sexually responsible and cooperative. Husband and wife are not permitted to indulge in activities which would impede their sexual gratification."²¹

It must be underlined that whatever right the husband has been given over his wife is contingent upon the fulfilment of his obligation to pay for the maintenance of the wife and the family and also the payment of the dower. There is no reciprocity, however, on the part of the husband to demand for maintenance from his wife. If a man does not have sufficient wherewithal to support his wife and family it is none of the responsibility of the wife to support her husband even though she might have the wherewithal to do so. In case, however, the wife does bear the expenses of her husband it would be her generosity and based on her love and affection for her spouse and continuation of the family; otherwise she is not obliged to do it.

However, there are examples during the life time of the Prophet when women used to do 'out-door work', with men to earn a common living. One such lady was Asmah bint Abu Bakr. She married a man by the name Al-Zubair who had no landed property, nor servant, nor any thing else except a camel for irrigation and a horse. Asmah bint Abu Bakr said: "I would give fodder to his horse, draw the water, patch his water skin, knead the flour. I was not good at baking and preparing bread; but I had some sincere Ansar ladies as neighbours who used to help me with the baking. I used to bring, on my head, fruit kernels from the land which the Prophet had given to Al-Zubair. That land was at a distance of three *farsakhs*. One day I was on my way home with a load on my head when I met the Prophet with a number of Ansars. The Prophet asked me to ride behind him on the camel, but I felt shy of joining the company of men. The Prophet realized that I was feeling shy and, therefore,

continued his journey without me. Later I came to Al-Zubair and told him how I met the Prophet with a company of Ansars, and how I declined his offer when he bade the camel to kneel so that I might ride behind him. I told Al-Zubair : 'I felt shy and remembered your concern about your self-respect and honour.' On hearing that account Al-Zubair said : 'By God, your carrying fruit kernels is far more distressing for me than riding the camel with the Prophet.' 'Later Abu Bakr sent me a servant to save me the trouble of looking after the horse and I felt as if I had been relieved of the bondage of slavery.' (Bukhari)²²

The Holy Qur'an has laid great emphasis on the special mutual relationship of husband and wife and describes them as each other's garments. That is to say they are meant to comfort, protect and support each other. Says the Holy Qur'an :

Permitted to you, on the night of the fasts, is the approach to your wives. They are your garments and ye are their garments. God knoweth what ye used to do secretly among yourselves.

(S. II : 187)

Farhat Yasmeeen and Shadbano Ahmad have aptly pointed out that, "Love and compassion are important and husband is supposed to earn for the family whereas the wife plays the key role in the management of the house and in bringing up the children."²³

It should be underlined that it is the right of a wife that she should be provided with lodging, clothing and general care. The residence provided to the wife must be such as to provide her with privacy, comfort and independence. The pattern of residence is not prescribed either by the Holy Qur'an or by the Tradition: This flexibility, it can be noted, enables the married couple to live with the bridegroom's family or they are free to reside anywhere they wish. This should also be pointed out that even though the husband has been assigned the responsibility for the provision of lodging for his wife yet he is not allowed to

impose upon her any disagreeable arrangement of residence. In case the wife is sharing the residence with other family members of the husband, she should not be subjected to any discomfort.

It should be clearly understood that the provision of the lodging to the wife does not lay down any condition on the husband that the lodging should be commensurate with the comforts to which his wife was used before marriage. Even if the wife has wealth of her own, her husband has no right to her wealth and should independently consider himself responsible for her economic support. If the wife possessed any private property before her marriage, in her new status as wife she does not lose her former right to own it. This is illustrated by the fact that Hazrat Khadijat-ul-Kubra (our Prophet's first wife and the first Muslim in the world) was a wealthy widow and before her marriage to our Prophet provided financial assistance to him in exchange for our Prophet managing her property. Yet after her marriage to the Prophet she was allowed to maintain her wealth and property in her own name.²⁴

DOWER

On marriage Islam asks man to give a dower to his wife. The Holy Qur'an says :

And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, take it and enjoy it with right good cheer.

(S.IV : 4)

The verse stipulates that husband must give dower to his wife as a free gift; and it must be underlined that it is only the wife who can own it, not her father or any of her relatives. This is what a woman possesses and uses as her own property. The prodigal husband has absolutely no authority over it and cannot squander it away in any way. It also stipulates that in no

way should the husband try to influence his wife to give part or whole of it to her husband.

•The Holy Qur'an does not specify the amount of the dower that should be given by a husband to his wife. It will depend on the financial ability of the husband. A.A.A. Fyzee has said that the amount of dower may or may not be fixed at the time of marriage. If it is not specified at that time the law declares that it must be adjusted on definite principles on some later occasion.²⁵ He also goes on to say that the different schools of jurisprudence have suggested different amounts of dower. According to Hanafi Law the minimum amount of dower is ten dirahams and according to Maliki Law it is three dirahams; but in Shafaii and Shia Laws there is no minimum amount fixed by the law.²⁶ This minimum amount fixed by law can hardly be judged, observes Fyzee, as an adequate amount for the wife. This is correct, in the context of the present times of extraordinary inflation.

However, it is on record that the Prophet, in the case of extremely poor man during his times asked him to teach whatever verses of the Holy Qur'an he had earlier learnt to his wife as the dower.²⁷

It must be pointed out that the general practice in our country on the part of the family members of a girl who is going to get married is, to ask the would-be husband to specify a very high amount of money as a dower. It must be deprecated because Islamic Shariah again and again emphasizes that the dower has got to be paid. Therefore dower must be fixed on the financial capacity of the would-be husband. A Tradition has laid down, "whosoever married a woman by promising to give her a particular amount and does not pay it will be considered as an adulterer just as whosoever took a loan with the intention of not returning it is considered as a thief."²⁸

The Tradition also establishes that Muslims who do not pay the dower to their wives are considered great sinners. It is a

loan on which the first charge is that of the wife. If someone dies without paying it, he will be accountable on the Day of Judgement. Again it is on record that the Prophet refused to lead the prayer for the salvation of a Muslim who died without paying the dower.²⁹

God likes that the husband and wife must live in peace and tranquillity as life-time companions of each other. Their harmonious relationship that leads to the birth of offsprings is the wonderful mystery of the sex which again is a sign of God. The Holy Qur'an says :

And among His signs is this, that He created for your mates from among yourselves, that ye may dwell in tranquillity with them and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect.

(S. XXX:21)

If for some reason or the other, the relationship between wife and the husband becomes strained and they cannot live with each other peacefully then it has been suggested that efforts should be made for reconciliation between the two. The Holy Qur'an suggests the following method :

- If ye fear a breach between them twain, appoint (two) arbiters, one from his family, and the other from hers; if they wish for peace, God will cause their reconciliation: for God hath full knowledge, and is acquainted with all things.

(S. IV : 35)

This is, as one can see, an excellent method of arbitration in which the two arbitrators are appointed, one from the family of each. But even if this approach of reconciliation fails then the various methods have been suggested and different steps have been pointed out for separation of the two.

It must be noted that Islam does not make a fetish of the marriage in the sense that God has not asked the husband and the wife to be wedlocked irrespective of the fact whether they can live together or not. He does not say that they should continue to be wedlocked even if they remain in continuous conflict with each other. But Islam has taken enough precautions that all steps should be taken to find out whether the quarrel or the pain of separation between the parties is real or only spurious. This is because of all the things that are permissible in regard to marriage, divorce is the most hateful in the sight of God. •The Prophet has said that "of all things permitted by law, divorce is most hateful in the sight of God." (Abu Dawood, *Sunnan*, xiii, 3)

In the husband-wife relationship it is necessary to point out that in matters of mutual consultation and decisions it is not necessary that outsiders, however, closely they might be related to the husband or the wife, might interfere.

This is amply proved by the fact that once the Umhatul Mominin demanded some amenities of life from the Prophet which the Prophet did not consider in conformity with the simple way of life he liked. Hence, he felt displeased and decided not to talk to them for about a month. When Hazrat Abu Bakr Siddiq and Hazrat Umar Farooq came to know of it they felt greatly distressed. They told their daughters Hazrat Ayisha and Hazrat Hafsa respectively that their demands were not fair. Similarly, they tried to explain their views to the rest of the Umhatul Moinin. When they talked to Hazrat Umme Salmah she said to them : "Gentlemen ! What is your business here ? The Prophet is well aware of our position. If he wants he may prevent us. Then we shall not claim any thing. To whom should we approach regarding our demands excepting him ? Does any body interfere in the affairs between you and your wives ? You may leave, we have not invited you." (Tabaqat Ibn Sa'd, Vol. 8).

There are many steps even in giving divorce which the present author does not intend to discuss here because he

believes that a careful examination of the whole subject of 'Talaq' and 'Khula' is needed by some specialist in Islamic Jurisprudence.*

RELATIONSHIP BETWEEN HUSBAND AND WIFE

ECONOMIC ASPECT

God has distributed his bounties amongst men and women according to His own wisdom and scheme. It is possible that a wife gets more than the husband; but the husband thereupon should not feel jealous of it. It is only God Who is to decide who should get more than other. Therefore everyone of us who gets less has been asked to pray to God and place before Him our needs. The Holy Qur'an says :

And in no wise covet these things in which God hath bestowed His gifts more freely on some of you than on others : to men is allotted what they earn, and to women what they earn : but ask God of His bounty. For God hath full knowledge of all things.

(S.IV : 32)

A woman according to Muslim Shariah gets her share from her father's property and the dower from her husband in addition to what she earns or owns in the form of movable or immovable property. Her getting married to a Muslim does not give the later any right whatsoever over her goods or property. Her earnings acquired by her own exertion cannot be squandered away by her prodigal husband. She acts, *sui juris* in all matters that relate to herself in her own individual rights without any intervention by her father or husband.

However, cooperation and mutual consultation for the man-

* If one wishes to know his views in brief one can look up his book entitled 'Islam : Social and Economic Structure'; published by Ashish Publishing House, 8/81, Punjabi Bagh, New Delhi, 110 026, 1989.

agement of family affairs between husbands and wives has been emphasized so much in Islam that they can consult each other relating to family affairs not only when they are wedlocked but even after their separation. Says the Holy Qur'an :

The mothers shall give suck to their offspring for two whole years, if the father desires to complete the term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be treated unfairly on account of her child. Nor father on account of his child, an heir shall be chargeable in the same way. If they both decide on weaning, by mutual consent, and after due consultation, there is no blame on them. If ye decide on a foster-mother for your offspring, there is no blame on you, provided ye pay (the mother) what ye offered, on equitable terms. But fear God and know that god sees well what ye do.

(S.II. : 233)

EVIDENCE BY WOMEN

At this place it is also necessary to mention and discuss as to why in all other cases (excepting the charge against chaste women) a proof by two witnesses is necessary; and in some cases it has been ordained in the Holy Qur'an that if two men are not available then there should be one believing man and two believing women. It is necessary to understand this phenomenon because many of us do not understand as to why is it that in some cases the evidence of two women is considered as equivalent to one man. The order of the Holy Qur'an where the evidence of two woman has been equated to one man is as follows :

O ye who believe ! when ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing let a scribe write down

faithfully as between the parties : let not the scribe refuse to write: as God has taught him, so let him write. Let him who incurs the liability dictate, but let him fear his Lord God, and not diminish aught of what he owes. If the party liable is mentally deficient, or weak, or unable himself to dictate, let his guardian dictate faithfully. And get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as ye choose, for witnesses, so that if one of them errs, the other can remind her. The witnesses should not refuse when they are called on (for evidence). Disdain not to reduce to writing (your contract) for a future period, whether it be small or big : it is juster in the sight of God, more suitable as evidence, and more convenient to prevent doubts among yourselves but if it be a transaction which ye carry out on the spot among yourselves, there is no blame on you ye reduce it not to writing. But take witnesses whenever ye make a commercial contract; and let neither scribe nor witness suffer harm. If ye do (such harm), it would be wickedness in you. So fear God; for it is God that teaches you and God is well acquainted with all things.

(S.II : 282)

This case of witnesses is concerned with commercial transactions and is concerned with civil law. Since all women do not necessarily go out and even those who do go out for their jobs are in most cases also over-burdened with household responsibilities and bringing up their children, it becomes difficult for them exactly to remember what actually happens in commercial transactions. This is why the Holy Qur'an does not impose great responsibility on the women to appear in civil courts as witnesses and has suggested that two of women who were the witnesses can go together to civil courts and if one of them forgets the other might recall what had actually happened.

It may be added that in this verse commercial morality is on

the highest plane and it has been considered desirable that the men or women who are chosen as witnesses should be from the circle to which the parties belong as they would be able to understand the transaction and would be most easily available whenever their evidence is required.

In matters relating to the females almost all the jurists agree that the evidence only of women is enough and no evidence by male is necessary. For instance, Imam Shafaii says : "I have not come across any scholar who has opposed the evidence only of women in matters of birth and physical defect of men and women."

Similarly, Imam Zahri states : "It is in accordance with the Sunnah that all matters relating to women are known to them only and the evidence of only women is legal." Hazrat Abdullah bin Umar has also supported this view.

● Hazrat Umar Farooq did not consider the evidence of women right in the case of marriage (*Nikah*), divorce (*Hudud*) (capital punishment prescribed by God) and murder. But it is related that four women gave evidence before him that such and such a man had divorced his wife in a state of intoxication. Hazrat Umar separated the wife from her husband.

A case was brought to justice in which household goods were involved. The husband and wife were parties to it. The husband claimed that the goods belonged to him. But four women gave their evidence in favour of the wife and maintained that the goods belonged to the wife. Justice Shuraih accepted the evidence of the women and gave his judgement in favour of the wife.³⁰

INHERITANCE

● The system of Islam classifies the inheritors into two classes: that of the children, parents, husbands and wives; and that of the brothers and sisters. All those included in the first class are the direct heirs, and those in the second class can have a share of the inheritance only in the absence of the members (or most

of the members) of the first class. The two classes may branch into a third one, so that the grand-children and their descendants may benefit from the inheritance in the absence of the direct children of the deceased; and the grandparents may inherit when the parents are already dead; and the uncles, nephews and nieces may inherit in the absence of the direct brothers and sisters. In this way, Islam sees to it that the inheritance is distributed properly when a Moslem passes away.

• Dr. Gustav Lobon, in his book *Arab Civilization* comments on this by saying, "The principles of inheritance that *The Koran* establishes have a considerable amount of justice, and the Islamic Shariah offers the wives special rights of inheritance which we do not have in our laws;"³¹

Islam specifies a certain percentage of the inheritance that should go to the widow: a quarter of her husbands' property in the presence of children.

The following Quranic verses specify the principle of inheritance

From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large, —a determinate share. But if at the time of division other relatives, or orphans, or poor, are present, feed them out of the (property), and speak to them words of kindness and justice.

(S.IV : 7-8)

The phrase 'from what is left by parents and those nearest related' is meant those people to whom the inheritance is to be divided. The shares are specified in the verses to come. In the above-mentioned two verse the general principles are laid down that the females as well as the males will inherit; and the relatives have no legal share. Orphans and indigent people

including the real relatives are not to be treated harshly if present at the division. Their feed may be charged to the property as part of the funeral expenses.

Thereafter the Holy Qur'an says :

God (thus) directeth you as regards your children's (inheritance): to the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children; if no children and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters) the mother has a sixth. (The distribution in all cases is) after the payment of legacies and debts. Ye know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by God; and God is All-knowing, All-wise.

(S.IV: 11)

It must be noted that the principles of inheritance are laid down in broad outline in the Holy Qur'an. The precise details have been worked out on the basis of the practice of the Prophet and his companions and by interpretation and analogy. Muslim jurists have collected a vast amount of literature on this subject; and the juristic principles have been laid down in detail which can be studied and explained in voluminous books. In the present book, however, we shall deal only with the broad principles as gathered from the text of our Holy Scripture as interpreted by the jurists.

In the first instance it is to be noted that the power of testamentary disposition is limited to the extent of one-third of the property; and the remaining two-thirds are to be distributed as laid down. Secondly, all distribution takes place after the legacy and debts have been paid. Thirdly, legacies cannot be

left to any of the heirs included in the scheme of distribution, because it will amount to upsetting the shares and undue preference of one over another. And lastly, generally even though not invariably, the male takes a share double that of a female in his own category.

Surah IV:11 quoted above deals with the portions allotted to children and the parents. The children's shares are fixed, but their amount will depend upon what goes to the parents. If both parents are living, and there are also children, both father and mother take a sixth each : if only one parent is living he or she takes sixth; and the rest goes to the children. If the parents are living and there is no child or other heir, the mother gets a third. And the father will get the remaining two-thirds. Obviously this is only an outline and does not give an exhaustive statement but it establishes the proportion that children and parents have always some shares if they survive, but their shares are affected by the existence and the number of heirs in these categories.

Further it has been ordained:

In what your wives leave, your share is a half, if they have no child; but if they have a child, ye get a fourth, after payment of legacies and debts. In what ye leave, their share is a fourth, if ye have no child; but if ye have a child, they get an eighth, after payment of legacies and debts. If the man or woman whose inheritance is in question, hath left neither ascendants nor descendants, but hath left a brother or a sister, each one of the two getteth of legacies and debts, so that no loss is caused (to any one). Thus is it ordained by God; and God is all-knowing, Most Forebearing.

(S.IV : 12)

This verse deals (Surah IV : 12) with the portions allotted to husband and wife. The husband takes a half of his deceased wife's property if she leaves no child, the rest goes to the residuaries: if she leaves a child the husband gets only a fourth.

Following the rule that the female share is generally half the male share, the widow gets a fourth of her deceased husband's property, if he leaves no children, an eighth, if he leaves children. If there are more widows than one, their collective share is a fourth or an eighth as the case may be; inter se they divide equally.

The rest of the verse deals with the shares of the collatorals. The shares of the collatorals generally are calculated on a complicated system which cannot be described briefly. The rules about residuaries can be decided on the basis of legal treaties.

In another place, God says :

They ask thee for a legal decision. Say: God directeth (thus) about those who leave descendants or ascendants as heirs. If it is a man that dieth, leaving a sister but no child, she shall have half the inheritance; if (such a deceased was) a woman, who left no child, her brother taketh her inheritance: if there are two sisters, they shall have two-thirds of the inheritance (between them): if there are brothers and sisters, (they share), the male having twice the share of the female. Thus doth God make clear to you (His law), lest ye err. And God hath knowledge of all things.

(S.IV : 176)

This shows that the women have also been given a share in inheritance, even though this share is less than that of the men. This may be justified on the ground that the women are entitled to get the maintenance and the dowers from their husbands so whatever they get as inheritance is in addition to what they get as wives.

Polygamy:

Now we proceed to discuss an important yet difficult problem of 'polygamy.'

In regard to polygamy order in the Holy Qur'an, the immediate occasion was when during the defensive war of Muslims with the Pagans of Arabia at Uhud, many men died leaving behind many widows and orphans.

It is to be noted that the Prophet, kind-hearted as he was, was never in favour of waging war. Because of the great atrocities committed on him and his followers in Mecca by the Pagans, he gave orders for the migration of Muslims, first to Abesynnia, a Christian Kingdom, and then to Yathrib popularly know as Madina (a town of Peace). Even then the Pagans of Mecca in connivance with the Jews at Madina were bent on killing our Prophet and his followers. It was at this time (as Ibn Khuldun asserts, and it was the only satisfactory explanation of what happened afterwards) that the Prophet received from God the first revelation ordering him to wage war until there is no more tumult or oppression, and there prevails justice and faith in God. Says the Holy Qur'an :

And fight them on until there is no more tumult or oppression, and there prevails justice and faith in God altogether and everywhere, but if they cease, verily God doth see all that they do.

(S.VIII : 39)

The *Jehad* (Holy war) left many orphans and the widows, The the following order of polygamy was given:

- If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, ... that will be more suitable to prevent you from doing injustice.

(S.IV : 3)

This shows that the order contained the essential condition of doing justice and equity in all worldly matters. The occasion is past but the general principle of permission of having upto four wives with the conditions of equity and justice with all

continues. Abdullah Yusuf Ali comments in connection with this permission of polygamy as the "The unrestricted number of wives of the 'Times of Ignorance' was now strictly limited to a maximum of four, provided you could treat them with perfect equality in material things as well as in affection and immaterial things. As this condition is most difficult to fulfil, I understand the recommendation to be towards monogamy."³¹

I fear, that even though I have a great respect for the views of Abdullah Yusuf Ali, I cannot agree with his interpretation. This is so for two reasons. First, God will never order something in the Holy Qur'an and then impose the condition of equality in such a way that it cannot be fulfilled; and therefore, if He were to order for monogamy, He would have had ordered it directly. And secondly, God had never imposed the condition of equality in love and affection in between all the wives. This is amply clear in the following verse of the Holy Qur'an :

Ye are never able to be fair and just as between women, even if it is your ardent desire: but turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, and practise self-restraint, God is Oft-Forgiving, Most Merciful.

(S.IV : 129)

This shows that God is aware that in matters of love and affection, you can never have equality among all the wives as permitted in polygamy. So He orders that you can certainly love one more than the other, but do not leave the other 'one (as it were) hanging (in the air).' This gives an order to continue to have conjugal relations with other wife/wives even when you love one of them more than others. Historically, it is a well-known fact that the Prophet himself used to love one of his wives, Ayisha, more than others.

Nor do I agree in toto with the following observations of Marmaduke Pickthall in his Introduction to Surah LXVI on Ai-Tahrim, i.e., 'The Banning', when he says: " For Muslims,

monogamy is the ideal, polygamy is the concession to human nature. Polygamy is of the nature of some men in all countries, and of all men in some countries... Al-Islam did not institute polygamy. It restricted an existing institution by limiting the number of man's legal wives, by giving to every woman a legal personality and legal rights which had to be respected, and making every man legally responsible for this conduct towards every woman. ³²

It may be noted that I said I do not agree in toto in regard to the above statement. I do agree with him when he says for a Muslim monogamy is the ideal. But the rest of the statement, I think, is not quite correct. This is because as far as I have been able to understand with the help of the injunction of the Holy Qur'an, I believe that in Islam there is not a choice between polygamy and monogamy but there certainly is a choice between polygamy and corruption. It has been enjoined upon the Muslims by the tenets of Islam that if any man fears indulgence in corruption, it is better for him to have more than one legal wife, but the condition of equality in the worldly affairs and the limit upto four have been imposed on him.

Now what is equality in worldly affairs is to be decided by Muslim Jurists. If a person, for example, has two or more than two wives, as permitted by God, out of whom one happens to be highly educated, moves about in the society and may be in a good and respectable job while the others are less educated and live as house-wives, would equity mean that it is incumbent upon a Muslim to provide all of them with the same types of clothes and other worldly goods or would it not be equity that the highly educated wife employed in good job should be given better clothes etc.? I myself do not sit on judgement on this issue; but as a professional economist I would suggest that the economists in general do realize that the word 'equity' is very difficult to define.

It is time for me to take an opportunity briefly to touch upon the arguments of those who preach that polygamy should be

abolished in our country as it has already been done in some of the Muslim countries of the world. To them I argue that the Muslim countries have enacted legislation for the majority community i.e. Muslims in their countries; and not even a single example can be given of any country where they enacted law about the religious practices of their minorities. In our country Muslims are a minority community and I strongly feel that unless they demand for such enactment which abolishes polygamy comes from the Muslims themselves it will be unwarranted and unnecessary to make legislations which are not in consonance with their religious practices.

Before I proceed further I believe it is essential to examine the ideas of a scholar of eminence on Islamic Shariah, Syed Ameer Ali on polygamy. He has observed that "in certain stages of social development, polygamy or more properly speaking 'polygany' - the union of one man with several women, - is an unavoidable circumstance."³⁴ In almost all Eastern nations polygamy was a recognized institution. It was found as much in the whole of pre-Islamic period (in Pagan Arabs) as in the case of the Jews, the Syro-Phoenician races, Persia, Athenous, Spartans and Romans.³⁵ The worst type of marriage such as the marriage between the mother and sons were prevalent before the rise of Islam in the whole of the Al-Hijaz. Some of the examples that have come to our notice are the case of Wahab Asadi who when embraced Islam has had as many as ten wives (Abu Dawood). Similarly, Gheelan Shaqfee had also ten wives at the time of conversion to Islam. (Tirmizi). Again there was no restriction in the Pre-Islamic period that a person could divorce his wife and remarry her again at will (Mustadrak).

Allama Abu Bakr Jassas writes, "It was a common practice to marry step mothers during the days of ignorance." (Ahkamul Quran). Again we find through the source of Traditions that whenever an Arab happened to be a guardian of pretty and wealthy girl he would himself marry her and paid no dower. (Bukhari). The marriage by a son to his mother can be proved

from the verse of the Holy Qur'an :

And marry not women whom your fathers married, -
except what is past: an abominable custom indeed.

(S.IV : 22)

Similarly, marriage with close relatives and the people of the household were also common before the rise of Islam. Islam as a religion prohibited such marriages and ordained upon the Believers to marry only woman who were not prohibited. The prohibited category of the women is listed in the following verse of the Holy Qur'an :

Prohibited to you (for marriage) are :- Your mothers, daughters, sisters; father's sisters, mother's sisters; brother's daughters, sister's daughters; foster-mothers (who gave the suck), foster-sister; your wife's mothers; your step daughters under your guardianship, born of your wives to whom you have gone in, - no prohibition if ye have not gone in; - (those who have been) wives of your sons proceeding from your loins; and two sisters in wedlock at one and the same time, except for what is past : for God is Oft-forgiving, Most Merciful.

(S. IV : 23)

The above-mentioned table is, I believe, on the presumption that the person who proposes the marriage is a man. God has ordained the believers not to marry mothers, daughters, sisters and those closely related in blood-relation with mother, daughters, sisters and father. It should be noted that fosterage or milk relationship is also included in the list of the prohibited women. It is because a wetnurse who suckles another women's child, in fact nourishes him from her own body and puts part of herself into the child's set-up. Medically, this lady's milk, which comes by way of her blood, helps in growing the child's flesh and developing his bones. In this way the wetnurse becomes his foster-mother whom he is prohibited to marry; those related to

her are also prohibited to him for marriage purposes.

The other category is that of the "step-daughters under your guardianship." Abdullah Yusuf Ali says that "It is generally (but unanimously) held that 'under your guardianship' is a description and not a condition. Therefore, a step-daughter not 'under your guardianship' is still within the prohibition if the other condition (about her mother) is fulfilled."³⁶ And the last condition of prohibition is that of the two sisters together. It must be noted that the 'sons' mean the real 'sons' and excludes the adopted sons.

Considering the above mentioned, one can surely agree with the fact that it is the greatest and the most reprehensible mistake committed by the Western writers to suppose that our Prophet introduced polygamy. It is a sign of ignorance of those who entertain the notion. "Muhammad", says Syed Ameer Ali, "found polygamy practised, not only among his own people, but amongst the people of the neighbouring countries, where it assumed some of its most degrading aspects. The laws of the Christian empire had indeed tried to correct the evil, but without avail. Polygamy continued to flourish unchecked, and the wretched women, with the exception of the first wife, selected according to priority of time, laboured under severe disabilities."³⁷ The divine ordinance, considering all aspects of human nature and human conditions at all times, only limited the number of wives upto four, provided that the person who so marries must do *Adl* (justice) among all of them. And in case he was not able to do so he was permitted to marry only one.

• Syed Ameer Ali says that permission to polygamy as given by the Prophet has got a great elasticity; and can work as much in the less advanced societies and economies as in the case of more advanced societies and economies. He says that "... the compatibility of Mohammad's (PBUH) system with every stage of progress shows their Founder's Wisdom. Among unadvanced communities, polygamy, hedged by all the safeguards imposed by the Prophet, is by no means an evil to be

deplored. At least it is preferable to those polyandrous customs and habits and modes of life which be taken an abandonment of all moral-restraint. As culture advances mischiefs resulting from polygamy are better comprehended."³⁷ He goes on to add that "a Mutazzalia marriage (in accordance with Mutazzalia's School of Jurisprudence) fulfills in every respect the requirements of an essentially monogamous marriage as a 'voluntary union for life of one man and one woman to the exclusion of all others.'"³⁸

He goes on to add, "Even among the archaic sects, a large and influential body hold polygamy to be unlawful, the circumstances which rendered it permissible in primitive times having either passed away or not existing in the present day."³⁹

It is difficult to agree with the statement of Syed Ameer Ali because it is not at all certain that in the more advanced countries and advanced cultured societies, the "monogamis marriage as a voluntary union of life of one man and one woman to the exclusion of all others" will be the general rule. Islam has strictly prohibited adultery or pre-marital sexual relations by saying that do not go to fornication because it is a most shameful deed for which enormous punishment in this world and the Hereafter has been ordained.

The boys and girls, for instance, studying in the Delhi University and the Jamia Millia Islamia can by no means be conceived of coming from an uncultured society. A survey, of the students below 21 years, of these institutions conducted by Professor Paul Sachdev of the School of the Social Work, Memorial University of Newfoundland, Canada is indeed very revealing and perhaps alarming. Usha Rai in her article entitled "Virginity is no Longer a Sacred Thing with Them", says that, "Staying a virgin until marriage is an antedated concept... at least among students of Delhi University and Jamia Millia, says a study on the sexual attitude, behaviour and knowledge of students below 21 years."

The statement of Usha Rai referred to the survey conducted

by Professor Paul Sachdev is based on a lengthy questionnaire filled up by 1,661 students - mostly female (79.4%) and all of them were below the age of twenty-one years.

This article by Usha Rai quotes the statement of Prof. Sachdev when the latter says, "few women think they need the sanctity of a marriage to have intercourse." Not only are women increasingly expressing their sexual needs but almost three-fourth of them endorse freedom with as much initiative and aggressiveness as men.

"There is a sexual renaissance and resurgence of the liberated women of the Vedic period" says the Professor who has won the Memorial University's President's Award for outstanding research."⁴¹

The above-mentioned study does not indicate the break up of 1,661 respondent students who are mostly females into the various communities. But one cannot be certain that among such a large number of students of Delhi University and Jamia Millia Islamia there will be no Muslim students. Even if there are few Muslims in this study, we believe that as against the argument of Syed Ameer Ali, there will still be the necessity of polygamy so that both Muslim boys and girls may remain chaste. Suppose in this survey no Muslim girls are included, even then there is no guarantee that in future they will not be influenced by others in their sex behaviour. At the cost of repetition I underline that in Islam there is not a choice between polygamy and monogamy but there is certainly a choice between polygamy and, corruption.⁴²

While making the above-mentioned statement it is not the intention of the present author to defend the institution of polygamy among the Muslims because by doing so he would be exposed to a charge by a large section of people in our country; who believe that by the continuation of the institution of polygamy the Muslims by design try to have larger number of children with a view eventually to becoming the majority community and capture the political power.

Such a charge, I believe, would be totally unwarranted for two reasons. First, because in the present condition of our country polygamy amongst the Muslims is less common than monogamy; and secondly, it must be underlined that the charge of having more than one wife by one husband applies equally to the Hindus of our country. The National Perspective Plan for Women: 1988 - 2000 A.D. says: "Under Muslim Law the husband has the legal right to have four wives, while bigamy among Hindus became a criminal offence in the 1950's. The Committee on the Status of Women has, however, noted that it was wide-spread among Hindus. The Committee also pointed out that since under the present law only an aggrieved person (husband or wife) can initiate proceedings for bigamy most of these marriages continue. Further, the existing penal provision against bigamy is defeated in a considerable number of cases because of the technical construction placed on Section 17 of the Hindu Marriage Act.

"The Committee recommended that even if essential ceremonies had not been performed, if the ceremony had given rise to a de-facto relationship of husband and wife, the offence of bigamy should be considered to have been committed. Significantly despite the fact that the Committee's other recommendations were incorporated in the 1976 amendments, these were left out."⁴²

Before we proceed to discuss the question of Family Planning which is closely related to polygamy let us have a word on temporary marriage. In addition to polygamy in the pre-Islamic society temporary marriages or *Muta* were permitted. In the laws which the Prophet promulgated initially the temporary marriages were tacitly allowed; but in the third year of Hijrah even those were forbidden. Syed Ameer Ali has observed that a section of *Shias* still consider the temporary marriages (*Muta*) lawful. But he adds that with differences to the *Mujtahids* who have propounded this view he cannot help thinking that it was put forward to meet the taste of the time or of the sovereign under whom those *Mujtahids* flourished. If one goes carefully

through their doctrine, it can easily be found to have the influences of personal inclinations.⁴³

FAMILY PLANNING

Let us now proceed to discuss a closely related problem of family planning. We have already noted that at the time when the Prophet got the revelation there was a system among the Pagans of Arabia of killing their children for fear that they might not be able to fulfil the responsibility of bringing them up. God has specifically declared that this sort of fear must not exist because it is God and God alone who provides sustenance to us and also to our children. So we have been asked to have trust in God and squarely take up the responsibility of bringing up our children. Says the Holy Qur'an :

Say : "Come I will rehearse what God hath (really) prohibited you from" : join not anything as equal with Him; be good to your parents; kill not your children on plea of want: - we provide sustenance for you and for them.....

(S.VI : 151)

However, it is to be noted that God has asked us not to kill the children who have been born. The verse does not make any reference whatsoever that we cannot follow family planning and thereby go on producing as many children as we can. Orthodox people on the basis of this verse might make a plea that since it is God Who has taken up responsibility to provide sustenance for our children we cannot adopt family planning. I think that this view is not supported by the verdict of the Holy Qur'an. This is because God has distinguished the human beings and made them superior to angles on account of their capability to learn. In the Holy Qur'an among the first five small verses that were revealed to the Holy Prophet, the 4th and 5th verses read as under:

He Who taught (the use of) the Pen -
 taught man that which he knew not.

(S.XCVI : 4-5)

It is to be noted that the Arabic words 'teach' and 'knowledge' are from the same root. It is impossible to produce in translation into English the completely different words for teach and knowledge which I, believe, include sciences and technology, medicine, self-knowledge, acquisition of knowledge, reading, writing books, study and research and at a higher level spiritual knowledge.

The interpretation is supported by the fact that the Prophet in Traditions asked Muslims to be all the time in search of knowledge from cradle to grave.

Since God has distinguished human beings from other creatures by virtue of their capability for acquisition of knowledge it should be clearly understood that when the Holy Qur'an specifically talks of the responsibility of God for providing sustenance to the children who are born; and He asks the Muslims not to kill their born children, how can it be inferred that it comes in the way of the right methods of family planning because such family planning measures, as our knowledge discloses, are not concerned with the born children about which the Holy Qur'an has given a strict verdict ?

It needs to be hardly over-emphasized that a foetus is a child in making, and just as Islam prohibit killing of a child it certainly would prohibit killing the child in the making. This is why I believe abortion is not permissible in Islam.

The view needs emphasis because ever since, the United Nations Conference on Population and Development was held in the month of September 1994, there was a great criticism against the Church and the Mosque in trying to obstruct the passage of the resolution permitting abortion which was con-

sidered by the Western countries in general and the United States in particular who moved the resolution that abortion was a matter of priority in matters of family planning and family welfare. So much money and valuable numbers of working hours of the leaders of the participating countries of the world were wasted just on one issue i.e., abortion.

The Times of India of New Delhi in its issue of September 12, 1994 has written a sensible editorial entitled 'Clouding The Issue' in which the first paragraph reads as under :

"It is regrettable that the Vatican's obsession with abortion has so dominated the proceedings at the U.N. population and development conference in Cairo that other pressing issues on the subject have yet to get the attention they deserve. Though the Vatican's views are not accepted by the majority of countries, it has created a dissenting minority which has succeeded in virtually hijacking the conference. Its time would have been better served, however, if it had moved on to other topics such as contraception, adolescent sex and the concept of fertility regulation. The proposed compromise on abortion has led to the insertion of the World Health Organization's definition of unsafe abortion as a procedure for terminating an unwanted pregnancy by persons lacking the necessary skills or doing so in an environment lacking the minimum medical standards. The Vatican has succeeded in changing the reference to legal abortion to abortion that is not against the law. But the silver lining is that the Pope does not entirely disregard the fact that there are problems associated with population growth but insists that any solution must not neglect education and morality. While this is justifiable, the conference should not have been allowed to get bogged down by the acrimony over terminology. The language of the policy documents is certainly of importance but of far greater importance are the implications that the decisions taken at this meeting will have on the lives of people all over the world. There is no escaping the fact that population can be stabilized only by making contraception easily available and improving women's education."⁴⁴

But the present author is at a loss to understand as to why should the issue of abortion be considered so important that it had to be taken up first of all, no matter how much disagreement there might have been on the subject. It would have been wiser if this subject would have been considered a minor one and much more important issues taken up regarding family welfare, such as the provision of nutritious meal to all pregnant mothers of the various countries of the world and sound education to all regarding family welfare. The Noble Laureate in Peace in our country Mother Teresa who is widely respected in our country and abroad for her noble works has aptly pointed out, "Something evil cannot be legalized. The child is created to live - that is the point."⁴⁶

We therefore conclude that even though abortion should not be permitted except in cases of pressing health hazard to the pregnant mother, all other methods of family planning and family welfare must be undertaken. And this will be in consonance with the tenets of Islam.

SLAVE GIRLS

There is a general misunderstanding that Islam introduced the system of slavery, and the slave boys and the slave girls are kept by Muslims for their use. In fact slavery has existed among all nations and died away with the progress of human thought and sense of injustice among the mankind. It was the result of the passion and right which existed in certain phases of social development. But from the very beginning it bears the curse of injustice. The author of a famous book entitled "Ancient Law" has aptly observed: "The simple wish to use the bodily powers of another person as the means of ministering to one's own ease or pleasure, is doubtless the foundation of slavery, and as old as human nature."⁴⁶

Syed Ameer Ali adds, "Concubinage", the union of people standing to each other in the relation of master and slave without the sanction of matrimony, existed among the Arabs, the Jews, the Christians, and all the neighbouring nations. The

Prophet of Islam in the beginning did not denounce the custom...."⁴⁷

In Islam the possession of a slave - male or female by the Quranic laws, was conditional on a bonafide struggle in self defence (or jihad) against the unbelieving and idolators' aggression. Its permission was a guarantee, according to the tenets of Islam, for the safety and preservation of captives. The only alternative was to leave them in the market for prostitution and exploitation to the utmost extent by whosoever was powerful. This was not liked by our Prophet who was humane in nature. At that time permission was given to have sexual relations with slave girl/girls without formal Nikah. For instance the Holy Qur'an says that Believers are:

And those who guard their chastity, except with their wives and the (captives) whom their right hands possess, - for they are not to be blamed, but those who trespass beyond this are transgressors; -

(S.LXX : 29,30 & 31)

This implies that once the Jihads were finished and the Muslim community could live peacefully without any fear or aggression from others, slavery would have been extinguished by a natural process.

It will therefore be right to suggest that the Islamic teachings dealt a blow to the institution of the slavery which existed in the worst possible form in the whole of the Peninsula (i.e., Al-Hijaz) during the pre-Islamic period. The problem of extinction of slavery could have been done by the Prophet of Islam only in two ways: first by the order of a sudden and entire emancipation of the existing slaves which was morally and economically impossible. The second alternative which was feasible was followed by Islam by achieving the extinction of slavery by a continued agency of wise and humane laws.

The Prophet exhorted the Muslims repeatedly in the name of God to enfranchise slaves. 'Than which there was not an act more accepted to God.' According to the Traditions it is proved that the Muslims were told by Prophet that the penalty for their sins would be omitted by freeing a slave. It was ordered that the slaves should be allowed to purchase their liberty by the wages of their services. And in case of unfortunate ones' if it was not possible then the followers of Islam were asked to permit their slaves to take up some other noble employment which was enough for the purpose. The Prophet also ordered for the provision of sums to be advanced from the public treasury so that their freedom could be gained.

The Holy Qur'an says:

Marry those among you who are single, or the virtuous ones among your slaves, male or female: If they are in poverty, God will give them means out of His grace: for God encompasseth all, and He knoweth all things.

(S.XXIV : 32)

When the slave girls were in poverty their owners were asked to give them something out of what they possessed so that they were able to get themselves married to free men. In case some of them did not have enough money for marriage, those who were the owners were asked not to exploit them for lustful purposes. Instead they were ordained to let them work somewhere else so that they were able to earn enough to get their freedom for a certain sum of money. It has also been permitted that in case some one's slaves asked for a deed in writing then they were required to give them a deed. But under no circumstance their owners were permitted to let their maids engage in the prostitution in case they desired chastity.

The Holy Qur'an ordains that:

Let those who find not the wherewithal for marriage keep themselves chaste, until God gives them means

out of His grace. And if any of your slaves ask for a deed in writing (to enable them to earn their freedom for a certain sum), give them such a deed if ye know any good in them; ye give them something yourselves out of the means which God has given to you. But force not your maids to prostitution when they desire chastity, in order that ye may make a gain in the goods of this life.

(S.XXIV : 33)

Islam, it must be further noted, emphasized that the status, position and economic conditions of the slaves should be improved; and therefore, the Prophet has emphasized that the slaves should be educated, trained and instructed and thereafter they should be married.

Syed Ameer Ali says, "On this slender basis, and perhaps on some temporary and accidental circumstances connected with the early rise of the Moslem commonwealth, have our legists based the usage of holding (*jarias*) female slaves. And this, though opposed to the spirit of the Master's precepts, has given rise to some of the strongest animadversions of rival religionists."⁴⁹

In certain cases he provided that the slaves should be enfranchised without the interference or even against the will of their masters. He also pledged that the duty of the kindness towards the slave men and women are on the same footing as the claims of "kindered" and neighbours, the fellow-travellers and way-farers. The Prophet also asked his followers not to use their maids for sensual purpose with the promise of *divine mercy to the sinners*.

The Prophet also ordained that the child of a slave-woman should be freed as his/her father or when the mother should become free. Muslims were ordered never to address their male or female slaves in a degrading manner, Above all, it was ordered that in no case should the mother be separated from her child, nor brother from brother, nor father from the son, nor

one relative from another. Syed Ameer Ali points out : "I see no need of quoting authorities, as they are admitted facts. But I may refer the curious reader to the Traditions collected in the *Mishkat*, the *Sahih of Bukhari* and *Biharul-Anwar*. The latter contains the noblest monument of generosity and charity practised by the Prophet's immediate descendants."⁵⁰

During the conditions prevailing in the life time of the Prophet, if a person could not afford to marry a free woman he could marry a slave girl captured in war. This was subject to the condition that the girls should not be polythist. Some people contended that such captive girl need not be regularly married and can be kept for sexual relationship without formal *Nikah*. This contention is against the provision of the Qur'an and the Traditions. In Surah IV entitled *Nisa* (Woman) it is stated :

If any of you have not the means wherewith to wed free believing women, they may wed believing girls from among those whom your right hands possess ; and God hath full knowledge about your Faith. Ye are one from another :

(S. IV : 25)

This order about the unlucky girls captured in war and made slaves was given for two reasons. First, according to the Prophet all slaves, male and female, are considered to be the kith and kin of free Muslims - men and women and could not have been looked down upon. Secondly, it was also a possibility that a free woman might be inferior to a slave girl in both faith and righteousness.

The Qur'an has laid down the conditions for marrying the slave girls in the following words :

Wed them with the leave of their owners, and give them their dowers, according to what is reasonable : they should be chaste, not lustful, nor taking paramours :

when they are taken in wedlock,

(S.IV : 25)

The Holy Qur'an has warned the Believers that they should not exploit slave girls in any lustful manner; but marry them either themselves or give them in marriage to pious men.

Towards the end the Prophet expressly forbade to have slave girls. Syed Ameer Ali has quoted from the Holy Qur'an :

"And you are permitted to marry virtuous women who are believers, and virtuous women of those who have been given the Scriptures before you, when you have provided them their portions, living chastely with them without fornication, and not taking concubines."

(S.V : 6)

Islam has not recognized any distinction of race or colour; black or white, citizens or soldiers, ruler and subject. They are perfectly equal not only in theory but also in practice. The Prophet of Islam even after establishing an Islamic domain at Madina never liked anyone to address him as more than ordinary person. He always asked his companions and Muslims to address him as "slave of God." In the field or the chamber, in the tent or a palace, in the the mothermosque or the market, the slaves mixed without reserve and without contempt with free people. The first *Moazzin* of Islam, a devoted adherent and esteemed disciple of the Prophet was a negro slave by the name of Hazrat Bilal. Hazrat Zaid a freed man of the Prophet was often entrusted with the command of troops; and the noblest captains served under him without demour. His son, Osama, was honoured by Abu Bakr, the first of the Khulafa-e-Rashidin, with the leadership of the expeditions sent against the Greeks. Qutobuddin, the first king of Delhi and the founder of the slave dynasty in India was a slave. Slaves have ruled kingdoms and have founded dynasties. The father of Mahmood of Ghazni was a slave. The Holy Qur'an

always speaks of slaves as "those whom your right hand possesses" thus carefully avoiding the word 'slave' man or woman. It is worth repeating that the possessing of a slave according to the Islamic laws was conditional on a bonafide struggle against the unbelieving and idolators and aggressors. The whole system was made humane to the advantage of the slave to the highest degree possible. Slave-ownership in Islam is more a responsibility than a privilege.

The practice which was followed by *Umayyad* dynasty and subsequently the *Abbasiyad* dynasty of making *Harems* in which the slave girls were kept for sexual pleasure is completely un-Islamic. And similarly, the practice of the present Kings and Sheikhs in the Middle Eastern Kingdoms and Sheikhdoms of keeping slave girls for sexual pleasure in addition to keeping their legitimate wives is also totally unwarranted and un-Islamic.

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14. Cf. Abdullah Yusuf Ali, op.cit., p.190 fn.
15. *Ibid.*, p. 897 fn.
16. Cf. Buldian, Kitabun Nikah, as quoted in Abul Ala Maududi, *Pardah*, Markazi Maktaba Islami, Delhi, 1981, p.177.
17. Times of India, John Landor, 'Man and Woman at Work and Play', New Delhi, October 6, 1994.
There are people who do not believe in this type of distinction between the two sexes. Considerable research of this aspect has been done in our time. Different social scientists have different opinions on this subject. The view that I believe in is the one expressed by Anne Jardian, Dean of the Graduate School of the Management at Sismon College in Boston wherein it has been emphatically remarked: "Men and women are very different. Our hearts are different; our genes are different, our harmonies are different. The way we organize to do a job is different."
18. Cf. Maududi, Syed Abul Ala, op.cit., p.11.
19. Cf. *Ibid.*, pp.39-41.
20. Cf. *Ibid.*, p.41.
21. Farhat Yasmin and Shadbano Ahmad, op.cit., pp.346-47.
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35. Cf. *Ibid.*, pp.220-24.
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 38. *Ibid.*; p.231.
 39. *Ibid.*, p.232.

NOTE: A large number of influential jurists belong to what is called the Mutazzaliat School of Jurisprudence. They insist that love and affection is also included in the meaning of *Adl*. Most of the jurists think that *Adl* means only *Nafqa*; but Mutazzaliat School of Jurisprudence believe that love and affection are also included in *Adl*. Therefore, the Mutazzaliat is, by conviction a strict monogamous. According to him a second union is forbidden during the presense of the first wife.

40. *Ibid.*, p.232.
 41. Cf. Indian Express, New Delhi, November 29, 1994.
 42. *Sunday Times of India*, The Body Trap, 18th September, 1994.

NOTE: There is a view expressed by C.P. Sunderam in the article entitled 'The Body Trap' published in the Sunday Times of India New Delhi, Sept. 18, 1994. It says that the 10th centurey there were more prostitutes in Rome than customers. Then the author adds, "Whether it is Rome in Middle Ages or Bombay in 1994 the prostitutes are given fixture. Their numbers may vary from time to time, but so long, as Monogamy is a middle class aspiration and a whole code of conduct, their services will be valued."

The reason that is given by the author is given as follows : "You can have sex with prostitutes and keep things going through. What fun ! Things like monogamy, for instance. Fidelity for another. You can screw a prostitute and still consider yourself loyal to your wife or husband. It will not construed as adultery. In adultery your emotions are at stakew which makes everything difficult. Your spouse would't like it, because emotions are tied up with abiding myths life romance. In monogamy, you belong to each other. That is part of the contract. This is supposed to ensure you protection from the torture of sexual jealousy. You are hers; he's yours. And the twain shall meet every night; fornicate or make love depending on the need of the hour."

I fear I do not agree with this view; but it is a view which is considered worth publishing by the editorial committee of the *Times of India*. It indicates the fact that in affluent society money make a person debased and immoral. This is what Islam condemns in strongest language. That is why I have said in the running text of the book that in Islam there is not a choice between monogamy and polygamy; but really speaking there is a choice between monogamy and corruption. If any one fears to enter into domain of corruption then bigamy is permitted with a stiff condition of *Adl* (justice).

43. *National Perspective Plan For Women : 1988 : 2000 AD*. Report of the Core Group set up by the Department of Women and Child Development, Ministry of Human Resource Development, Government of India, New Delhi, p. 140.

44. Cf. Ameer Ali, Syed, op. cit., p. 229 fn.
45. *The Times of India*, Sept. 12, 1994, Editorial 'Clouding The Issue'.
NOTE: In this connection, I recollect having read a letter in the Times of India by Professor Mohammad Shafi, Professor Emeritus in Geography at the Aligarh Muslim University, Aligarh who emphasized that the problem of effective utilization of natural resources including land is as important in connection with the family welfare as the problem of family planning. I think this view is of far reaching importance.
46. *Sunday Times of India*, Sept. 25, 1994.
47. Quoted in Ameer Ali Syed, op. cit, pp. 258-59
48. *Ibid.*, p. 247.
49. *Ibid.*, p. 247.
50. *Ibid.*, p. 264 fn.

Status of Women in Society and Economy

WHEN the Prophet of Islam was only a child, the 'Sacriligious War' - *Ghazwatul-Fijar* started between Kuraish and Bani Kinana on the one side, and Kais-Aylan on the other. It continued for nearly forty years over an incident in the annual fair which used to be held at Ukaz, a place close to Mecca. This fair used to be held in the sacred month of Dhul-Qada when it was forbidden to engage in war or shed human blood. This was considered a sort of 'God's truce.' Arabs from different parts of Al-Hijaz used to come to this fair with poets, playwrights and actors. They used to recite poems and win the applause of the nations gathered there. But there was another side of the picture also, which has been described by Syed Ameer Ali as follows:

"The dancing women, like their modern representatives, the *almas* and *ghawazin* of Egypt, moving from tent to tent, exciting the impetuous son of the desert by their songs and their merriment; the congregation of Cornthians, who did not even pretend to the calling of music; and drunken orgies, frequently ending in brawls and bloodsheds; the gambling-tables, at

which the Meccan gambled from night till morning; the bitter hatred and ill-feeling evoked by the pointed personalities of rival poets, leading to sudden affrays and permanent and disastrous quarrels, deepened the shadows of the picture and made a vivid impression on the orphan child of Amena."¹

Thereafter, during the interval between the one and the other of these so-called 'sacrilegious wars', Mohammad (PBUH), as a boy, accompanied his uncle Abu Ta'lib (who was also his guardian) on one of his mercantile journeys to Syria. Here was opened before him the social misery, religious degradation and the pitiable condition of the women in general "the sight of which never faded from his memory. Silently and humbly, with many thoughts in his mind, the solitary orphan grew from childhood to youth and from youth to manhood."² The lawlessness among the Meccans, the sudden outburst of quarrels, the immorality and degradation in the lives of the people around him, must have caused feelings of intense horror and disgust in the mind of the sensitive youth.

The 'Sacrilegious Wars', which lasted for forty years, and were put to an end by the Prophet, had their origin in an insult offered to a decent young girl at one of the fairs of Ukaz.³ The whole atmosphere around him aroused in him the feeling to work for raising the status of women in society.

It has been repeatedly underlined in the Holy Qur'an that the Prophet was only a Messenger of God and through him revelations were sent from time to time by God for the guidance of human beings in general and Muslims in particular. For instance, at one of the many places where the Prophet has been said to be a man the Holy Qur'an says :

Say (O Mohammad): "I am but a man like yourselves, (but) the inspiration has come to me, that your God is one God: whoever expects to meet his Lord, let him work righteousness, and, in the worship of his Lord, admit no one as partner.

(S.XVIII : 110)

But it is our conviction that God also used to send His revelation to our Prophet regarding the issues with which he used to feel very deeply concerned.

For instance, during the Jahiliya period before the rise of Islam there was a custom by which a husband used selfishly to deprive his wife of her conjugal rights, and yet keep her tied to himself like a slave, whereby she was not allowed to remarry or was not able to get any maintenance for her children. The husband could do this by saying to her that she was like her mother. Khaula bint Ta'iba was treated by her husband Aus bin Al-Salat in like manner by saying that her back was like that of his mother. This was a Muslim family but the husband 'divorced' his wife on the basis of the custom of Pagan Arabs. This was very hard on Khaula who had small children whom there was no one to support.

Khaula became desperate and went to the Prophet and requested him to give judgement in her case. The Prophet replied that there was no revelation from God in this connection; but on the basis of custom he could say that the divorce had taken place.

Thereupon Khaula began to cry and said to the Prophet: "O Prophet of God: Have mercy on me. By your judgement I shall be completely ruined." She pleaded to the Prophet to save her from disaster which could befall her by the judgement that she was divorced.

She also prayed to God to give the Prophet some guidance on the basis of which he could give correct judgement. Since the Prophet also felt concerned about her the Surah entitled *Mujadila* (or The Woman who Pleads) was revealed, the first four verses of which read as under:

God has indeed heard (and accepted) the statement of the woman who pleads with thee concerning her husband and carries her complaint (in prayer) to God:

And God (always) hears the arguments between both sides among you : for God hears and sees (all things).

If any men among you divorce their wives by *Zihar* (calling them mothers), they cannot be their mothers : none can be their mothers except those who gave them birth. And in fact they use words (both) iniquitous and false: but truly God is One that blots out (sins), and forgives (again and again).

But those who divorce their wives by *Zihar*, then wish to go back on the words they uttered, - (it is ordained that such a one) should free a slave before they touch each other: this are ye admonished to perform: and God is well-acquainted with (all) that ye do.

And if any has not (the wherewithal), he should fast for two months consecutively before they touch each other. But if any is unable to do so, he should feed sixty indigent ones. This, that ye may show your faith in God and His Apostle. Those are limits (set by) God. For those who reject (him), there is a grievous penalty.

(S.XVII : 1-4)

This indicates that the action of Aus was wrong and condemnable; but if he was to rectify his sin he had to free a slave, or keep fast for sixty days continuously or feed sixty poor persons as a sort of punishment. Therefore, the Prophet ordered Aus to rectify his sin and take back Khaula as his wife.

Another very famous example of a revelation sent by God to the Prophet on a problem about which the Prophet was feeling very concerned is regarding the change of *Oibla*. It is an important example; but since it is not of operative significance in the present context we have given it in the footnote.⁴

The problem which deserves our close attention regarding the status of the women in society and the economy is closely

related to the problem of *Purdah*. This question has been dealt with by different authorities of Islamic Shariah in different ways. We propose to discuss them one after the other.

PURDAH (OR THE VEIL) :

Syed Abul Ala Maududi believes that there is a division of labour between husbands and wives insofar as the husbands (according to injunctions of the Holy Qur'an and the Traditions) have been asked to give dower as free gifts and to provide maintenance for their wives and families. The wives, on their part, are to look after the financial management of the family and the upbringing of the children. Therefore, in regard to women he believes that there are strict regulations regarding *Purdah* in the sense that they are not permitted to show their faces and the beauty to any one except those in the family. He has quoted the following three Verses from the Holy Qur'an in support of his argument.⁵ p. 127

Say to the believing men that they should lower their gaze and guard their modesty: that will make for greater purity for them: and God is well acquainted with all that they do. And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex; and that they should not strike their feet in order to draw attention to their hidden ornaments. And O ye Believers! turn ye all together towards God, they ye may attain Bliss.

(S.XXIV : 30-31)

O Consorts of the Prophet! ye are not like any of the (other) women: if ye do fear (God), be not too complaisant of speech, lest one in whose heart is a disease should be moved with desire : but speak ye a speech (that is) just. And stay quietly in your houses, and make not a dazzling display, like that of the former Times of Ignorance;

(S.XXXIII : 32-33)

O Prophet ! Tell thy wives and daughters, and the believing women, that they should cast their outer garments over their persons (when abroad) : that is most convenient, that they should be known (as such) and not molested.

(S.XXXIII : 59)

He argues that whereas both men and women have been ordered to lower their gaze, and the order to women is followed by the one given to men; women have been additionally asked to sit at home firmly and not move in society unless they put on a *Burqa* (veil) in which the veil is drawn on their faces

It should be noted, however, that the quotation of S.XXIV : 30-31 and S.XXXIII : 59 relate to Muslim women generally; whereas that of S.XXXIII : 32-33 is addressed to Ummhatul-Mominin in particular.⁶

While commenting on S.XXXIII : 32-33 Abdullah Yusuf Ali in his brief commentary of the Glorious Qur'an says : "Consorts of the Prophet : ye are not like any of the other women". This is the core of the whole passage. The Prophet's consorts were not like ordinary women, nor was their marriage an ordinary marriage, in which only personal or social considerations enter. They had a special position and special responsibilities, in the matter of guiding and instructing women who came into the fold of Islam. Islam is a way of life, and the Muslims are a family; women have as much place in Islam as men, and their

intimate instruction must obviously be through women." Abdullah Yusuf Ali goes on to add that while *Ummhatul Mominin* "were to be kind and gentle; to all, they were to be guarded on account of their special position, lest gross people might misunderstand or take advantage of their kindness. They were to make no vulgar worldly displays as in the times of Paganism."⁷

The *Ummhatul Mominin* were therefore ordered to 'Stay quietly in their houses.' This order of Hijab is different from that of the other Muslim women who, as we shall see later on in this chapter, used to go out for various religious, social and economic activities, and therefore the order of Hijab as contained in S.XXXIII : 32-33 does not apply to Muslim women in general.

Syed Abul Ala Maududi has quoted the following three Traditions in support of his argument :

(1) Hazrat Jurair has said that he asked the Prophet that in case a man happens to have first look of the face of a woman unintentionally what should he do ? The Prophet replied that he should immediately divert his face to the other side. (Abu Dawood)

(2) Hazrat Burida has said that our Prophet said to Hazrat Ali : O Ali ! After having seen once unintentionally the face of a woman you must not have another look. God will forgive you for the first but the second look is not permitted." (Hawala-e-Mazkooor)

(3) The Prophet has said that if any one has several looks on a woman (other than his wife) then on the Day of Judgement melted lead would be poured in his eyes. (Takmila-e-Tatah-ul-Qadr)

Syed Abul Ala Maududi says that there is a difference between the beauty of the rose and the beauty of woman. The beauty of rose is always appreciated by a man; but the beauty of woman creates a sensuous feeling in him. He has also

underlined the fact that there is a difference between the nature of men and women. Women are normally chaste and they do not try to infatuate men. On the other hand, a man after having looked at a beautiful woman is attracted to her and thinks of sensuous pleasure. He asks: "Is it possible for anyone to deny that the basic source of corruption of the two sexes is the look of man at a beautiful woman; and therefore, if in a society corruption is to be completely eliminated the only method would be to keep the women in the houses; and if they have to move about in the society for some urgent need they should put on a Burqa."⁸

He states that the only persons to whom a woman can show her face and the beauty as per the order of the Holy Qur'an vide Surah XXIV:31 noted above are: (a) The husband and persons closely related to him, (b) Her own slaves (when the slavery was permitted) and not the slaves of others, (c) The impotent men and those who have no power of enjoying any sexual pleasure (such as very old men) (d) The small children who have no idea of any sex and the sexual activities, and (e) The women with whom a particular woman has got social relations.⁹ He further adds that Islam has not permitted women to show their *zeenat* (charm) and to mix freely with whom they do not have any family relations. To support his argument he says that when Muslims annexed Syria, the Muslim women freely mixed with the Jewish and Christian women. Hazrat Umar wrote to the Governor of Syria to ask the Muslim women not to enter into the bathrooms of the Jewish women. It was not, Maulana Maududi adds, that Hazrat Umar thought that the Jewish and the Christian women in Syria were immoral, but that unless the Muslim women knew the culture of the Jewish and Christian women and were convinced that they were chaste, they were not permitted to meet them.¹⁰

(i) Syed Abul Al Maududi adds that all the famous scholars who have written the commentaries of the Holy Qur'an are unanimous on this point. For instance, Hazrat Ibn-e-Abbas in his commentary of the above mentioned verse says: "God has

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ordered the Muslim women that in case they have to go out of their houses for some unavoidable reason they have to draw the outer garments on their faces."¹¹

(ii) Allama Ibn-e-Jarir Tibri in the commentary of the above mentioned verse says : "God ordered to the Prophet : "O Prophet ! Tell your wives, daughters and the wives of the Muslims that in case they have to go out for some unavoidable reasons, they should not move about like slave girls whose faces are unveiled but must put on the veil on their faces so that they must be distinguished as respectable women."¹²

(iii) Allama Neshapuri, in his commentary says : "In the beginning of the rise of Islam the Muslim women used to go out with shirts and scarfs with their faces open. But later on an order was given that while going out they must draw the veils on their faces so that they are recognized as respectable women."¹³

(iv) Imam Razi in his commentary writes : "During Jahiliya period the respectable women and the slave girls alike used to move about without covering their faces and sometimes undesirable debased characters who were there, used to follow them and make remarks. Therefore, the Holy Qur'an gave an order that in case the Muslim women have got to go out they must put on the outer garments on their faces so that they are recognized as chaste women and no one follows them. Additionally, it will also indicate that they were chaste and respectable women putting on the veil on their faces and hence no one could expect that they could be induced to indulge into sexual immorality."¹⁴

(v) Qazi Baizavi in his commentary says : "that when the Muslim women go out for their essential and unavoidable work they must put on their veils on their faces and cover the whole of their body."¹⁵

Syed Abul Ala Maududi says that from all these commentaries it is obvious that beginning from the time of Khulafa-e-

Rashidin till the 8th century Hijrah, S. XXXIII : 32-33 was explained by all authorities without any distinction and they gave the same meaning regarding the covering of their faces.

An additional argument that he has given in support of his contention is that from the Traditions included in Abu Dawood, Tirmizi etc. It is obvious that the Prophet asked the Muslim women to draw outer garments on their faces and put on gloves when they were to go for pilgrimage or Umra.¹⁶

A distinct position is taken by Asghar Ali Engineer who says : "In the past, restrictions were imposed on women, the normative concept was to protect their chastity. Gradually, chastity and *Purdah* became synonymous. Women who observed the rigid rules of *Purdah* were thought to be chaste while those who violated it were dubbed as 'immoral.' Thus, a certain form of morality has emerged."¹⁷

Asghar Ali Engineer goes on to add that the only thing that the Holy Qur'an has urged upon the women is to pull their upper garments over their faces so that they could be recognized as free women and not be harrassed. (Vide Qur'an, Surah XXXIII : 59). He argues that in the past women were thought to be weak which was sociological and not a theological concept. But the difficulty with the theologians is that they mix up the theological concepts with sociological ones and consider that the theologian concepts continue even when the social changes have taken place. In the present days according to him, "... women are no longer described as the weaker sex. They can not only move about on their own, but can earn their own living by working outside their homes. They no longer depend on male protection and therefore *Purdah* in the conventional sense is no longer required."¹⁸ He suggests, however, that because of different stages of development in India, sociological conditions vary and some people still argue that women still need protection; and in strict theological sense they suggest that they cannot move about without Mahram.¹⁹

Thus, it can be deduced that "chastity is a norm while *Purdah* was the contextual means to achieve it. A woman can protect her chastity without having to observe *Purdah*. Thus, if our concept of morality is sufficiently dynamic, there will be little resistance to its assuming a new form - so long as the essence of the norm is not sacrificed. Sociological and empirical considerations should be as important as the theological. This balance should be maintained as it is indispensable for the moral dynamics of the society."²⁰

In the past women were suppressed from getting the position that they deserved in society because of male domination and the patriarchal values. Engineer says : "It would be appropriate to give an example from the Prophet's time to illustrate this. The Prophet of Islam was very favourably inclined to raise women's status, even attribute equality, if possible. In one instance he allowed a woman the right to retaliate against her husband (i.e. to slap him as he slapped her). But even a man of the Prophet's stature could not have his way in view of the strong patriarchal values."²¹

However, Engineer's opinion that the Prophet was restricted in giving his guidance by the "strong patriarchal values" is incorrect in the light of the historical fact that the Prophet was independent of such values.

Even when he became the head of the state in Madina he regarded himself as the protector of the down-trodden. His only concern was to spread the message of Islam in which the whole of mankind—both, men and women - were members of the family of God. Syed Ameer Ali has very aptly pointed out in regard to our Prophet : "*But the Teacher who in an age when no country, no system, no community gave any right to women, maiden or married, mother or wife, who, in a country where the birth of a daughter was considered a calamity, secured to the sex rights which are only unwillingly and under pressure being conceded to them by the civilized nations in the twentieth century, deserves the gratitude of humanity. If Mohammad had*

*done nothing more, his claim to be benefactor of mankind would have been indisputable. Even under the laws as they stand at present in the pages of the legists, the legal position of Moslem females may be said to compare favourably with that of European women.'*²²

Asghar Ali Engineer adds that when men used to earn and spend their wealth on the women and children and exercised patriarchal domination, God allowed men, in view of the social context and social value a slight edge over women. Again, this sociological perspective does not hold water. The last revelation in respect of the women in the Holy Qur'an is that men and women receive just and equal treatment from God. The Holy Qur'an says :

For Muslim men and women, - for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in God's praise, - for them has God prepared forgiveness and great reward.

(S.XXXIII : 35)

It must be underlined that this verse relates to various virtues that are to be needed in both men and women; and it does not show that earlier the status of Muslim women in society and economy was made dependent on patriarchal values. The virtues referred to are: (1) faith, hope, and trust in God, and in His benevolent nature; (2) love and practice of truth, in thought and intention, word and deed; (3) devotion and service in practical life; (4) patience and consistency in suffering and in right endeavour; (5) the avoidance of an attitude of arrogance; (6) charity, i.e. help to the poor and unfortunate ones in life, a special virtue of the general duty of service; (7) self-denial,

typically in food but generally in all appetites; (8) chastity, purity in sex life, purity in motive, thought, word and deed; and (9) constant attention to God's Message, and cultivation of the desire to get nearer to God. It is promised in the verse that Spiritual Bliss is provided for one as for the others.

Notwithstanding Asghar Ali Engineer's opinion the Surah XXXIII : 35 does not absolve the husbands of their duty to give expenses for maintenance to their wives and the children and thereby they would also continue to have a degree of advantage over their wives. The Surah II : 228, Surah IV : 34 and Surah XXXIII : 35 do not contradict each other, but are consistent and stand clearly in their places.

So far as I have been also to understand, Islam has prescribed a way of life in which both the husbands and wives are bound to each other by their rights and responsibilities.

We have learned from the Traditions that our Prophet while suggesting that the men and the women have equal shares in their spiritual development and could be equal to each other in piety and purity of heart and soul; he had on several occasions emphasized different roles for men and women.

Once, the Muslim women of Madina selected a very wise woman named Asmah bin Zaid as their representative and deputed her to the Prophet for the solution of their problems. She said to the Prophet: "I am the representative of the Muslim women. I have to say what they have to say and they have the same opinion as I have in that God has sent His Prophet and Messenger for men and women both. So we have faith in you and follow your teachings regarding the commands of God. But we, the women who have to observe *Purdah* and who have remained confined to our houses to become the focus of our men, who bear children for our husbands, cannot equal men who attend Friday congregations, funeral prayers and participate in *Jihad* and thus earn honourable status in the sight of God."

The Prophet turned to his Companions and said: "Have you ever seen a better woman who enquired about her religion so eloquently?" The Companions replied "By God, we have not heard such a good talk."

The Prophet then said to Asmah: "Asmah, go and tell women, whom you represent that they should obey their husbands and behave well with them; it will equalize them with men regarding the services of men you related." (Al-Tarhib wat-Tarhib).

Asghar Ali Engineer says that the Qur'an had not been unfair to women in regard to their social, economic and religious status. He proceeds to argue that unfortunately the Islamic Shari'ah as formulated by the great Imams (like, Abu Hanifa, Hambul, Malik or Shafaii) under the *influence of patriarchal values assigned women an inferior position to that which was intended by God in His revealed Book i.e. Holy Qur'an*. He does not want to blame the four *Imams* and other *Shia* and *Ismaili* theologians for what they thought about women's status. In the society that they lived, they could not have thought otherwise. Engineer thus, is prepared to give them some concession because according to him they could not have thought of the progressive sociological conditions of the present times which are far ahead of their times. However, he adds, "But what is regrettable is that the theologians and *faqih*s (the jurists) are not ready to rethink women's issues even today. Islam and its Prophet have provided the Muslims with a dynamic and revolutionary principle of *Ijtihad* (creative interpretation) so that they can, in the true spirit of Islamic values, rethink many issues in view of the changed context. It may be pointed out here that the rigidity of theological attitudes is applicable not only to the Muslim theologians and jurists; it is true of the whole tribe of theologians whatever their religion. However, a difference in degree and context must be admitted."²³

He advocates that it is necessary to change the Islamic Shari'ah to bring it in consonance with the present conditions.

He suggests that we should follow the principles of *Ijtihad* literally exertion, i.e. creative interpretation and application of Islamic Fiqh (Jurisprudence). In the face of new circumstances for considerable period of time, he argues, that the principle of *Ijtihad* constituted a dynamic element in the Islamic Shariah. According to him the gates of *Ijtihad* were closed in the 12th century A.D. and the Shariah began to acquire a static character and came to be accepted as immutable.

From the time of our Prophet to the decline of Abbasiad dynasty the evolution of Islamic Shariah passed through several stages. A noted jurist of Al-Azhar University, Cairo, Mohammad Al-Kharami (vide his *Tarikh-i-Fiqh-i-Islami* (under translation) Abdul Salam Nadvi Azamgarh, 1364 A.H.) has divided the evolution of Shariah into six periods. In all the six periods the Islamic Shariah underwent a process of evolution and thereby periodical changes in concepts. Only in the later phase it became the transcendentized to the point where it is equivalent to *Ahkam ul-Shariah* immutable ordinances.

A survey of works like *Al-Fiqh al-Akbar* (second century Hijrah), or *al-Baqillani's Kitab al-Tamhid* (Fourth century Hijrah), or *al-Baghdadi's Kitab Usul al-Din* (Fourth century Hijrah), and *al-Nasafi's Abd al-Shahrastani* (sixth century Hijrah), one hardly finds mention of the concept of Shariah in these works.²⁴

Faruq Abu Zayd has argued that the four surviving Sunni Schools of jurisprudence were the products of different influences working on the minds of their founders who lived in different socio-economic conditions at different places like Madina, Mecca, Kufa (Iraq) and Misr (Egypt). Imam Abu Hanifa and Imam Shafaii were liberal and moderate as they lived in Iraq and Egypt respectively which, due to the mixing of various people having different cultures, provided variety and richness to life. Imam Malik was conservative and Imam Ahmad bin Hambul were rigid orthodox respectively because they lived in, what has been called conservative atmosphere in Mecca and Madina.²⁵

It is true that the Holy Qur'an has been very fair to the cause of women, but the Islamic Fiqh *i.e.*, Jurisprudence, as it has remained static after the 8th Century, has not made any change in the concept of *Purdah* as observed in our country. It advocates, not only covering the entire body of women but also their faces. These prejudices against women are product of the feudal era wherein the Muslim ruling classes wanted to protect their women folk and hence kept them under strict seclusion. All that Qur'an requires of women is that they do not display their charms and be dressed in a dignified manner. What would be the dress which would fulfil this condition and yet fulfil the aspiration of the present educated Muslim women in our country? This question will have to be decided by those who are capable of doing *Ijtihad* which Asghar Ali Engineer advocates. To be correct and durable, this *Ijtihad* should be based on the widest possible learned consultation.

We now proceed to consider views of other scholars of Islamic theology and Shariah on the question. We may take up the views of Afif A. Tabbarah first. He suggests that the question of veil has been unfairly dealt with by Western writers. The Holy Qur'an, he goes on to say, treats it within morality and decency. It must be agreed that the sexual desire is the most dangerous thing compared to other urges for which laws are enacted in order to restrict the freedom of individuals in several matters.²⁶ The Holy Qur'an has laid down a general principle as in Surah XXIV : 30-31.

The fact that God has instructed the believing men and believing women to "lower their gaze" does not mean that one should lower down her/his head without looking at the people, because it is impossible. God has only ordained that one's gaze must be lowered, without letting it continuously be fixed on a prohibited sight that arouses desires.

The phrase in the Holy Qur'an "This will make for greater purity for them" means that by keeping one's gaze away from that which excites one's desires may help in refining the spirit

and mental powers of the person concerned. This will draw his attention to the activities that are good. The author goes on to suggest that there is no doubt about the fact that if some one insists on fixing the gaze on the sexual charms then he is bound to get away from good deeds, and get entangled in undesirable activities. The phrase in the Holy Qur'an also implies that the purity of one's vision leads to the purity of spirit.

The phrase of the Holy Qur'an, "except what must ordinarily appear thereof" means that the face and the hands of the women which may be revealed to man's sight must be without any make-up. According to him the hair of women are included in the sexual charm and they should always be concealed. The author adds that many commentators of the Holy Qur'an and the authors of the Muslim Shariah agree on this issue.

The Schools of Jurisprudence of Abu Hanifa, Al-Shafai and Malik agree that the woman is permitted to unveil her face and hands in the streets in front of the strangers. However, if this display of the face does rouse temptation and charm, the woman has to veil her face as she does the rest of her body.²⁷

Afif A. Tabbarah says that on this point the Committee of Formal Legal Opinion of Al-Azhar University observes :

"The Committee of Formal Legal Opinion, in following the two grand principles of Islam - the facility and liberality of the religion, and its prevention of the causes of corruption - favours the view that the woman's face and hands ought not to be veiled. She is not blamed for unveiling them to strangers, when this saves her from embarrassment and difficulty; but when there is doubt as to temptation, she has to veil herself, to prevent any cause of moral corruption.

"The Committee, at the same time, considers that a woman's unveiling of her face and hands, when adorned with cosmetics and make-ups, is special display of her charm which the Shariah abhors and strongly reproaches. The unveiling of the

face and hands is permitted only when these are in their natural appearance, as God created them, without any make-up or dyes. The Committee thus expects Moslems, out of care for their well-being, to spread this Islamic moral decorum among their wives and girls, and to inform them that a disobedience of this decorum leads to God's discontent, besides causing a breakdown of the family moral frame. "28

We can conclude, therefore, that according to the Committee of the Formal Legal Opinion of Al-Azhar University women can go out with their faces and hands unveiled, but should be careful not to go out after putting on make-ups and using perfumes.

An opinion which I hold in high respect is that of Syed Ameer Ali as expressed in his book *The Spirit of Islam*. He says that the system of female seclusion (*Purdah*) undoubtedly possessed many advantages in the socially backward and uncultured communities. Even in the countries where there is diversity of culture and permissiveness is great, a modified seclusion cannot be absolutely deprecated. The Prophet perceived this advantage in the beginning and recommended to the women folk to observe privacy. But to suppose that he ever considered these recommendations to be completely inelastic would perhaps be against the spirit of his reforms. According to him "The Qur'an itself affords no warrant for holding that the seclusion of women is a part of the new gospel."29

There are some Western scholars; who have suggested that the *Purdah* of women should not lead anyone to consider that women are unworthy of confidence. For instance, a German Scholar, Von Hammer says that, "the *harem* is a sanctuary: it is prohibited to strangers, not because women are considered unworthy of confidence, but on account of the sacredness with which custom and manners invest them. The degree of reverence which is accorded to women throughout Asia and Europe (among Mohammedan communities) is a matter capable of the clearest demonstration."30

Hamilton, the translator of *Hedaya* in his preliminary discourse dealing with the *Books of Abominations*, says the following: "A subject which involves a vast variety of frivolous matter, and must be considered chiefly in the light of a treatise upon *propriety and decorum*. In it is particularly exhibited the scrupulous attention paid to female modesty, and the avoidance of every act which may tend to violate it, even in thought. It is remarkable, however, that this does not amount to that *absolute seclusion* of women supposed by some writers. In fact, this seclusion is a result of jealousy or pride, and not of *any legal injunction*, as appears in this and several other parts of the *Hedaya*. Neither is it a custom universally prevalent in Mohammedan countries."³¹

The Prophet raised the status of women in Islam much beyond anyone else could have done. There is great chivalry shown by Muslims men who are influenced by the message of the Holy Qur'an and *Sunnah* towards women. Initially the Prophet ordered seclusion of women because, as we have pointed out, of the insult offered to a young girl at one of the fairs at Ukaz.

But subsequently, respect for women has been shown and embodied in his revelation. With many directions, his regulations breathe a most chivalrous spirit towards women than there is to be found in the teachings of older masters. Islam, like Christianity is different with different individuals and ages; but it would not be untrue to say that on the whole 'true chivalry is more intimately associated with true Islam than with any other form of positive faith or social institutions.' The annals of Islam will indicate that the heroes of Islam who were the true disciples of the founder of the faith were ready to enter into battle with God's enemies and redressed the wrongs done to women. Whether it was in Iraq or near home, the cry of distress never failed to bring a mailed knight rushing to help the helpless and the suffering women. Many of such events have become legendary. For instance, the Caliph in his Banquet Hall put down the half tasted bowl and took the oath that the Arab

maiden who was taken into captivity by the Romans had to attain her liberty before he could ever wet his lips by wine or water. Similarly, the Emperor Humayun, when going to Kabul found a bracelet from the Jodhpur Queen, and immediately rushed to defeat her foes before he could even take his meal. He did this even though the alien woman did not belong to his religion. The Emperor then sent the bracelet to her as a token of brotherhood.³²

A prominent scholar of Islamic Shariah, Hasan Turabi in his book *Women in Islam and Muslim Society*,³³ has underlined that the various verses of the Holy Qur'an regarding the seclusion of women in their household were revealed in the month of Dhul-Qaidah of the fifth year of the Hijrah.

It must, however, be underlined that life in Islam is oriented towards God; and therefore the association of men and women and their social relationship is indeed a great test for maintaining their piety. The social relationship between the men and the women are strongly recommended for furthering the aims of worship and gratitude to God. A man under no circumstances is permitted to exceed the limits that are permissible in such associations. There is no scope in Islam for utilizing social relationship and the meeting of men and women for licentious sexual pleasure which reduce a man to a situation of slavery to passion. It must always be remembered that the Holy Qur'an has strictly forbidden fornication. Says the Holy Qur'an :

Nor come nigh to adultery : for it is shameful (deed) and an evil, opening the road (to other evils).

(S.XVII : 32)

The Traditions have also ordered that a man should even avoid pervasive sight or touch that may excite sex. Abu Sayeed al-Khadri reported that the Prophet said: "No man should look at another man's private-parts, nor a woman at another woman's. No man or woman shall rub skin with another in the same dress." (Abu Dawood, Al-Tirmizi, Muslim)

It indicates that the Prophet has not permitted a man and a woman who are not wedlocked to seek privacy with each other. However, in a larger company of men and women, who are all pre-occupied with serious affairs, they will be oblivious of sex. The Prophet has also prohibited a man to meet another woman while she is all alone. He has said: "In the absence of her husband no woman shall meet a man but in the presence of another man or two." (Muslim)

However, men and women can talk to each other from a little distance in public. This is clearly indicated by the story of Moses as narrated in the Holy Qur'an when he met the two daughters of Shuaib. Says the Holy Qur'an :

And when he arrived at the watering (place) in Madyan, he found there a group of men watering (their flocks), and besides them he found two women who were keeping back (their flocks). He said: "What is the matter with you?" They said: "We cannot water (our flocks) until the shepherds take back (their flocks) : and our father is a very old man."

So he watered (their flocks) for them; then he turned back to the shade, and said: "O my Lord ! Truly am I in (desperate) need of any good that Thou dost send me!"... Afterwards one of the (damsels) came (back) to him, walking bashfully. She said: "My father invites thee that he may reward thee for having watered (our flocks) for us." So when he came to him and narrated the story, he said: "Fear thou not: (well) hast thou escaped from unjust people." Said one the (damsels): "O my (dear) father! engage him on wages: truly the best of men for thee to employ is the (man) who is strong and trusty"....

(S.XXVIII : 23-26)

Hasan Turabi goes on to add that a man should not gaze at a woman nor a woman on man, so fixedly that temptation is cumulated. In the event when anyone fears that this might

happen he/she must desist from looking on. Looking at the person of the opposite sex is not absolutely forbidden in Islam. The Prophet intended that man should not see woman with a view to getting any sensual pleasure. In modern society, Muslims - both men and women—assemble freely and frequently. In most cases they are acquainted with each other and converse and perform various functions. But all these activities are undertaken "in a spirit of innocence and in the context of a virtuous society."

The important thing to point out is that a man was prohibited by the Prophet to look at a woman because it was feared that there was correlation between such looks and sensual pleasure. The Prophet has said : "God decreed for every human being his unavoidable share of sexual intercourse. The eye partakes of that by looks, the tongue, speech, the soul aspires and craves and genital organs fulfil, or deny the final act." (Bukhari and Abu Dawood)

Once the Prophet was going on a camel with a young man by the name al-Fadhli behind him. A beautiful woman came to ask the Prophet about the Haj of her father. Al-Fadhli was so impressed by her beauty that he stared at her. Our Prophet having seen this, turned al-Fadhli's head away. Al-Fadhli was none other than the Prophet's own nephew. He asked the Prophet as to why was he turning his head. The Prophet replied: "I noticed that both the boy and girl were young, and feared that Satan may intervene." (Al-Tirmizi and Bukhari)

In case men and women assemble together they should not be so close that their bodies touch each other. It is advisable that the distance between the two sexes must be maintained. When women go to offer prayers in the mosque of Madinatul Munawwara a separate door exclusively for their (women) entrance and exit called Bab-un-Nisa has been fixed. Ibn-e-Umar has reported that the Prophet said : "Let us restrict this door for the ladies only." (Abu Dawood)

Similarly while going on the highway men and the women must maintain some distance from each other. Our Prophet has said: "You (men and women) stay apart and do not walk in the middle of the road, it is necessary for men to keep a side available for women to go." (Abu Dawood)

Hasan Turabi has said that the dress of a man or a woman should be modest; and by no means, either gesture or words or appearance, should a man or woman deliberately tempt the other. This is because God has ordained (vide Holy Qur'an XXIV : 31 & XXXIII : 59), that woman shall not show their adornment except what is naturally visible. It has been further ordained that by doing so they will earn piety and God is Most Forgiving and Most Merciful if unintentionally some mistake is committed.

The above Traditions indicate that temptation is the basic reason for which these rulings have been given. The Prophet has also prohibited women from passing through men after perfuming themselves. He said that women should not go for *Isha* prayers after using scents. (Muslim). Abu Moosa al-Ashari has reported that the Prophet once said: "any woman who after perfuming herself passes by the people so that they may find her smell attractive might be treated as fallen woman." (Masnad Imam Ahmd)

The Prophet has warned women who walk swinging and temptingly. He said: "Two categories of the in-mates of Hell I did not see before; a group of people holding whips resembling cow-tails lashing at the people and women half dressed and half necked, walking swingingly, with their heads like inclined humps of camels. They shall never enter Heaven nor get the smell thereof even though its smell can be felt from such and such distance." (Muslim)

All the above mentioned Traditions clearly show that a situation which may lead to temptation or illegal sexual contact between men and women is not permissible.

Islam permits that men greet women or talk to them in decent and chaste language with good intentions. Our Prophet himself used to do that. Asmah bint Yazid said that one day the Prophet passed by a mosque where a group of women were sitting. The Prophet greeted them by waving his hand. (Al-Tirmizi). Iman Bukhari has given a chapter in his collection of authentic Traditions entitled "Greeting of Women by Men."

Hasan Turabi adds that greeting a woman by shaking hands in a spontaneous manner may be permitted specially if it is a custom. In a book written on Islamic Theology strong admonition against touching strange women is mentioned. But the word 'touch' or the 'like' is in this context an euphemism for sexual intercourse.³⁴

As long as the conditions mentioned above are observed, family gatherings and joint meals both at home or elsewhere are permissible.

It may be added that the application of the standard of temptation depends subjectively on what a person finds in his soul - i.e., what he experiences by way of feelings in the case. This is naturally a function of his religious education and integrity. Objectively, it would depend on the seriousness of purpose in any association of men and women such as to distract them from thinking of sex and also on the innocence of the particular social gathering.

It has been aptly pointed out that "The juridical principle is sound that the avenues and approaches of wrong-doing should be closed by barring acts innocent in themselves for fear of what might ensue. But over-caution may inhibit legitimate conduct on the pretext that it exposes (men and women) to the risk of temptation and vice. This may lead to the distortion of the general social system of Islam which is based on the full participation of men and women in every day life with piety and chastity. Indeed, segregation and isolation may well protect a woman from temptation, but essentially denies her benefits of the communal life of Muslims."³⁵ God has ordained in the Holy Qur'an :

The Believers, men and women, are protectors, one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practise regular charity, and obey God and His Apostle. On them will God pour His mercy: for God is Exalted in power, Wise.

(S.IX : 71)

This means that according to the Muslim Shariah the social purpose of cooperation in the promotion of knowledge and good work and welfare of the Muslim community has been considered beneficial and is a means to their solidarity for the establishment of their well-being and the defence of their communal good. This clearly indicates that the benefits drawn from the communal life of the Muslims more than outweigh any preventive consideration for segregation of the sexes in ways not ordained or clearly implied in the formal text of Islamic Shariah.

ACQUISITION OF KNOWLEDGE

The Holy Qur'an bears testimony to the supreme value of learning and science in the affairs of religion and the world. Commenting on the first five verses of *Surah XCVI : 1-5* of *Surat Al-Alaq* which was revealed to the Prophet in the first revelation, Zamakhshari explains the meaning of the Quranic words as follows: "God taught human-beings that which they did not know, and this testifieth to the greatness of His beneficence, for He has given to His servants knowledge of that which they did not know. And He has brought them out of the darkness of ignorance to the light of knowledge, and made them aware of the inestimable blessings of *the knowledge of writing*, for great benefits accrue therefrom which God alone compasseth; and without the knowledge of writing no other knowledge (*'ulum*) could be comprehended, nor the sciences placed within bounds, nor the history of the ancients be acquired and their sayings be recorded, nor the revealed books be written; and if that knowledge did not exist, the affairs of religion and the world, *'Umur-ud-Din Wad-Duniya'* could not be regulated."³⁶

The Prophet who was himself an 'unlettered' person has been distinguished from all other Teachers by his laying down an emphasis on knowledge and science. He preached to his followers in the following words:

"Acquire knowledge, because he who acquires it in the way of the Lord performs an act of piety; who speaks of it, praises the Lord; who seeks it, adores God; who dispenses instruction in it, bestows alms; and who imparts it to its fitting objects, performs an act of devotion to God. Knowledge enables its possessor to distinguish what is forbidden from what is not; it lights the way to Heaven; it is our friend in the desert, our society in solitude, our companion when bereft of friends; it guides us to happiness; it sustains us in misery; it is our ornament in the company of friends; it serves as an armour against our enemies. With knowledge, the servant of God rises to the heights of goodness and to a noble position, associates with sovereigns in this world, and attains to the perfection of happiness in the next."³⁷

It should not be imagined that the orders of the Holy Qur'an and the Traditions regarding the acquisition of knowledge are limited only to men. Our Prophet has underlined that the *acquisition of knowledge is the bounden duty of all Muslim men and Muslim women.* (Bukhari and Muslim)

The Muslim society beginning from the time of the Prophet down to the periods of Umayyad and Abbasiyad was highly developed in several matters including the acquisition of knowledge. During this period great scholars like Ibn-e-Khuldun, Ibn-e-Taiyma, al-Ghazali and the famous scholars of Islamic Shariah were engaged in scholarly works. There were great scholars among the women also.³⁸ Hazrat Ayisha was treated as an authority on Traditions and Islamic Jurisprudence. Scholars - both men and women - from far and wide used to consult her for finding out the meaning of what was ordained by the Holy Qur'an and the Traditions relating to women.

Hazrat Ayisha has said that "whenever a verse used to be revealed to our Prophet about what is permissible and what is not, and similarly about the do's and don'ts, we used to remember it all by heart." (Al-Aqd-ul-Farid, Vol.I)

Hazrat Urvah bin Zubair, a special disciple of Hazrat Ayisha, said about her that he had never come across a person who was so well versed in the tenets of Islam, Islamic Jurisprudence, Arabic prose and poetry and Arabichistory." (Tazkaratul Hifaz, Vol.I)

Hazrat Ayisha was so well versed in the problems of numbers, mathematics that... even the most important companions of the Prophet used to consult her on the problems of inheritance. (Mustadrak, Vol.IV)

"She has narrated two thousand two hundred and ten 2210 Traditions." (Sirul-Ailanul Ambia, Vol.2).

Hazrat Ayisha has said about the women of Ansar : "They are wonderful women in the acquisition of religious knowledge. They do not feel at all shy in any thing that is for them to learn." (Muslim, Kitab ul-Haiz)

Hazrat Umme Salmah was one of the most prominent experts of Islamic jurisprudence (*Fiqh*); and out of those who were the most important Islamic jurists from amongst the companions of the Prophet, Umme Salmah was one of them. She has given verdict (*Fatawah*) in three hundred and seventy eight cases. (Sirul Ailanul Ambia, Vol.2)

One of the Ummhatul Mominin, Hazrat Hafza has narrated sixty 60 Traditions. (Sirul Ailanul Ambia, Vol.2). Another of the Ummhatul Mominin, Hazrat Umme Habiba has narrated sixty 65 five Traditions. (Sirual Ailanul Ambia, Vol.2)

It has been narrated by Hazrat Abu Sayeed Hazri, that during the life time of the Prophet, women were so keen to learn

about religion that at their request, the Prophet fixed up a separate day and time to impart religious education to them (women) only. (Bukhari, Kitabul Ilm).

Malik bin Haris has said: "Some of us went to our Prophet to learn about religious education and remained with him for as many as twenty days. Thereafter the Prophet asked us to go back to our houses and give the training in religious education to our wives and children and ask them to act those things that they would learn from you." (Bukhari)

• Hazrat Ismah bint Abu Bakr has narrated fifty-eight Traditions. 58
(Sirul Ailanul Ambia, Vol.2).

According to Allama Ibnul Barr, Hazrat Zainab who was the daughter of Hazrat Umme Salmah, was one of the most important experts of Islamic jurisprudence during her time. (Al-Istiyab).

Hazrat Imam Bukhari has written about the wife of Hazrat Abu Darda that Umme Darda was a great scholar of *Fiqh* (Islamic Jurisprudence) and therefore whatever she has done and said is worth-following. (Bukhari)

Allama Ibne Barr and Hazrat Imam Noodi have all agreed on the capability of Umme Darda, about her wisdom and about her knowledge of Jurisprudence. (Al-Istiyab)

The mother of Hazrat Umme Salim and Hazrat Uns was one of the companions of the Prophet and Hazrat Imam Noodi has said that in matters of knowledge and wisdom she was one of the most important companions of the Prophet. (Tehzib-ut-Tehzib, Vol.12)

Hazrat Fatima bint Qais was such a great expert of Islamic Jurisprudence that Hazrat Umar and others controverted with her on one problem of Islamic Jurisprudence for considerable time and yet were not able to convince her that she was wrong. But the more important part of it is that most of the experts of

the Islamic Shariah in the *Ummah* consider her opinion more important than the one expressed by Hazrat Umar and others. Hazrat Noodi has written about her that she was one of the first to migrate and in matters of wisdom, and Islamic Jurisprudence it is difficult to find her equal. (Tehzib-ul-Asmah vas-Safaat, Vol.7)

Imam Hazrat Sayeed bin al-Musaib, married his daughter to one of his disciples. The daughter of Hazrat Sayeed bin al-Musaib was herself so capable that the day after her marriage when her husband was preparing to go to seek education from her father she said to her husband : "Please remain here because you do not have the necessity to go to my father as I can teach you whatever he can teach you." (Al-Madkhulul al-Bin al-Haq)

Imam Malik has written a very famous collection of the Prophet's Traditions called 'Moatta.' Imam Malik's daughter was so capable that whenever any of her father's disciples used to commit any mistake while going through 'Moatta', then her daughter used to knock at the door from inside. Imam Malik was so much convinced about the capability of his daughter that he used to ask his disciples to re-read 'Motta' (The collection of Traditions) because he believed he must have committed a mistake. (Al-Madkhulul al-Bin al-Haq)

Hazrat-Umrah was one of the most acknowledged authorities on the Traditions. A large number of Scholars like Imam Zohra, Abdullah bin Abu Bakr bin Hazm, Yahiya bin Sayeed Ansari, Urwah bin Zubair, Sulaiman bin Ysar, and Umiroo bin Dinar have all acknowledged her capability. (Shazrat-uz-Zahab, Vol.1)

Syeda bint Nafis alongwith her husband Ishaq bin Jafar Sadiq went to Egypt. It has been written by Allama Ibne Khalqan that she was such a great expert of religious education that when Imam Shafaii reached Egypt he himself went to her and learnt Traditions from her. The Egyptians had enormous respect for her. (Wafiat ul-Aiyan, Vol.5)

Zainab bint Abu Qasim was born in Isfahan and lived for as many as 91 years. Allama Ibne Khalqan has written that she was a great expert of Traditions; and a large number of scholars learnt from her. She was entitled to give certificates of proficiency to those who learnt from her. (Wafiat ul-Aiyan, Vol.5)

Shohdah bint Nasr was a great scholar and expert in Traditions. She was well known for her scholarship by the people of her time. (Wafiat ul-Aiyan, Vol.5)

This shows that the love of learning and arts by no means remained confined only to men. The culture and education of women proceeded on parallel lines with that of men, and women were as keen in the pursuit of literature and as devoted to science as men. They had their own Colleges.³⁹ They studied medicine and jurisprudence, lectured on rhetoric, ethics, and participated with the stronger sex in the glories of a splendid civilization. The wives and daughters of magnates and sovereigns endowed their wealth in founding Colleges and Universities, in establishing hospital for the sick, the refugees, the homeless, the orphan, and the widow.⁴⁰

In the early centuries of Islam, almost until the extinction of the Saracenic Empire in the East, women continued to occupy as exalted a position as in modern society. Zubaida, the wife of Harun, played a conspicuous part in the history of the age, and by her virtues, as well as her accomplishments, left an honoured name to posterity. Humaida, the wife of Faruk a Medinite citizen, who was for many years the sole guardian of her minor son, educated him to become one of the most distinguished juris-consults of the day.⁴¹ Sukaina, or Sakina, the daughter of Husain,⁴² and the grand-daughter of Ali, was the most brilliant, most accomplished, and most virtuous woman of her time. Herself no mean scholar, she prized the converse of learned and pious people. The ladies of the Prophet's family were noted for their learning, their virtues, and their strength of character. Buran, the wife of the Caliph

Mamun, Umm-ul-Fazl, Mamun's sister married to the eighth Imam of the house of Ali, Umm-ul-Habib, Mamun's daughter, were all famous for their scholarship. In the fifth century of the Hegera, the Sheikha Shuhda, designated Fakhr un-Nisa ("the glory of women"), lectured publicly at the Cathedral Mosque of Baghdad to large audiences on literature, rhetoric, and poetry. She occupies in the annals of Islam a position of equality with the most distinguished '*Ulema*'.

It has been aptly observed that the improvement effected in the position of women by the Prophet of Arabia has been acknowledged by all unprejudiced writers, though it is still the fashion with bigoted controversialists to say that the Islamic system lowered the status of women. No falser calumny has been levelled at the great Prophet. Nineteen centuries of progressive development working with the legacy of a prior civilizations, under the most favourable racial and climatic conditions, have given to women in most countries of Christendom a code of etiquette which at least ostensibly recognizes the rights of women to a place of social respect. But what has been their legal position even in the most advanced communities of Christendom? Until very recently, even in England, a married woman possessed no rights independently of her husband. In Switzerland women did not have the right to vote. If the Moslem women do not attain in the near future, the social position of her European sisters, this will be because of socio-economic reasons and not because of religious dispensation.⁴³

CONSULTATION

In Islam beginning from the days of the Prophet mutual consultation has been recommended for finding out solutions regarding important issues. Muslims believe that the Prophet was the wisest of all the Believers (past, present and future); yet God asked him to consult the Believers in regard to problems that he had to deal with from time to time. While addressing the Prophet, God ordained:

"and consult them (the Believers) in affairs (of moment). Then, when thou hast taken a decision, put thy trust in God. For God loves those who put their trust (in Him)."

(S.III : 159)

Thereafter our Prophet used to consult not only his male companions but also the female ones in urgent matters. (Sirat un-Nabi, Vol.II).

• We have also seen in the last chapter that consultation with girls/women was made obligatory in regard to their marriages. Even in the case of orphan girls, their marriages could not have been solemnized without consulting them. (Bukhari, Kitabun-Nikah) In regard to the marriage of the daughters it has been ordered by our Prophet that their mothers must also be consulted. (Abu Dawood, Kitabun-Nikah).

• In important matters the Prophet used to consult everyone—male as well as female. And whenever the women gave a good suggestion our Prophet used to accept it. (Ibn Qateeba, Vol. I)

↙ The greatest example of settling the practical and social matters through reconciliation and consultation is narrated in Surah XLVIII entitled Al-Fatah meaning 'victory.' This sort of reconciliation was entered into a Treaty which is known as the Treaty of Al-Hudaibiya—a place in the valley of Mecca in the sixth year of the Hijrat, that is the migration of our Prophet with his followers. By that time Islam had taken firm roots and even built up a small but powerful domain. The Prophet with one thousand four hundred Muslims of Al-Madina went to perform Umra (small pilgrimage) to Kaba in the month of Zul-Qada. They all put on the dress of pilgrimage consisting of two white lengths of unstitched cloth—one tied round the waist and other covering the shoulders. The idolators of Mecca wanted to fight against them. But the Prophet resolutely refused battle and persisted in having reconciliation with the Meccan idolators which eventually resulted in the Treaty of Al-Hudaibiya. Some clause of this Treaty appeared to be unfair to the Muslims. Yet,

since in one clause it was agreed upon that in the following years Muslims could go for pilgrimage, our Prophet agreed with the Treaty. Some of the companions or our Prophet who were very close to him like Hazrat Umar were not at all agreeable to it, so much so, that while the Treaty was being written Hazrat Umar even asked our Prophet whether he was the Messenger of God? Thereupon our Prophet replied that without any doubt he was the Messenger of God.

After the Treaty was written the Prophet declared that the Muslims had performed Umra; and therefore every one should change the *Ahram* into normal clothes and perform sacrifice of animals. The Believers were so unhappy that no one did the sacrifice. Thereafter the Prophet went into his tent, and consulted his wife, Umme Salmah; one of the Ummhatul Mominin who was with him at that time. She advised our Prophet that he should change his clothes and, in the presence of all the Believers, do the sacrifice of his camel. He followed her advice. Thereupon everyone of the Believers immediately followed him, changing into normal clothing and then sacrificing their animals. (Bukhari, Kitabul Shariah).

One of the most famous scholars, Ibn Khuldun, whose contributions have been recognized by almost everybody, says about the Treaty: "And there was never a victory greater than this victory; for ... when it was war the people did not meet, but when the truce came and war laid down its burden and people felt safe one with another, then they met and engaged in conversation and discussion. And no man spoke of Al-Islam to another, but the latter exposed it, so that there entered into Al-Islam in those two years (that is between Treaty of al-Hudaibiya and the breaking of the truce by Kuraish who were the idolators in Mecca), as many as all those who had entered it before or more."⁴⁴

In the case of the coffin, there was no well established tradition among the Believers initially. Hazrat Abu Bakr's wife, Asmah bint Umess during her stay in Euthopia (at the time of first migration of Muslims to that country) saw it in the case of

Christians. She suggested that the Muslims should adopt it. This suggestion was accepted. Thereafter it was adopted in the case of all Muslims which is followed even today. (Tabaqat Ibn-e-Sa'd, Vol. VIII)

✓ Abu Sairin had written about Hazrat Umar that during his Caliphate he used to consult both Muslim men and women. And in case any woman gave reasons with her suggestions, he used to accept it. (As-Sunannual Kubra lil-Bagih, Vol. X)

✓ It is said about Shafa bint Abdullah that she was a very wise woman; and Hazrat Umar used to act on the basis of her advice. (Al-Istiyab)

✓ It should also be mentioned that in important political matters during his Caliphate, Hazrat Ali used to act on the basis of advice given by his daughter-Umme Kulsum. (Tarikh-ur-Rusul wal-Malook Tibri, Vol. V)

✓ All of us know that during the life time of Khadijatul Kubrah, the Prophet used to consult her in all important matters. It is also well known that even at the time of the first revelation to our Prophet at the Cave of Hira, the Prophet rushed to Khadijatul Kubrah and she assured him that it was the message of God and our Prophet was the Messenger of God.

✓ Once Hazrat Umar Farooq ordered that the Muslims must fix an amount of dower and should not give more than that. A woman got up and said : "You are saying this in contradiction to the verdict of the Holy Qur'an wherein it has been said that if a Muslim man has given a huge amount of money as dower to his wife, he has no right to take back even a penny thereof." Hazrat Umar accepted his mistake and said : "that a woman knew more than Umar knew." (Fatahul Bari, Vol. IX)

✓ It is said about Caliph Umar that once he was going through the streets of Madina with Hazrat Jarood. An honourable lady by the name of Hazrat Khaula bint Salba met him. She stopped

Hazrat Umar there and said to him : "Umar, there was time when you were a small boy and in the fair of Ukaz you used to terrorize small children with a wooden stick. Since you were a small boy, people used to call you as Umair. Thereafter you became a young man and people began to call you Umar. Not after long you have become our Caliph and people address you as Amir ul-Mominin. Think ! how God has elevated you to this position so quickly. You are in the habit of behaving with the general masses with great strictness. Fear God ! and the Hereafter and treat everyone kindly. Hazrat Jarood Abdi said to Hazrat Khaula that you have unnecessarily given a long speech to Amir ul-Mominin. Hazrat Umar said to Jarood Abdi : "Please do not stop Hazrat Khaula. You are not aware of her position. She is so frank, so knowledgeable and so pious that even if she goes on talking to me for the whole of the day and night, I would have to listen to her and would not proceed further." (Al-Istiyab).

SOCIAL RELATIONS

The Prophet had asked women to have good relations with the people of the household, relatives and neighbours, and with whomsoever they had social relations. One man said to the Prophet : "It is said about a woman that she regularly offers prayers, keeps fasts and gives charity and Zakat as prescribed; but she is not courteous to the people of the household, relatives and her neighbours, so much so that because of her harsh behaviour and speech people feel miserable." The Prophet said : "She will surely go to Hell." The same man said about another woman : "She is not very regular about her prayers and fasts and does not give much in charity; but she is very pleasant in her behaviour towards others, particularly with the people of the household and neighbours." The Prophet said : "Surely, she will go to Heaven." (Sahih ut-Tarhib wat-Tarhib).

Hazrat Asmah bint Abu Bakr in her earlier period of family life used to live a life of scarcity. It is on record that she said that

she did not know how to make good bread; but in her neighbourhood there were good Ansar women who used to make bread for her and her family. Our Prophet in regard to those (Ansar) woman said that they were surely very helpful and noble ladies who were bound to get their reward in the Hereafter. (Muslim, Kitab ul-Islam).

WOMEN'S PARTICIPATION IN BUILDING UP SOCIAL LIFE OF MUSLIM COMMUNITY:

During the period of the rise of Islam, women with certain limitations were also encouraged to participate in building up of social life of the Muslim community. This was done by the process of consultation, by encouraging development of better relationship with kith and kin and other neighbours. They were also encouraged to participate in Jihad with a view mainly to providing medicines, and food to the Mujahids and to do the nursing of those wounded or ailing. Further, when necessary, they were not discouraged to participate in economic activities such as agriculture, trade, small scale industries and business. The whole spirit of the new gospel was to the creation of an atmosphere of women's liberation with the code of conduct of modesty, decency and harmony. This developed the feeling of fraternity towards others. In what follows, we proceed to discuss this proposition with supportive evidence.

• It is established that women, with the permission of the Prophet have participated in Jihad. Umme Sinan Aslamiya says: "When the Prophet decided to move towards Khaibar, I went to him and said: "I intend to join you in this battle. There, if necessary, I shall sew the leather bags and treat the sick and the injured. I shall look after the belongings of the soldiers. The Prophet said: "May God grant His bounties ; you may join us. Some other women of your tribe and of other tribes had sought my permission which I have already granted. All these women shall be your companions. You may join your own clan or if you wish you can join us. I said ", "I shall accompany you." He replied, "Well then join my wife Umme Salmah. So I joined her." (Tabaqat Ibn Sa'd).

• Umme Ammara was one lady companion who actively participated in the battle of Uhad. When the enemy of Islam, Ibn Qaymma proceeded with a sword to kill the Prophet, then Umme Ammara came forward like a rock in front of the Prophet. Her right shoulder was badly injured by Ibn Qaymma's sword. Even then she proceeded with her sword towards him and hit him; but since he was putting on a double iron vest he could not be injured. Our Prophet himself said about Umme Ammara, "Right and left - whichever side I saw, Umme Ammara was fighting to help me." (Cf. Maulana Syed Jalaluddin Amri; *Aurat Islami Moashrey mein* (Women in the Muslim Civilization).

One of the enemies of Islam badly injured Umme Ammara's son. When the Prophet saw that man, he said to Umme Ammara: "Here is the man who has badly injured your son." Thereupon Umme Ammara went forward and killed that man with her sword. The Prophet smiled and said to Umme Ammara: "You have rightly taken full revenge from the enemy of your son." In addition to the battle of Uhad, Umme Ammara also participated in the Holy Wars of Khaibar, Hunain and Yemana. (Tabaqat Ibn Sa'd, Vol.VIII)

Umme Hakim participated in the battle of Yarmuq. When her husband Akrama became a martyr she took a wooden stick in her hand and with it killed as many as seven enemies of Islam. (Tabaqat Ibn Sa'd, Vol.VIII).

Asmah bint Yazid participated in the battle of Yarmuq. She killed as many as nine Romans. (Al-Istiyab fil-Asmah il-Ashab)

Umme Haris Ansaria participated in the battle of Hunain. She was so determined that even when the Muslim men who were participating in Jihad became disheartened she never lost her nerve. (Al-Istiyab fil Asmah il-Ashab)

The wife of Hazrat Habib bin Salmah asked her husband, while he was going to participate in the battle of Mota, where would you be tomorrow. He replied that, *Inshallah*, I would be

in the midst of the enemies or be a martyr. She thereupon said: "Inshallah, wherever you would be tomorrow you will find me with you." (Al-Bayan wal-Tabain, Vol.II)

Umme Salim participated in the battle of Uhad with a dagger in her hand. And similarly she also participated in the battle of Hunain. When our Prophet saw her with the dagger, he asked her as to why was it that she brought the dagger with her.

She replied, "I have brought it with me so that if any enemy of Islam comes towards you I shall thrust it in his stomach." (Muslim, Kitab ul-Jihad; Chapter Ghazwat-un-Nisa, Ma'r Rejal)

Sofia bint Abdul Muttalib was the aunt of our Prophet. When the Prophet, alongwith the Muslims, went to the battle of Khandaq, he asked the women to assemble in a fort. While the Muslims were out for the battle, the Jews were roaming around the fort. Having got an opportunity, one of the Jews entered the fort. Sofia was one of the many other Muslim women there. She took a wooden stick in her hand and hit the intruder on his head. He was instantaneously killed. She took his dead body and threw it outside the fort. When the Jews saw the dead body of one of their fellows, they were amazed and said to each other: "After all, Mohammad is not unmindful of the safety of the Muslim women folk. Surely, there are some brave men inside the fort; and therefore we will not be able to succeed in our plot of killing the women." (Nujum-e-Risalat, Part VI)

Allama Ibn-Barr has written about Haila al-Ghafriyah that she used to go to several Holy Wars alongwith the Prophet so that she could do the bandage of those who were wounded and look after the ailing men. (Al-Istiyab, Vol.IV)

Ibn Sa'd has written about Umme Salit that she participated in the battle of Khaibar and Hunain. (Tabaqat Ibn Sa'd, Vol.VIII) Hazrat Umar has said about Umme Salit that in the battle of Uhad she used to bring water in leather bags and used to give the water to the thirsty. (Al-Istiyab, Vol.IV)

There was an Ansar lady about whose name there is a little difference of opinion. In the battle of Uhad her husband, father, brother and all the sons were killed and became martyrs. Whenever any news of those who were killed in the battle was brought to her, she always used to ask about the welfare of the Prophet. When she eventually saw the Prophet she was so happy that she said to him: "When you are safe there is no worry for me about any of my relatives who have been killed." (Sirat-un-Nabi, Vol.II)

● Hazrat Khunsa participated in the battle of Qadsia along with her four sons. All of them, one after the other died and became martyrs. Yet she was happy and said: "Thank God that all of my sons became martyrs, I shall also be with them." (Sirat-un-Nabi, Vol.II)

It must, however, be pointed out that no woman could participate in Jihad without the permission of the Prophet. Some women participated in Jihad without his permission; and when he came to know about this, he warned them. Hasraj bin Ziyab relates what his grand-mother said: "I accompanied the Prophet for the battle of Khaibar. There were five other women also. When the Prophet came to know about this fact he summoned us through a man. When we went to him we found him angry. Then he asked with anger: With whom have you come and with whose permission have you come?" (Abu Dawood)

● This shows that the Prophet was concerned about the security of such women. In the first instance they were required to have his permission for participation in Jihad and, secondly they were to come with their clan or with very reliable persons.

It is narrated by Hazrat Uns that Hazrat Ayisha and Hazrat Umme Salmah served in Jihad by providing drinking water to the Muslims participating in Jihad. They were often seen running about so briskly that their ornaments could be seen on their feet (Tabaqat Ibn Sa'd, Vol.VIII).

It has been narrated that after the battle of Uhad a large number of women ran from Madina to Uhad to take back the wounded *Mujahids* for looking after them and applying bandages. Hazrat Ayisha and Hazrat Umme Salmah and other Muslim women brought the wounded *Mujahids* and bandaged them and did their nursing. (Muslim)

●After the battle of Uhad in which our Prophet was badly wounded and blood was oozing out, Hazrat Fatimat uz-Zehra herself put the mat-ash in his wounds and wrapped bandages. (Bukhari Kitab ul-Magazi).

We have already talked about Hazrat Umme Ammara. In *Tabaqat Ibn Sa'd* it has been narrated that she went to the battle of Uhad in the morning with a view to supplying drinking water and nursing the wounded. Her son has said that she had prepared the bandages herself with which she was binding the wounds. (*Tabaqat Ibn Sa'd*. Vol.VIII; Bukhari, Kitab ul-Maghazi).

Razia bint Maus says that we used to go with the Prophet to the battle field so that we could supply drinking water to the *Mujahids*; and take back to Madina those who were wounded for doing the bandage. (Bukhari, Kitab ul-Jihad).

○Hazrat Umme Atiya says that she participated seven times in the battle fields with the Prophet. There, she used to look after the luggage of the *Mujahids*, cook meal for them and used to do the nursing of those who were wounded or were ailing. (Muslim, Kitab ul-Jihad).

Another woman companion of the Prophet went with the Prophet to as many as six battle fields. She used to do the bandage of those wounded, do the nursing of the ailing and look after their needs. (Masnad Ahmad, Vol.V).

The grand-mother of Hashraj bin Ziyad and other five ladies have narrated that they all said to the Prophet that we would participate in the Holy wars, supply the *Mujahidin* the medi-

cines, would give arrows to them as well as *sattu* (i.e., preparation of fried flour with water) (Abu Dawood, Kitab ul-Jihad)

While our Prophet was going to the battle of Khaibar, some ladies of the clan of Ghaffar sought his permission to go along with him so that they could look after those who were wounded and help the Muslim Mujahidin as far as it lay in their power. (Tabaqat Ibn Sa'd, Vol.VIII)

One lady was from Qabila Aslam whose name was Rafida. The historians have written about her that she used to do the bandage of those who were wounded in the battle-field and used to do the nursing of those who needed nursing. (Al-Istiyab, Abdullah Ibn ul-Barr).

In the battle of Khaibar there were as many as twenty Muslim women companions of the Prophet who were giving medicines to the ailing men and whose responsibility it was to do the bandage and provide water and food to them. (Maulana Syed Abul Hasan Ali Nadvi, Nabi-e-Rehmat, Vol.II).

WOMEN GOING OUT FOR WORK OUTSIDE

It is also established by Traditions that Muslim women were not forbidden to go out of their houses for earning a livelihood whenever it was necessary.

Hazrat Jabir bin Abdullah has said that his aunt was divorced by her husband. Obviously after the divorce she was required to spend at least three months for *iddat* in house. But she was in dire need for money because without that she could not subsist. She had a small field of palm trees. She wanted to go out, cut the trees and sell the wood during the period of *Iddat*. One of the companions of the Prophet forbade her to do that. She went to the Prophet and asked him whether she could go out for work. The Prophet replied: "Yes, go out, cut your trees and sell the wood. It is as well possible that out of the sale proceeds you meet your expenses and some money is left out

which you can give in charity and earn the reward of the Hereafter." (Abu Dawood, Kitab ul-Talaq).

BUSINESS

It is very well known that Hazrat Khadijatul Kubra, the first Muslim in the world and one of the four greatest women of the world, was engaged in business. Prior to her marriage with our Prophet, the Prophet himself used to look after the management of her business. And after marriage, she herself managed the business.

There was a woman companion by the name of Qeela. She said to the Prophet: "I am engaged in business and purchase and sell different commodities." Thereafter she requested the Prophet to give her guidance about the business affairs. (Tabaqat Ibn Sa'd, Vol. VIII).

During The Caliphate of Hazrat Umar Farooq there was a lady by the name Asmah bint Makhrama. Her son Abdullah bin Abi Rabia, used to send her perfumes from Yemen and she used to do business by selling them. (Tabaqat Ibn Sa'd, Vol. VIII).

INDUSTRY

The wife of Hazrat Abdullah Ibn Mas'ud was engaged in small scale industry. She went to our Prophet and told him: "I am an artisan, I produce things and sell them to earn livelihood for my family. My husband does not have enough of money to work as an artisan and earn enough money for the maintenance of my family members?" The Prophet said: "Yes, you can do so, God will reward you for that." (Bukhari, Kitab ul-Jum'a)

Similarly, Khaula bint Salba, earned through industrial work and maintained her husband also. (Tabaqat Ibn Sa'd, Vol. VIII).

AGRICULTURE

We have already noted that Hazrat Jabir bin Abdullah's aunt was engaged in agriculture. This was appreciated by the Prophet. Sahal bin Saa'd mentions a woman who was engaged in the cultivation of sugar beat. (Bukhari, Kitab ul-Jum'a)

Hazrat Asmah bint Abu Bakr used to help her husband by cultivating a small field which the Prophet himself had given to her husband as a gift. (Bukhari, Kitab ul-Jum'a)

It has been aptly pointed out by Zeenat Shaukat Ali that it is proved by the Traditions that women were never discouraged to work outside the household.⁴⁵

Whenever weakness crept into the faith, Muslim men tended to treat women oppressively and sought to exploit them. This is natural and amply demonstrated by the fact that most of the rulings of the Holy Qur'an were sent down as restrictions on men with a view to preventing them from transgressing as his natural disposition and actual practice in many societies. Only a few of the Quranic injunctions impose restrictions on women.⁴⁶

There are many Traditions which show that the husbands have been warned against meeting out ill-treatment to women and beating them. Our Prophet has said: "None of you should flog his wife like a donkey and later on, towards the end of day, have intercourse with her." (Bukhari). He once warned the Believing men by saying that, "A large number of women came to me complaining about their husbands. Such husbands are not the best amongst you." (Riad us-Salihin). He has also said, "None but a noble man treats women in an honourable manner; and none but an ignoble man treats women disgracefully." (Al-Tirmizi). The Prophet always encouraged Muslims to care for the upbringing and education of women and for their well-being in general. "The best of you", he has added, "is one who is best towards the family; and I am best towards the family." (Al-Tirmizi).

It has been rightly said that "Weak commitment to religion tends to cultivate unjust and hostile treatment of women. For unlike man, a woman is created and brought up to be gentle and delicate. Performance of her natural functions keeps her away from the toughening experience of every-day public life. Man, uncultured by religion, tends to oppress her as is common in many a human society. Men normally purposefully keep women weak, and the jealousy which they entertain in respect of women induces them to multiply the means for restraining and monopolizing them. They like to dominate the property and life of the female with a view to asserting their vanity and arrogance.

"Male jealousy is but one aspect of masculine capricious tendencies which only godly men are immune from and which inculcated the myth that women, by nature, suffer from excessive incapacity. Men use that fantasy as an excuse to ban women from active participation in the broad spectrum of human life and to deprive them of experience and training - thereby devitalizing and debilitating them in fact, and finding reason for further ill-treatment and prejudice. These male tendencies and the appending customs and ways are manifest in many societies where male arbitrariness runs amok with no religious or human limitation."⁴⁷

The problem is magnified because some of the later jurists have qualified the Shariah which suit the entrenched customs and traditions in favour of men as compared to women. Many unauthentic traditions have been brought into prevalent use with a view to minimizing the liberty of women or restricting their general scope to a vanishing point. A tricky approach is to interpret liberally the rulings granting authority to men; but reading illiberally and strictly those that impose limitations on women. This discriminatory attitude is very wide-spread. Some of the injunctions of the Holy Qur'an regarding seclusion were in regard to the Ummahatul Mominin which were meant exclusively for them because of their exalted position. But these were generalized so as to make them applicable to

Muslim women in general. The proper way should be to find a balance between avoiding the risk of temptation and the positive merits of cooperation of men and women for the promotion of the interests and welfare of the Muslim community.⁴⁸

The traditional Muslim society has had a historical decline in which it has become common to pilfer through covetousness the obligations of positive pursuits. It has become unduly conservative on the pretext that freedom of thought and the freedom of women would degenerate into licentiousness. The rights of women have been forgotten and the fairness of the structure of Muslim society as enshrined in the Islamic Shariah have been completely ignored.

The claims of some jurists regarding the seclusion of Muslim women is based on a misinterpretation of the condition of the society at Madinatul Munawwara during the Ministry of the Prophet. The fact is that not all the members were like the rightly guided companions of the Prophet. Some of the elements at that time were hypocrites and newly converted people who were not yet free of Jewish or pre-Islamic Arab influence and manners. Some of the verses of the Holy Qur'an that prescribed proper dress for the ladies, such as Surah XXXIII : 59-60 referred to the presence of the hypocrites and the rumour mongers. Whatever the present character of the society, the proper reform policy would be to reshape it on the example of the society based on *Sunnah* by establishing sound Islamic values and institutions which are not in use at present.

It has been rightly pointed out that the greatest injustice visited upon women, is their segregation and isolation from the general society. Sometimes the slightest aspect of her public appearance would be considered a form of obscene exhibitionism. Even her voice was bracketed in the same category. Her mere presence at a place where men are also present was considered shameful promiscuity. She was confined to her

home in a manner prescribed in Islam only as a penal sanction for an act of adultery. She was so isolated on the pretext that she might devote herself exclusively to the care of her children and the service of her husband. But how could she qualify for attending to domestic affairs or to the rearing of children in a satisfactory manner without being herself versed through education or experience, in the moral and functional culture of the wider society ?"⁴⁹

Since most of the societies in which Muslims are living have degenerated as compared to what they should have been according to the real injunctions of the Holy Qur'an and the Traditions, women in these societies are being increasingly influenced by the resurgence of the women's liberation movement in the West. The Western society appears to be very glamorous to most of the women living in the closed traditional societies. Sex relations and conduct in the West, degenerated, at least to a considerable degree, into promiscuity, permissiveness and sexual indulgence. Like power, pleasure and beauty, sex became almost an object of total, uninhibited devotion. "As a consequence women once again began to lose their primacy and autonomy as a human being, to become an object for physical pleasure and commercial promotion. Her purpose in life became more to realize her femininity than to fulfil her humanity. She would take her natural physical aspect by all sorts of artificiality and cosmetic treatment or surgery; and waste her energy, wealth and time simply to maximize her seductiveness in the eyes of men."⁵⁰ On the other hand, men when overcome by the craving for pleasure would relate to women only as males and not as human beings and would affect looks and conduct simply to attract women. Just as economic materialism has spread in the societies, most of the Muslims lost their solid religious ways of life and thereby weakened the ethical norms of social control in life.

Because of the general rise in the standard of living of the people, the limited incomes and rise in prices of commodities, women have to step out in order to earn a living and supple-

ment the family income. For this, they have to acquire academic qualifications and training in jobs and trades and new experience to assert their freedom from the vanity and authority of men. This seems like liberation from the old order, a revolt against control and authoritarian model of the past. For a large number of women it resembles the permissive model of the West.

It has been suggested by Hasan Turabi : "... increased urbanization brought more people into a new and impersonal social context with little of the closed community for the norms of the public decency or for family honour, that was a deterrent to acts of indecency and ignominy. The crowded urban conditions brought about much more direct contact and, as a result, many occasions for temptation between men and women. The old time institution of Female privacy was dismantled for practical considerations with no compensating development of personal piety or moral barriers."⁵¹

The present author is inclined to think that even though the effect of Western culture and tradition and the recent tendency of women's liberation have adversely affected the Muslims in the more traditional setting, and the validity of Hasan Turabi's statement cannot be entirely denied, yet the totality of the picture is not so bad as outlined above. Many Muslim women living in urban areas are engaged in gainful employment and yet safeguard their modesty and chastity as enshrined in the Islamic Shariah; and I think in the present day economic conditions in our country the ladies who are qualified to do jobs should be encouraged to do outside work. The proper thing in the big cities and the metropolitan areas would be to provide sound religious education to the children—both boys and girls—who know the fundamentals of Islam so that when they grow up and enter into corporate life they can live according to the tenets of Islam.

We have seen that during the life time of our Prophet and later on during the period of Khulafa-e-Rashidin, Muslim

women could participate in agriculture, business and small scale industry just as they could acquire and disseminate knowledge. Therefore, I believe that during the present time, as it is necessitated because of the economic conditions, they can do outside work for earning, teaching and research in various disciplines like Arts, Social Sciences, Islamic Studies, Law and Medicine. etc. They can take up jobs specially suited to ladies in various fields to supplement the income of their families with a view to managing the financial affairs of the households and give the best of training to the children. They should also enter into the fields of business and industry, specially the small scale industries and also get the benefit of various schemes of self employment. It has been rightly pointed out that "our Prophet had inculcated labour as a duty; he had given the impress of piety to industrial pursuits; he had recommended commerce and agriculture as meritorious in the sight of the Lord."⁵²

Most of the Muslims in our country live in the rural areas and a majority of them are poor, or even live below the poverty line. For the benefit of the rural families- both men and women-the Integrated Rural Development Programme was initiated in 1978-79. For this scheme credit from the banking institutions and subsidies from the Government are given to families for self employment and income generation. The Department of Rural Development has suggested that in case of women, poverty elevation goals for 2000 A.D. should be to: (1) bring all women headed household estimates to be 30-35 per cent above poverty line, and, (2) attain the target of having women constitute 30 per cent of all beneficiaries under IRDP.⁵³

Similarly, there are several schemes for the benefit of women living in semi-urban and urban areas such as the Jawahar Rozgar Yojna, Twenty Point Programmes, and the Prime Minister's Rozgar Yojna. Under the Prime Minister's Rozgar Yojna an amount upto Rs. one lakh is given by Banking Financial Institutions to the educated unemployed women. The Muslim educated unemployed women have better chances

for getting loans from the Banks because they are not only women but also belong to the minority community. From this scheme no repayment is required for a period of three years (which is considered to be the gestation period); and only thereafter capital plus interest has got to be paid in easy instalments.

Again, for the development of the small scale industries money is available to men/women provided that the projects submitted are considered viable. This money is given by the banking institutions and the State Governments.

The organized sector (which consists of the public sector and non-agricultural private sector establishment) in India absorbs less than one-tenth of the actual work force of the country. Of this the share of the women as of 1988 NSS Data was only 12.4 per cent.⁵⁴

Government of India Report adds: "a majority of the women are to be found in the vast rural and urban unorganized sector. According to an estimate by the National Commission on Self Employed Women, 94 per cent of the total female work-force operates within this highly exploited sector. Employment in this sector is characterized by low-pay, long hours of work, low productivity, low skills and lack of job security."⁵⁵

Muslim community being 'backward' will have still less percentage of employed women in the organized sector. The Gopal Singh Commission has observed that the Muslims are not only unemployed, some employment exchanges have even refused to register them. At least 97 per cent of the Muslims have virtually no presence in trade, cottage and small industries. Therefore, it is essential for Muslim women to enter into the field of agriculture, business, self-employment, artisan and small scale industries, apart from taking employment in areas where there is less of free mixing.

FINANCE FOR ENTERPRISE

The important issue to be underlined is that for all these things finances are necessary which are available only from the banking and non-banking financial institutions for which interest will have to be paid. In today's world, it is impossible to do so without seeking the assistance of the banking and the non-banking institutions that provide credit for the establishment and the running expenditure of such concerns.

There appear to me to be two views of the Islamic Shariah; one which permits the banking credit and the other which does not do so. The whole controversy between these two Schools centres around the translation and the significance of the word *Riba* which has been strongly condemned in the Holy Qur'an. Says the Holy Qur'an :

Those who devour usury will not stand except as stand one whom the Evil One by his touch hath driven to madness. That is because they say: "Trade is like usury", but God has permitted trade and forbidden usury.

(S.II : 275)

The issue whether Islam permits interest giving and interest taking from the banking and non-banking financial institutions is extremely important as it relates to the problem of creating employment opportunities for the Muslims in general and Muslim women in particular. Their participation in the organized sector is extremely limited. Therefore, it will become necessary, with a view to increasing the scope of their employment under various schemes; and in agriculture, business and small scale industry to ensure the availability of finances for them. But finance can come from the banking and non-banking financial institutions for which interest will have to be paid.

Since there are two views on the meaning and significance of the term 'Riba' as used in the Holy Qur'an, it is proposed to discuss this issue in the Appendix to to this Chapter.

But it must be underlined that the primary duty of women is to look after their household. Our Prophet has said: "Woman is the care-taker of all the members of her husband's family and his children. And for this, she will be questioned on the Day of Judgement." (Bukhari). However, this does not mean that women are not allowed to go out of their houses for outside work. They can, in the first instance, form a social organization for the welfare of the Muslims in general and the upliftment of the women and children in particular. Allama Ibn Ilham Hanafi has said: "The Shariah says that ... the woman can be the manager and trustee of a trust and the guardian of the orphanage."⁵⁶ The main consideration should be that their primary duties assigned to them should not be adversely affected while working for the social organization. In regard to work by women, the Islamic Shariah has implicitly suggested certain limitations. For instance, Allama Ibn Mujam has said: "The husband has the right to prevent his wife from earning of her livelihood because he is duty-bound to provide maintenance to the wife and the children. However, if the husband is unable to provide the necessities of life to her and the children, the wife is permitted to go out and earn money for the maintenance of the family." (Al-Bahar al-Raiq, Vol.IV). Besides, Allama Ibn Abidin says: "There are certain expenses of the wife for which the husband is not bound; hence the wife can work and earn money to meet such expenses. The husband can prevent her from doing extra work which affects her health adversely. It is his duty to keep his wife hale and hearty and beautiful." He further adds, "there is no reason why a husband can prevent his wife from any activity which causes no harm to him." (Al-Durral Mukhtar).

However, all relations, including those between men and women and husband and wife should be based on the overarching principles of *Taqwa* and justice as given in the Holy Qur'an.

The Islamic Shariah imposes restrictions on the movement of women in their own interest as well as for the welfare of the whole family and every good family contributes and helps in the establishment of a good society and economy.

REFERENCES

1. Ameer Ali, Syed, *The Spirit of Islam: A History of the Evolution and Ideals of Islam*, B.I. Publications, Bombay, Calcutta, Delhi, Madras, 1978, p.11.
2. *Ibid.*, p.11
3. Cf. *Ibid.*, p.253

4. From the time of revelation to our Holy Prophet Mohammad (PBUH) till about the time of sixteen and a half months of Hijrat, God asked through his Messenger (i.e., our Prophet) to turn the Muslims their faces while offering their prayers to Masjid-e-Aqsa. It may be noted that Masjid-e-Aqsa was also the *qibla* of the Jews and Christians who were the followers of Holy Scriptures.

Apparently it seems that our Prophet was not very happy about this order of God probably because he wished to have Kaba, the mosque built by Prophet Abraham and his son Ismail and earlier to that by Adam. Our Prophet wished to have Kaba as Qibla because the real founder of Ummat and believer in one God was Abraham. But notwithstanding that our Holy Prophet under the directions of Almighty God ordered his followers i.e., Muslims to turn their faces towards the Masjid-e-Aqsa. But he used to see towards Heaven again and again with his wish for guidance from God. Thereupon while he was leading the prayer of the Muslim community which was organized as an *Ummat*, (an independent people with laws and rituals of their own), a revelation came to him from God which said that according to the wishes of the Prophet beginning from now. We have decided that Kaba be your Qibla. The situation of Kaba geographically speaking was just opposite to the Masjid-e-Aqsa which was in the East and Kaba was in the West. Therefore, those who were doubtful of the faith of Islam, which literally means a complete surrender to the will of God began raising an objection against it. They said to each other what type of God Mohammad (PBUH) is preaching Who sometimes asked the Muslims to turn their faces to East as Qibla and sometimes to West. Thereupon the following verses were revealed:

The fools among the people will say: "What hath turned them from the Qibla to which they were used?" Say: to God belong both East and West: He guideth whom He will to a Way that is straight.

Thus have We made of you an *Ummat* justly balanced, that ye might be witnesses over the nations, and the Apostle a witness over yourselves; and We appointed the Qibla to which thou was used, only to test those who followed the Apostle from those who would turn on their heels (from the Faith). Indeed it was (a change) momentous, except to those guided by God. And never would God make your faith of no effect. For God is to all people most surely full of kindness, Most Merciful.

We see the turning of thy face (for guidance) to the heavens: now shall We turn thee to a Qibla that shall please thee. Turn then thy face in the direction

of the sacred Mosque: wherever ye are, turn your faces in that direction. The people of the Book know well that that is the truth from their Lord. Nor is God unmindful of what they do.

Even if thou wert to bring to the people of the Book all the Signs (together), they would not follow thy Qibla; nor art thou going to follow their Qibla; nor indeed will they follow each other's Qibla. If thou after the knowledge hath reached thee, wert to follow their (vain) desires, - then wert thou indeed (clearly) in the wrong.

(S.II : 142-45)

Similarly, at another place God has revealed the following:
It is not righteousness that ye turn your faces to the East or the West; but righteous is he who believeth in Allah and the Last Day and the Angels and Scripture and the Prophets;

(S.II : 177)

5. Maududi, Syed Abul Ala, *Purda*, Markazi Maktaba Islami, Delhi, 1981, pp-221-23.

To be fair to Syed Abul Ala Maududi it must be said that he has anticipated this objection and the interpretation that the quotation of the Holy Qur'an vide Surah XXXIII : 32-33 is applicable only to Ummhatul Mominin because this verse starts by saying "O Consorts of the Prophet ye are not like any of the (other) women:" but he says that in whatever follows thereafter in the verse (quoted above) everything is applicable to the other Muslim women. Is it possible for the Muslim women not be too complasant of speech lest one in whose heart is a disease should be moved with desire ? Is it possible for the Muslim women to say that they should beautify themselves like the women of the *Jahiliya* period ? Is it possible for the Muslim women that they should not make a dazzling display of themselves ? And further is it possible for the Muslim women not to offer prayers, give Zakat, and obey the orders of his God and His Prophet ?

The Maulana says that the whole difficulty is created because of the special way of expression, and therefore he is convinced that all the Muslim women should follow the orders as given in the above mentioned verse. To support his argument he has quoted what Allama Abu Bakr Hissas in his book *Ahkam-ul-Quran* vide Vol.III, p.55 says: "Even though this order has been revealed in relation to Ummhatul Mominin, yet it is applicable to all the Muslim women because all the orders are the ones which will make the women think in terms of piety and modesty."

Notwithstanding what Syed Abul Ala Maududi has said in his footnote on page 1979-80 of his book, *Purdah*, I fear it is difficult for me to agree with him because not only this verse but the earlier two ones were also applicable to Ummahatul Mominin. The earlier verses run as under:
O Consorts of the Prophet if any of you were guilty of evident unseemly conduct, the Punishment would be doubled to her, and that is easy for God.

(S.XXXIII : 30)

But any of you that is devout in the service of God and His Apostle, and works

righteousness, - to her shall We grant her reward twice: and We have prepared for her a generous sustenance.

(S.XXXIII : 31)

The verses indicate that because of the special position of Ummahatul Mominin the punishment of the guilt and the reward of the service of God and the Prophet would be doubled. This is not the case with other Muslim women.

6. Cf. Abdullah Yusuf Ali, *Glorious Quran*, Text, Translation and Commentary, Dar al-Kitab al-Msri Dar al-Kitab al-Lubnani, Vol.II, p.1115 fn.
7. *Ibid.*, p.1115 fn
8. Cf. Maududi, Abul Ala, *ibid.*, pp.228-29.
9. *Ibid.*, pp. 230-32.
10. *Ibid.*, pp. 232-33.
11. *Commentary*, Ibn-e-Jarir, Vol.22, p.29.
12. *Ahkam ul-Quran*, Vol.3, pp.450-57.
13. *Tafsir Gharaib ul-Quran*, Vol.22, p.32
14. *Tafsir Kabir*, Vol.6, p.591.
15. *Tafsir Baizavi*, Vol.4, p.168
16. Maududi, Syed Abul Ala, *op.cit.*, pp. 241-42
17. Engineer, Asghar Ali, "Islam - The Status of Women and Social Change" included in *Problems of Muslim Women in India* (edited) by Asghar Ali Engineer, Orient Longman Ltd., Bombay, 1995, p.4.
 NOTE: Mr. Engineer's arguments cannot be supported on the basis of the sociological condition prevailing in our country. It has been very often observed that there are people who try to harass unmarried young ladies; and if they come to know that they are married their attitude towards them changes to some extent. I had personally seen two cases in which very respectable educated women were being harassed while travelling in the first class compartment. A young lady who was Professor and Head of the Department of Philosophy at the Lucknow University was being harassed by the undesirable people travelling in the train from Old Delhi Junction to Lucknow. In another case a young lady who occupied the position of Professor and the Head of the Gynaecology Department in the Medical College, Kanpur had to travel under the protection of a Professor of Aligarh Muslim University from Patna Junction to Kanpur Junction in the Upper India Express only because she was travelling alone and was being followed by men having evil intention to molest her.
18. *Ibid.*, p.5
19. *Ibid.*, p.5
20. *Ibid.*, pp.5-6
21. *Ibid.*, p.x
22. Ameer Ali, Syed, *op.cit.*, p.256 (Italics added)
23. Engineer, Asghar Ali, *op.cit.*, p.x
24. Cf. Smith Wilfred, Cantwell, *On Understanding Islam*, 1986, Delhi, pp.99 ff.

25. Cf. Dr. Faruq Abu Zayd's *Al-Shariah al-Islamia*, Bayan al-Muhafizin wa'al-Mujadditin, (Cairo, n.d.)
26. Tabbarah, Afif A., *The Spirit of Islam: Doctrine and Teaching*, Translated into English by Hassan T. Shoucair, Revised by Baalbaki, Dar el-Ilm Lilmalayin, Beirut, Lebanon, first published in English 1978; second revised ed. 1988.
27. *Ibid.*, p.358
28. *Ibid.*, p.359.
29. Ameer Ali, Syed, *op.cit.*, p.249
30. *Ibid.*, p.251
31. *Ibid.*, p.250 fn (Italics in original)
32. Cf. *Ibid.*, pp.253-54.
33. Hasan Turabi, *Women in Islam and Muslim Society*, first published by Milestones Publishers, London, 1991, and republished in 1993 by Islamic Education Trust (Publication Division) P.O. Box 29, Minna, Niger State, Nigeria.
34. Cf. *Ibid.*, p.32.
35. *Ibid.*, p.34.
36. Quoted in Ameer Ali, Syed, *op.cit.*, p.361.
37. Tradition from the Bihar-ul-Anwar of Mulla Bakir ibn Mohammad Taki al-majlisi, vol.i, chap. on knowledge handed down by Imam Ja'far as Sadik, also quoted from Mu'az ibn Jabal in the Mustatruk. Chap.iv; also in the Kashf uz-Zunun of Haji Khalifa, Fluegel's ed. p.44.
38. The sources of the Traditions quoted below have been selected from Hakim Mohammad Aslam Siddiqui, *Aurat Islam ki Roshni Mein*, (i.e., Women in the Light of Islam), Al-Mahmood Publishers, Razipur Lodge, Sir Syed Nagar, Aligarh, 1990.
39. One well-known Institution of this kind was established in Cairo in 684 A.H. by the daughter of the Mameluke Sultan Malik Taher.
40. Zubaida, The wife of Harun, founded several such refuges; and the hospital built by the wife of 'Azud-ud-Dawla rivalled her husband's. The daughter of Malik Ashraf, known as the Khatun, erected a splendid College at Damascus. Another College was founded by Zamurud Khatun wife of Nasir-ud-Dowla of Hems.
41. Faruq was away for 27 years engaged in wars of Khurasan. His son's name was Rabya-ar-Ray.
42. Husain was married to one of the daughter's of Yezdjard, the last Sasanian King of Persia.
43. Ameer Ali, Syed, *op.cit.*, pp.244-56.
44. Ibn Khuldun, *Tarikh* (History) supplement to part II, Bulaq 1284 A.H.
45. Zeenat Shaukat Ali, in her article entitled: "Women in Islam: Spirit and Progress" included in The Proceedings of the National Seminar held at the Aligarh Muslim University Womens' College and published in Zakia A.Siddiqui and Anwar Jahan Zubairi (ed.) *Muslim Women: Problem and Prospects*, M.D. Publications Pvt. Ltd., New Delhi, 1993, p.21; has said:

"Women's participation in various activities as Hadith or the Traditions of Prophet Muhammad point out was never discouraged. Women took part in national activities, acted as advisers, and while they were efficient managers of the household, nonetheless joined in congregational prayers in the mosque (Bu.10:162,164). They were in the battlefield before the Red Cross nurses (Bu.56:57), carried provision therein (Bu.56:66), helped carry the wounded and slain from the battlefields (Bu.56:68), and even participated in fighting when necessary (Bu.56:62,63,65). The Prophet's wife Zainab prepared hides, devoting the proceeds of the sale for charitable work. Women helped as labourers in the fields when necessary (Bu.67:108), served male guests at a feast (Bu.67:78), carried on business (Bu.11:40). The great lady Khadija herself had a well established business. They could sell and purchase from men and men could sell and purchase from them (Bu.34:67)."

46. Cf. Hasan Turabi, *op.cit.*, p.35
47. *Ibid.*, pp. 37
48. Cf. *Ibid.*, pp.37-38
49. *Ibid.*, p.40
50. *Ibid.*, pp.41-42'
51. *Ibid.*, p.43
52. Ameer Ali, Syed, *op.cit.*, p.392
53. Cf. "National Perspective Plan for Women: 1988-2000", a Report of the Core Group set up by the Department of the Women and Child Development, Ministry of Human Resource Development, Government of India, 1988, p.30 (Hereafter to be called Government of India Report).
54. Cf. *Ibid.*, p.25
55. *Ibid.*, p.25
56. Quoted from Sheikh, N.M., *Woman in Muslim Society*, Kitab Bhavan, New Delhi, 11002, 1991, p.65.

APPENDIX

There are several competent scholars of what is called "Islamic Economics" who believe that about three and a half decades back mainly because of the influence of Christian ideas on Islam, *Riba* was translated as usury and not as interest. According to them, now there is consensus among the Islamic jurists of the world that a fixed and assured rate of interest by the banking institutions is prohibited in Islam. Instead, there should be interestless banking on the basis of the trade in which people contribute their money which is invested in various enterprises and at the end of the year total profit is calculated and dividend paid to the share-holders. In such a case the rate of interest will fluctuate depending upon the greater or lesser profitability of commercial and industrial enterprises. In some cases there is a possibility of even loss; in which case it will be shared by the contributors according to their share in the total contribution.

I understand that such a scheme of interestless banking was adopted in Pakistan during President Ziaul Haq's regime. I must admit that I am not fully aware of the details of this scheme; but from the newspaper reports it is learnt that in their banking structure in this scheme a substantial part of their capital was given on interest to those whom they considered credit-worthy, thereby ensuring that the rate of the dividend is maintained at the same level. For instance, a report in the *Indian Express*, March 10, 1987 says; "Banks in Pakistan do not pay interest to their customers. Instead customers open profit and loss sharing (PLS) accounts and get dividend at

almost the same rates as those of interest. President Ziaul Haq's detractors say the whole process is love of 'Cosmetic Islamization.'

"The Banks, however, lend money to credit-worthy customers on interest to make sure that there are no losses.

"Why are we making such a fuss about interest in banking and solving our conscience by merely changing its name to profit and loss sharing (PLS) banking? Is this not an act of hypocrisy (*Munafiqat*), asks one correspondent (in a Karachi, daily *Dawn* in Pakistan).

The report in the *Indian Express* further adds: "The interest-free banking system introduced in Pakistan a few years ago made under the government's Islamization programme received an implicit jolt recently when an Appeals Court in Egypt ruled that interest is legal and does not amount to usury."

I, for one, would feel that this is not interestless banking for the reason that if the bank itself lends money on interest, then the whole process become interest based.

A leading authority on Islamic Shariah, Syed Abul Hasan Ali Nadvi, has also made his observations on this question. From the spirit of what Allama Nadvi has said about the Zaka't and the Riba, I am inclined to think that Riba is usury and not interest from the banking institutions. For instance, he says:

"Zakat is just the reverse of usury. In origin and design and nature and purpose the two are inimical to one another and the fruits they bear and the effects they produce, both for the individual and the society, are also widely different.

"While the fear of God, the doing of one's duty to Him, the seeking of His good pleasure, the concern for His needy and destitute bondsmen and kindness, compassion and self-denial form the essence of Zakat, the entire system of usury is reared upon defiance of God, callousness, excessive greed

and heartless exploitation of the needs of others. Consequently, Zakat leads to the promotion of faith and the development of the spirit of brotherhood and fellow-feeling. Visible signs of economic well-being become manifest in society, goods are visited with prosperity and love is generated in the hearts because of it. The practice of lending money on compound rate of interest, conversely, breeds egotism, conveteousness parsimony and mistrust. It fosters the concentration of wealth in the hands of a few. The money-lender is like a small tank into which all the wealth of the community ultimately flows or the mountain of magnet one reads about in the story of Sindbad the Sailor. It is said that when Sindbad's boat had lost its way, after being caught in a storm, the oarsmen began to cry that there was a mountain of magnet nearby which would draw out the nails of the boat and it would sink. In the same way, the usurer and money-lenders possess a magnet (i.e., accumulated asset in cash and gold) which attracts the nails that hold together the boat of the society and its boards are cut loose from each other and the society falls a pray to a hundred moral and economic ills.

“Usury sustains and promotes of conditions that give rise to class hatred. The poor and the under-privileged masses are always at a loss. The society gets divided into two distinct groups of haves and have-nots. The Quran has, therefore, condemned usury in the strongest terms. It has used much greater force to denounce it than to extol charity. The Quran employs the same method in dealing with usury as it does in case of lewdness and other moral sins. For instance take this verse.

O ye who believe ! Observe your duty to Allah and give up what remaineth (due to you) from usury, if you are (in truth) believers. And if ye do not, then be warned of war from Allah and His Messenger. And if ye repent then ye have your principal (without interest). Wrong not, and ye shall not be wronged.

(S. II : 278-79)

"The revolting picture of the usurer drawn by the Quran is enough to fill the heart of a Muslim with repugnance.

Those who swallow usury cannot rise up save as he ariseth whom the Devil has prostrated by his touch. That is because they say : Trade is just like usury; whereas Allah permitteth trade and forbidden usury. He unto whom an admonition from his Lord cometh and he refraineth (in obedience thereto), he shall keep the profits of that which is past, and his affair henceforth is with Allah. As for him who returneth to usury - such are rightful owners of the Fire. They will abide therein.

(S.II : 275)

"The Quran has drawn the comparison between usury and alms giving at a number of places and summed up the effects and consequences of both in verses which it will take volumes to explain:

Allah hath blighted usury and made alms giving fruitful.
Allah loveth not the impious and guilty:

(S.II : 276)

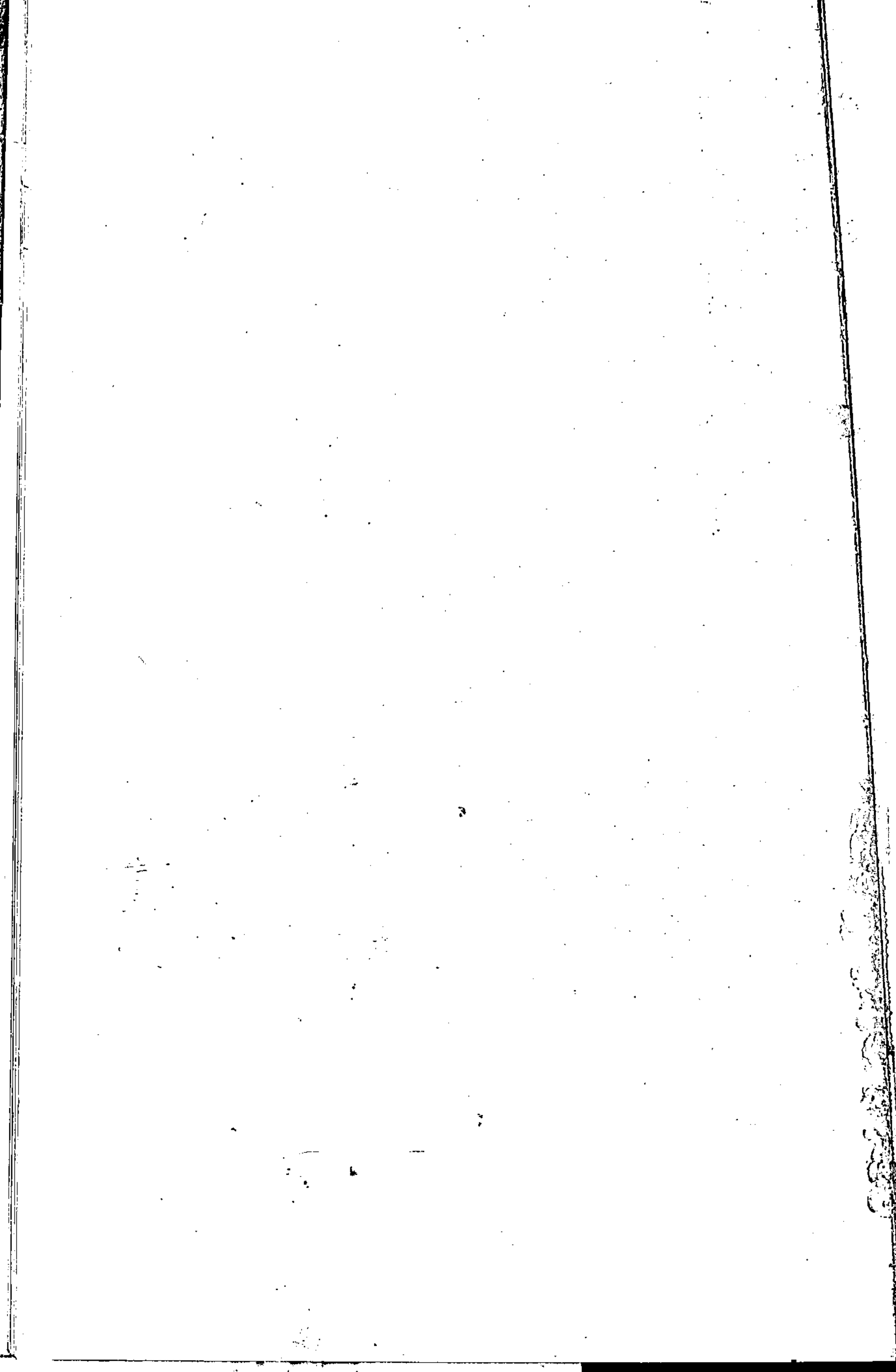
That which ye give in usury in order that it may increase in (other) people's property hath no increase with Allah; but that which ye give in charity, seeking Allah's countenance, that increase manifold.

(S.XXX : 39)

"The Holy Prophet has praised charity and spoken of the blessedness and increase which attends the material possessions of Muslims through its moral and spiritual goodness. Beside, he has given the warning of immediate punishment and wretchedness in this world, too, to those who do not practise it. It is related that once the Prophet said, "when a community stops paying the Zakat, Allah punishes it with

drought and famine.' In the same way, the Prophet has warned those of severe chastisement in both the worlds who lend money to people, Allah afflicts it with famine, and when bribery becomes prevalent, Allah afflicts it with fear.' Another of his Traditions reads: 'The curse of Allah rests on him who offers loans on usurious terms, and on him who receives, and on the writer who writes the deed thereof, and on him who does not spend in charity.' (Vide Nadvi, Syed Abul Hasan Ali, *The Four Pillars of Islam*, Academy of Islamic Research and Publication, Lucknow, India, pp.114 to 116). (The work was first published in Arabic and subsequently translated in several languages. The English translation has been done by Dr. M.Asif Kidwai).

If I am correct in my interpretation of Allama Nadvi's view then I believe that interest taking and interest giving from and to the banking and non-banking financial institutions is permitted in Islam.



PART - II

Status of Muslim Girls/Women in our Country

"If to do were as easy as to know what were good to do, chapels had been churches, and poor men's cottages princes' palaces. It is a good divine that follows his own instructions: I can easier teach twenty what were good to be done, than be one of the twenty to follow mine own teaching ..."

WILLIAM SHAKESPEARE

Status of Muslim Girls/Women in Our Country

INTRODUCTORY NOTE

IN the first part of the book, I discussed the status of women in Islam as per tenets of the Holy Qur'an and the Traditions. In this part it is proposed to discuss the actual conditions of Muslim girls/women in our country.

It would have been unfair for my readers and from my own viewpoint to discuss parameters on the basis of which we may arrive at any meaningful conclusion on the basis of the personal observations. On the other hand, it was not possible for me to conduct surveys in different parts of my country about the condition of Muslim women. This can be done only by some Organizations, Specialized Institutes or Educational Institutions of Higher Learning and Research. Fortunately, however, I had an access to the undernoted surveys included in the two separate volumes of the National Seminars - one held under the auspices of Aligarh Muslim University, Womens' College, at Aligarh on February 26-28, 1990; and the other held under the auspices of the Institute of Islamic Studies, Bombay on

23rd and 24th November, 1991. The Surveys presented in the first Seminar are :

- (1) Zarina Bhatti, "Socio-economic Status of Muslim Women."
- (2) V.V. Saiyed and Saroj Narain, "Problems of Education of Muslim Women in Delhi"; and
- (3) Seema Sakhare, "A Critical Study of Atrocities Committed Against Muslim Women in Vidharba Region of Maharashtra"

The proceedings of this seminar have been published in Zakia A. Siddiqui and Anwar Jahan Zubairi (ed.) *Muslim Women: Problems and Prospects*, M.D. Publication Pvt., New Delhi, 1993.

And the surveys presented to the second seminar are :

- (1) Sushila Jain, "The Process of Modernization in India and the Changing Status of Muslim Women."
- (2) Syed Mehdi Hussain, "Muslim Women and Higher Education :A Case Study of Hyderabad."
- (3) Masood Ali Khan, "Social Change among Muslim Women of Aurangabad City."
- (4) Abida Samiuddin, "A Bride Child - Ameena : A Critique"
- (5) Farida Hussain, "Improvement in the Economic Conditions of Muslim Women in India"; and
- (6) Malika Mistry, "Fertility Planning Among Muslims in India."

The proceedings of this seminar have been published in Asghar Ali Engineer (ed.) *Problems of Muslim Women in India*, Orient Longman Limited, Bombay, 1995.

In addition to the above-mentioned surveys I also had an access to an exceedingly important volume on "*National Perspective Plan for Women : 1988-2000 A.D.*" - A Report of the Core Group set up by the Department of Women and Child Development, Ministry of Human Resource Development, Government of India, 1988.

Since the terms of reference of various Surveys mentioned above and the contents of the *National Perspective Plan for Women: 1988-2000 A.D.* are different from one another it has been fairly difficult task for the present author to select material to be included in this part of the book. However, one happy feature of surveys is that areas included in them are spread over different parts of our country such as Delhi, Oudh, Jaipur, Vidharba Region of Maharashtra, Some Village of 24 South Pargana of West Bengal, Hyderabad and Aurangabad. The article by Malika Mistery, and the Report on the National Perspective Plan for Women give authentic findings in regard to the whole of our country.

Looked at from this perspective what I have written in the following pages will, I believe, be fairly representative of the Muslim girls/women in our country.

ATTITUDES TOWARDS DAUGHTERS WHO ARE BORN

Some of the surveys indicate that the parents prefer the birth of the male child to that of a female child. For instance, Sushila Jain says: "It has been a common notion that the female children have been neglected and prejudiced when compared by their parients to male children. In order to ascertain it a question was administered to the respondents. Studies reveal that 53 per cent of the respondents have confirmed such a notion while 32 per cent have refuted such tendencies in Muslim households." (Sushila Jain, p.86).

In none of the Surveys it has been shown that the Muslims kill the born or unborn daughters. However, the observation made in the *National Perspective Plan for Women: 1988-2000*

A.D. is alarming. In regard to the abortion, the Report says: "In India abortion is legal and the Medical Termination of Pregnancy Act 1971 is one of the better pieces of legislation. But decades after infanticide was banned, a new crime against the female child in the womb, in the name of prenatal sex determination tests is being committed." (p.139). The Report then adds, "Discrimination starts even before birth in the form of sex determination tests, misusing the high technology of aminocentesis resulting in a new kind of femicide *i.e.*, abortion of female foetuses. A survey carried out in Bombay during 1984 revealed that out of 8,000 abortions, 7999 were of female foetuses. Considering that this test facility has spread to even small towns and people from rural as well as urban areas are utilizing it, the magnitude of the problem can be imagined." (p.98).

The Report does not give any break-down of these abortions on the basis of different communities; but since no survey regarding the Muslim Women indicates any such problem it can be presumed that the abortions of the foetuses in the case of Muslim women would not be very large in number. However, nothing definite can be said on this issue. It is as well possible that in the large number of cases in the Muslim community, particularly in the more affluent classes, such thing has happened.

AGE OF MARRIAGE OF MUSLIM GIRLS

In the survey conducted in the Jama Masjid area of Delhi it is observed that one of the several girls in the families is given high education with a view to her becoming an earning member of the family. The fear is that acquiring education may mean postponement of marriage or no marriage at all. Hence, only one girl is exposed to such eventuality for the sake of augmenting family income, while the others are as a matter of tradition get married or work for the household. Therefore, most of girls are married immediately after reaching the age of puberty. (Cf. V.V. Saiyed and Saroj Narian, p.113).

In the Vidharba Rigion of Maharashtra (which incidentally is under-developed region of Maharashtra), the survey indicates that out of 300 total respondents based on random sample 97 are married in between the ages of 13 and 15 and another 103 are married in between the ages of 15 to 17. Therefore, it is clearly shown that "there is a common practice of child marriage in Muslim families, and marginal ages of marriage between 13 and 17 are more than two-thirds of the population." (Cf. Seema Sakhare, p.57).

The Survey of Jaipur city indicates that "Child marriages were not to be found on the decline and arranged marriages at the young age were considered most desirable for girls. This was inferred from the fact that almost in 58 per cent of the cases the marriage partners are selected by the parents and more than 50 per cent (55 per cent) of the marriages were performed in childhood (before eighteen years of age)." (Sushila Jain, p.57).

In the Survey on the fertility and the family planning it is noted that, "Child and adolescent marriages are prevalent among Muslims but less so among Hindus. The marriage patterns of Muslims and Hindus are similar. The similarity arises because of the fact that majority of Indian Muslims are descendants of converts to Islam and their ethnicity is mainly Indian. In the past converted Indian Muslims adopted many of the social customs and nuptiality of Hindus." (Malika Mistery. p.164).

AWARENESS OF THE RIGHTS OF GIRLS TO CHOOSE SPOUSE

Sixty-two per cent of the women in Jaipur city were aware of the right to chose their own husbands. However, their opinion was divided with age and education. Eighty-nine per cent of the women were aware of the stipulation of legal age for marriage but only 36 per cent of the respondents were aware of the correct legal age for boys and girls." (Sushila Jain, pp.56-57). Since the same survey indicates that most of the marriages are arranged by the parents, it implies that either the girls indicate their choice to their parents or do not object to the choice of their spouse by parents. (Cf. Sushila Jain, p. 57).

Zarina Bhatti argues that the right of a girl to choose her spouse is violated in India particularly in what she calls, the 'Ashraf class.' She says; "The Quran is quite explicit on this issue. 'A woman ripe in years should have her consent taken (in marriage) (Levy, 1957); while she remains silent her silence is her consent, but if she refuses she will not be married by force.' But in India, and I can talk with authority about U.P. particularly among 'Ashraf Muslims' not only a girl's consent is not taken but it is regarded as scandalous if she expresses her preference for a man." (Zarina Bhatti, p. 15). Unfortunately, however, Zarina Bhatti does not explain on what basis she can talk with authority about U.P.

I must admit that I feel very uneasy about Zarina Bhatti's classification between Ashraf and Non-Ashraf Muslims. The real distinction, I believe, between different classes in any community is based on the socio-economic and educational attainment of the various groups and not between the caste structure as proposed by Zarina Bhatti.

MINOR GIRLS MARRIED AGAINST THEIR WILL

Abida Samiuddin in her article, *The Bride Child-Ameena : A Critique*, informs us of a typical case of Ameena, a girl of Hyderabad who at the age of eleven was married by her father Badruddin to sixty year old Sheikh Yahya al-Saghish, a Saudi citizen on August 8, 1991. "Dressed as a bride, the terrified sobbing Ameena" with Sheikh Yahya al-Saghish was seen on the Hyderabad-Delhi flight on August 10, 1991; and she with her aged husband was caught by the Air Port Police at New Delhi. On interrogation of Mr. Saghish by Police it was found that the Saudi citizen had two Nikah-namas with him—one in Ameena's name and the other in the name of one Shahida Begum and at least fifteen photographs of young girls. In Ameena's Nikah-nama her age was shown as thirty-two.

According to Islamic Shariah a girl has been given full rights to choose her own spouse but this "marriage with elderly

husband was against Ameena's will." Abida Samiuddin has dealt with the whole case exhaustively in which it has been shown that Ameena was 'sold' to the Saudi aged man. The passage in which she talks emphatically against such practice is "Such cases of selling a girl child are worst than female infanticide and the anti-thesis of the spirit of the Holy Qur'an which is principally concerned with the down-trodden and the deprived in society. On his death-bed the Prophet's last words related to the duty of offering prayers and safeguarding the rights of the women and slaves." (p. 135).

But what is really alarming is that such cases of 'Selling the minor girls against their wishes are not limited to a few ones.' Abida Samiuddin observes : "Enquiries indicate that over the year, hundreds of minor girls have been sold at prices ranging from Rs. 5, 000 to Rs. 5 lacs. The parents get money in the form of *mehr* and are promised jobs for their sons in the Gulf. Official sources say on an average around 150 marriages take place between the visiting Arabs and local girls every year. "According to another study by the Joint Women's Programme, Gulf Marriages in Hyderabad touched a new high. Recently, last year 500 such Nikahs were performed but unfortunately, as many as ninety-nine per cent of the Arabs marrying Indian girls leave the country on the expiry of their visas. Very often promises of sending money to enable the wife to join the husband have not been kept." (pp.136-37).

Abida Samiuddin is very right when she says that such problems cannot be easily dealt with. No cosmetic solution can work; because in cases like these the parents, the *Qazis*, the middlemen and to a certain extent even the Government servants are involved. Her solution to such problems has been briefly outlined in the last two paras on page 137 and the first para on page 138 when she says : "Marriage of Indian to foreigners must, of course, be subjected to regulatory measures. Already such measures are in force in many countries. It is high time, India follows suit. However, legislation alone can in fact never drive such practices out of existence. The remedy

lies in proper education of the masses by the theologians, intellectuals and social activists.

"There can be no two opinions that the Ameena episode and Indian girl being sold to a foreigner more than six times her age in guise of *nikah* is shocking and is a matter of deep concern. All the parties involved—the parents, the foreign buyers, the middlemen and the Government to some extent for its laxity—are responsible for the sad state of affairs. The entire case demands thorough investigation and expeditious action. The people from the community must come out and help the law to bring the real culprits; particularly the marriage brokers, to book. They must realize that raising their voices against such heinous crimes does not mean taking an anti-Arab stance; that the purity, dignity and the pride of the faith cannot be compromised, whether the person concerned is an Arab or a non-Arab." (pp. 137-38)

ACQUISITION OF KNOWLEDGE

According to the verdict of the Holy Quran the human beings have been declared superior to all other creatures including angels on account of their capability to acquire knowledge. Our Prophet has said that it is the bounden duty of all the Muslims—men and women - to acquire knowledge; and by knowledge he meant the religious and all other modern education. The Jama Masjid Area of Delhi is typically Muslim dominated one. In this area it is found "Though absolute hostility towards female education is no longer observed, objection to higher education among women (Muslims) is still quite discernible." (V.V. Saiyed and Saroj Narain, p.111).

The religious education is imparted generally by 'Ustaniyes' (female teachers) by teaching some Urdu language and read Holy Qur'an in Arabic language without understanding the meaning of the verses. "The implication is that even the permissible religious education that could discipline the mind, sharpen perception and understanding of religious precepts,

remains virtually neglected for the girl child. Informants report that a new trend of *Madarsas* for girls is emerging, but it has yet to be accepted." (V.V. Saiyed and Saroj Narain, p.112). So far as higher education is concerned "It is seen female education beyond a certain level remains largely unacceptable in most families; yet, modern pressures of urban living seem to have forced even the tradition-bound Muslim families to take a practical view of secular (modern) education." (V.V. Saiyed and Saroj Narain, pp.112-13).

In the case of Vidharba Region of Maharashtra it is found that out of the total respondents of 300, 77 had no education at all, 108 had education upto 4th standard and another 52 upto 8th standard. (Cf. Seema Sakhare, p.57). Thus, it is shown that the higher education is virtually absent in the region.

In the district of 24 South Pargana (West Bengal) the village of Chandpur, Thana and Bishanpur (which is situated at less than an hour's drive from Calcutta) it has been found that illiteracy is widely prevalent with 87.6 per cent in the age group of 25 year and above being illiterate. Further it is found that female children around ten years of age are promptly made to work at *bidi* binding." (Cf. Farida Hussain, p.156).

In Jaipur in the predominantly Muslim populated area it has been found that 65 per cent of the respondents reported to have sent their daughters to school for education. Age, income, respondent husbands occupation and educational level were found to be directly associated with their opinions about sending one's daughter to school. However, with regard to the issue of equal education for girls and boys, only 26 per cent of the respondents answered in the affirmative; the rest were in favour of girls being given only basic school level education. (Cf. Sushila Jain, p.58).

In regard to Kasauli village, in the former Oudh Region of Uttar Pradesh it is found by Zarina Bhatta that in the case of

what she calls 'non-Ashrafs' (who are in majority) "the urge for education is expressed in opening Madarsas where Qur'an is taught." (Zarina Bhatti, p.17).

In regard to the education of Aurangabad city it has been found that in the case of nuclear families out of 35 women in the sample of about 19 years of age 90.70 per cent are illiterate, 6.31 per cent are literate without any education level, 1.33 per cent are literate upto primary or junior level, 1.00 per cent are educated upto matriculation or higher secondary and only two women who constitute 2.66 per cent are undergraduate and none has studied further. And in case of the joint families out of 599 women of above 19 years of age 90.20 per cent are illiterate, 4.25 per cent are literate without education level, 3.3 per cent are educated upto primary or junior level, 1.11 per cent are matriculate or higher secondary, 0.74 per cent are undergraduate and 0.37 per cent are graduate or post-graduate. (Cf. Masood Ali Khan, p.99).

In the case of Hyderabad where Syed Mehdi Hussain has conducted a Survey of the Muslim Women and Higher Education, he observes: "With respect to womens' education Andhra Pradesh is one of the most backward States in India; and out of 2929 schools at all levels in Andhra Pradesh, there are only 1.51 per cent girls schools." (Cf. Andhra Pradesh Statistical Abstract, Bureau of Economic and Statistics, Government of Andhra Pradesh, Govt. Press, Hyderabad, 1984). At the various levels of school education the representation of the girls is as follows: "At primary level 41.39 per cent; upper primary level 37.87 per cent; high school level 35.18 per cent and higher secondary schools attached to junior colleges, 26.85 per cent." (Syed Mehdi Hussain, pp.73-74). Further, he observes that "The position of Muslim women in higher education is very poor." (p.74). Out of the four selected Colleges - two in the Old City and two in the New City of Hyderabad he finds, "The Government Colleges from both zones are in shambles characterised by lack of proper infrastructure as well as inadequate number of teaching staff, specially in the case of Urdu

Medium Sections." (p.75). He feels greatly distressed at the non-availability of books written in Urdu and the teachers teaching in Urdu language because he believes that "Muslims are not only a religious but also a linguistic minority in most part of our country." (p.85). Another thing that is painful for him to note is the Government's apathy to imparting the best of education to Muslim women. He says, "Women's colleges, specially those providing education to minorities or women-folk have been victimized by negligence on the part of Government authorities irrespective of the area where they are located. In other words, over-all development of a region or a zone has little to say as far as the education of Muslim women is concerned." (p.76).

In fact the whole dilemma is that even though it is recognized that education of women is essential for raising up the status of women in India nothing worthwhile has been done in our country. "In spite of concerted efforts to improve the enrolment of girls and provision of adult education for women, their educational status is still far from satisfactory. Female enrolment in educational institutions is low as and when compared with males and drop out rates are high." (Government Report, p.69) For this both the people and Government are responsible. Some of the factors responsible for low enrolment, as suggested by the above-mentioned report are :

(1) The requirement for older girls to stay at home to take care of siblings when mothers are away at work; (2) Need for girls to work in order to help in augmenting the family income; (3) Early marriage of girls; (4) Social customs that hinder female mobility after puberty; (5) Lack of relevance of school curriculum; and (6) Lack of facilities in the form of school buildings, hostels, and women teachers etc. (*Ibid.* p 69)

The Government so far has not been able to fulfil the constitutional directive in respect of providing free and compulsory education upto the age of 14 years. The Report says, "A large number of primary and middle schools, in rural areas specially, (where the majority of people live), lack facilities such

as proper building, adequate number of teaching rooms, drinking water and toilets for girls." (*Ibid.* pp.73-74). The National Policy on Education (NPE) 1986 in the section entitled "Education of Women's Equality the Policy states, "Education will be used as an agent of basic change in the status of women. In order to neutralize the accumulated distortions of the past, there will be a well conceived edge in favour of women. The National Education System will play a positive, interventionist role in the empowerment of women. It will foster the development of new values through redesigned curriculae, text books, training and orientation of teachers and administrators. It gives overriding priority to the removal of women's illiteracy and obstacles in inhibiting their access to and retention in elementary education. Emphasis has been laid on women's participation in vocational, technical and professional education at different levels as also to promote women's participation in non-traditional occupations and existing and emergent technologies." (*Ibid.*, pp.75-76).

But all this will remain only a promise not to be fulfilled unless concerted efforts are made by the Central Government, State Governments, voluntary agencies, and the people concerned. The National Literacy Mission (NLM) which aims at eradication of illiteracy in 15 -25 age group by 1995 (Cf. Report, p.76) perhaps cannot be fulfilled. A less than one year is left and we have not been able to provide free and compulsory education to all the boys and girls below the age of fourteen.

I must admit that I have not myself been able so far to go through the New Education Policy of 1986. But the fact that Professor Zakia A. Siddiqui, a prominent educationist and Principal Women's College, Aligarh Muslim University, Aligarh and the Director of the National Seminar on Muslim Women Problems and Prospects (held under the auspices of the Women's College, A.M.U. Aligarh on February 24 to 26, 1990) says that "Even the New Education Policy of 1986 placed on records that Muslim Community is educationally more backward than even Scheduled Castes and Neo-Buddhists". (p. v)

makes me feel convinced about the authenticity of the statement. Therefore the demand of the Muslim community to the Government to consider their cases in regard to the education of the Muslim girls and women on priority basis can hardly be over-emphasized by the Ministries of Education in the Central and different States of India.

In the case of higher education of women in four degree colleges of Hyderabad - two maintained by the Government and the other two by the private organizations, it has been found that the age of the parents has considerable degree of influence on the college education of their daughters. The data on the basis of which the survey was conducted revealed that 50 per cent of the fathers are in age group of 40 - 50, while 30 per cent of them are in the age group of 51 - 60. Only 7 per cent of the fathers are in the 61 and above age group. Hence, it may be concluded that higher education of women is more popular among younger parents. (Cf. Mehdi Hussain, p.76).

It is well known that educated parents are well equipped to provide their children into educational career and give equal importance to girl's education. In order to ascertain the degree of influence of fathers' education on their daughters education the data were collected. They reveal that 4 per cent of fathers are illiterate and ten per cent of them are below the high school level; thirteen per cent of them are matriculate, twelve per cent intermediate; thirty-seven per cent graduate and five per cent post graduates. Syed Mehdi Hussain observes: "It may be inferred from the above description that most of the girls' fathers have been well educated while very few of their mothers are either illiterate or un-educated. This implies that in Muslim society, family background plays a significant role in the case of women's education." (Cf. Syed Mehdi Hussain, p.76).

Since the mother's education also plays a significant role in the education of their daughters data were also collected about the status of mothers education. It was revealed that sixteen per cent of girls students had illiterate mothers, fourteen per

cent were below High School level, 26 per cent were Matriculate, eight per cent Intermediates, 13 per cent Graduates and three per cent Post Graduates. It is therefore concluded that "A comparison of education of both parents reveals that with the increase in the level of education the representation of the female parents decreases." (Syed Mehdi Hussain, p.77).

In all the four degree Colleges of Hyderabad it has been found that Muslim women's representation in different faculties account for 47.89 per cent; 28.44 per cent and 23.64 per cent in the Arts, Science and Commerce respectively. The percentages are from the total of 3,618 girls in all the four Women's Colleges of Hyderabad. (Cf. Ibid., p.81).

From the data that have been collected from the two Colleges in the Old city and the two in the New city of Hyderabad it has been found that "sixty one per cent of the students belong to old city; thirty-three per cent from New city while seven per cent have not revealed their residential addresses. This may be attributed to regional distribution of the Muslim population in Hyderabad as the old city area is characterized by a heavy concentration of Muslim population. It may be pointed out that the representation of the New city students in the sample is slightly more than the population in the region which indicates that trends of female education in the New city are more than the old city region." (Cf. Ibid., p.82)

DOWER

Only three surveys out of the ones mentioned in the Introductory Remarks have talked about the amount of dower. Seema Sakhare who had done intensive work in the Vidharba Region says that in the case of Muslim community the dower is a special feature for the consideration at the time of marriage. Her findings are that in the case of 300 families, 63 women were married at the dower of less than Rs. 100, another 103, at the dower Rs. 100-500; 114 at a dower of Rs. 500-2000, 15 at the dower of Rs. 2000-5000 and only 5 at a dower of Rs. 5000 and above. She observes, "Taking into consideration the amount

of *Mehr* (dower) it seems that this is just a formality and in no way, it protects the marriage of Muslim women. Muslim women have a special right to their *Nikah*. Their opinion is considered at the time of *Nikah* by asking: "Nikah manzoor hai ?", which means (do you agree to the marriage?). Still we observed that in most of the cases of *Nikah* their consent was mechanically obtained." (Seema Sakhare, p.58).

Sushila Jain in her survey conducted in Jaipur city has not mentioned the amount of the dower as agreed at the time of marriage by the Muslim women. But she has observed: "Thirty-two per cent of the women were given the *Mehr* (dower) and the rest were only promised it at the later date. In actual practice out of the thirty-two per cent of the women only seven per cent had actually enjoyed the amount; and the rest had surrendered their right of *Mehr* (dower) money in favour of the husbands." (Sushila Jain, p.59)

Masood Ali Khan in his survey conducted in Aurangabad city has talked of dower incidentally. He talks of the dower only while discussing the second marriage with or without *talaq* or *khula*. He says that most of them belong to the lower middle or the labour class. Then he adds: "All these classes of people belong to the lower income groups, as was revealed from the fact that the *Mehr* i.e., the bride price fixed in these marriage was Rs. 900 or less. Most of the traders also belong to same income group, as only three of them paid *Mehr* of more than Rs.900." (pp.108-09).

From the above-mentioned it can be presumed that Muslim men while fixing up the dower at the time of marriage fix them at a low rate and in most of the cases do not have the intention of paying it unless it comes to the question of divorce which obviously is un-Islamic.

DOWRY

An unfortunate thing, I believe, is in regard to practice of dowry. In the Islamic Shariah neither on the basis of the tenets

of the Holy Qur'an, nor on those of Traditions, dowry is permitted. Seema Sakhare observes: "Actually there is no reference of dowry in Muslim marriage but dowry is in practice in the Muslim marriages also. Dowry is demanded to settle marriage. Divorce for want of enough dowry and even dowry deaths are reported. We could get 132 cases of dowry (out of the total respondent of 300)." (pp.62-63).

The analysis of these cases is as follows : Twenty-six marriages could not take place for want of more dowry, out of which only nine were reported to the police. In 73 cases harassment of newly married women was done for want of more dowry i.e., cruelty 489-A was found, out of which 64 cases were reported to the police. There were 14 dowry deaths out of which 11 cases were reported to the police. And finally there were desertion of women for want of more dowry out of which 6 cases were reported by the police. (Cf. p.63)

In the survey conducted by V.V. Saiyed and Saroj Narain on the Problems of the Muslim Women in the Jama Masjid area of Delhi, it has been observed that "Dowry is assuming menacing proportions. Among others there are also reports of demands, harassments and even bride burning." (p.118)

It can be presumed that this phenomenon which has crept into the custom and tradition of the Muslim community is both because many Muslims are the descendants of converts from Hindus and also of their interaction with the majority community. In regard to the custom of dowry the Dowry Prohibition Act 1961 was amended in 1984 and again in 1986 to make the provisions of this law stringent plug the loopholes which had made it ineffective in the earlier periods. (Cf. Govt. Report, p.138).

In a write-up entitled 'Venerated on Paper, burnt for money, The Hindustan Times, New Delhi, Friday, October, 21, 1994 on the basis of PTI Report of October 20, 1994 says: "The day she is born, her parents start accumulating their pennies for her

marriage and after that it is a short-cut to a painful death because she cannot fulfil demands for more dowry. The fact is born by figures. From 1990-93, 20,537 girls were sacrificed at the alter of marriage in India, where women have venerated for ages, at least on paper. Added to this the number of those countless unregistered ones who could not make to the official list to make the much vaunted principles of fundamental rights." It is to be noted that the records of the registered cases are maintained by the National Crime Records Bureau, Ministry of Home Affairs, Government of India. "The malaise", says the D.I.G. (CID) Dr. U.N. Biswas, "is deeply embedded in the existing social structure and the complex set of values traditions, customs, habits and belief which relate to gender inequality." (p.3).

ATROCITIES AGAINST THE WOMEN

A closely related problem to the above-mentioned one is atrocities against the women. In the survey conducted in the Vidharba Region of Maharashtra it has been observed that "in most of the poor Muslim families men are addicted to liquor. There is regular wife-beating and harassment meted out to women due to liquor addiction. Women are hard workers. Actually in many poor families women are earning more and maintaining their families." (p.59). It has been found that out of the 300 respondents 186 women had to face atrocities almost always, 83 faced sometimes and a small number of 31 did not face the problem at all. (Cf.p. 59)

This phenomenon, however, is not confined to the Muslim families. In fact the violence against women exists in the whole of the country. The National Perspective Plan on Women: 1988-2000 AD points out: "A central theme of the women's movement has been violence against women, both in their homes and outside, and directly linking it to their unequal positions in a patriarchal society and cutting across both class and community. The first categories of violence focussed on were rape, and murder of young bride for dowry. It was realized

that these were the most brutal expressions of a widespread phenomenon of domestic violence, which included wife beating, cruelty, torture and humiliation. This experience made the women's group demand that wife-abuse be treated as an offence." (p.136). In response to this the Criminal Law Second Amendment Act of 1983 was enacted by the Parliament but what is more alarming is that the girls/women were victims of cruelty and violence in their homes as well. One study on the girls/women who died of burns shows that in Greater Bombay 61.3 per cent of women who died of burns were in the age group of 15 to 19 years and were never married. (Cf. *Ibid.*, p.136).

POLYGAMY

In the study conducted in the Jama Masjid area of Delhi the respondents were asked about their view on polygamy. The findings indicate that "Most women realize that polygamy as practised is not in accordance with the precepts. They tend to uphold the sanction only if it is followed strictly in accordance with Shariah." (V.V. Saiyed and Saroj Narain, p.118).

In the survey conducted in the Vidharba Region of Maharashtra out of 300 respondents 70 families had only one wife, and in the case of 26 families a second wife was taken by the men without *talaq* of the first wife (*i.e.*, the case of polygamy was found). In the case of 114 families the men had more than two wives in their houses. (Cf. Seema Sakhare, p.58). In this survey what was most revealing was that there were many keeps or concubines. It is a matter of great concern that concubines is a significant feature within the area. The number of such women is quite large, *i.e.*, 107 out of 300 families. Most of the keeps are non-Muslims but they are staying with the Muslim men. In lower strata of society in many cases illicit sex relations with the other men and women are found. (Cf. Seema Sakhare, p.59). The survey does not indicate the important fact as to how the non-Muslim unfortunate girls/women became the concubines - whether they are the deserted ones, widows or

belonged to very low socio-economic groups. The next thing which has not been discussed is what was the pattern of distribution of concubines in the families, *i.e.*, whether each man has one concubine or some of them had more than one. In any case the feature is indeed extra-ordinarily unfortunate.

The survey which was conducted in Jaipur City points to a relatively happier feature. Sushila Jain observes, "There had been a considerable change in the Muslim social structure in recent years. Education has helped Muslims in moulding their attitudes from polygamy to monogamy, as plural marriages were not quoted in 99 per cent of the cases. In actual practice in modern times, economic considerations make it comparatively rare for Muslim men to have more than one wife at a time, for not every man can provide the separate establishments which the custom and expediency as well the law demand. Moreover the growth of public conscience and also the enactment of legislation of a restrictive character have made such an impact on the Muslim community that marriage with more than one woman at a time is now considered undesirable. Thus, the practice of polygamy is being replaced by the ideal of monogamy." (Sushila Jain, p.56). She is so much convinced about the fact in near future only monogamy will be practised by the Muslims in the country that while making recommendations towards the end of her survey the first recommendation is that "There is no need to make changes in the Muslim Personal Law." (Sushila Jain, p.70).

The survey conducted in Aurgangabad City has also made indepth study of the incidence of polygamy. The author of the Survey, Masood Ali Khan has collected data regarding second marriages and reasons thereof from 1972 to 74. The findings are that "There are in all 67 second marriages recorded during the three years from 1972 to 1974. Of these fourteen are those where the male married a second time after divorcing his first wife, and, surprisingly, there are twenty-five cases where the second marriage has been entered in because the first wife who demanded divorce through *Khula* method was given it by

her husband. "Thus it appears that it is not always the man who wantonly goes on exercising his undisputed power to divorce his wife but that often he has to accede to his wife's request for a divorce." (Masood Ali Khan, p. 107).

The researcher also collected the data regarding the occupation of the male at the time of second marriage due to separation (*Talaq* and *Khula*). As noted earlier the total number of second marriages were 67 out of which the total number of separation (*Talaq* and *Khula*) was 39. The occupations of the men who had these marriages were 8 labourers, 5 private servants of low category, 6 government servants, again of low category, 12 traders, 2 agriculturists and 6 self employed petty professionals (Cf. p. 109).

A prominent demographer Malika Mistery in her article on Fertility and Family Planning among Muslims in India observes: "A survey was conducted by the census authorities in 1961 in a sample of nearly one lakh marriages. Among these 5,911 marriages were found to be polygamous. The incidence of polygamous marriages was found to be the highest among the tribal communities (15.25 per cent) followed by the Buddhist (7.97 per cent), Jains (6.72 per cent), Hindus (5.8 per cent) and Muslims (5.7 per cent)." (Malika Mistery, pp. 163-64). She further adds that it was observed that in the selection of the second wife, "Muslim men preferred relatively older women;... On the other hand Hindu polygamist were noted to prefer very young wives below 15 years in age in both first and second marriages." (p. 164).

PURDAH

Zarina Bhatti says that: "the desire on the part of the minorities for a distinct identity has been particularly unfavourable to women and the seclusion of the women is being perceived as a symbol of cultural distinctiveness of Muslims. This trend is found more large in number. *Purdah* is becoming more common among comparatively prosperous non-Ashraf families." (Zarina Bhatti, p. 16).

In the survey in Vidharba Region of Maharashtra it is found that among the 300 respondents only 32 do not observe Purdah; 106 observe Purdah sometimes, and 162 observe Purdah all the time. The conclusion is that "in most of the families women observe Purdah ... But there are some very bold Muslim women who are coming forward and fighting for the cause of taking higher education and are very progressive in behaviour. Still they are afraid of community leaders regarding observance of *Purdah*." (Seema Sakhare, p.60).

Sushila Jain in connection with Jaipur City observes, "A large majority (of women) were in favour of Purdah. But with the increase in the level of education of the respondents some changes in the attitudes were evident." (pp.58-59). She, however, observes that one of the reasons identified by the male and the female respondents to achieve equal status was found in *Purdah*. (Cf. p.60). While giving analysis regarding the restrictions of freedom of movement of the girls, Sushila Jain says, "In a Muslim family a girl above the age range of 5 to 9 years was discouraged from playing with the neighbourhood boys, or visiting the neighbours' home... When the girl grows up Purdah becomes part of her personality. In all 22.3 per cent of the women were not allowed to visit their neighbours at all. The frequency is as high as 55.6 per cent amongst the age of old category of women. The rest, 33.3 per cent who were permitted to visit, did so on very special occasions (like marriages or Meelad), and 11.1 per cent were frequently permitted to visit their neighbours. Out of the 46.3 per cent women who were permitted to visit their neighbours frequently the highest frequency was in the young age category of women (i.e., 60.7 per cent).... This shows that these restrictions and segregation of women from men started at an early age and the parents were pressurized by the family members, relatives and neighbours to put their daughters and females in *Purdah*. Ten per cent of the respondents were never subjected to any *Purdah* restrictions. Wearing a *Burqa* (veil) was not the only form of observing *Purdah*. Even at home women did not come out in front of some of the men and in the event of chance meeting they covered their faces with *dupattas*." (pp.65-66).

In the survey which has been conducted in Aurangabad city an analysis of the *pardah* custom has been done. The author says : "what is peculiar with the Muslims is the observance of *pardah*. This is to preserve the sanctity of the body of women, specially of unmarried girls from unnecessary exposure to covetous male eyes. The *pardah* therefore becomes a necessity as dictated by tradition, in out-door situations, and more so, when moving in predominantly Muslim localities." (p.93) . The total number of families in the sample survey was 300. In these families the total number of women of 19 years and above were 974. Out of this total as many as 859 (i.e. 88.09 per cent) observe *pardah* and 116 (i.e., 11.9 per cent) do not observe *pardah*. (Vide table No. 8.1, p.94). Out of the total number of women i.e., 858 who observed *Purdah*. 73.19 per cent did so because they say it is approved by *Shariah*, 8.27 per cent did because of the fear of the social blame, 9.90 per cent did because families elders strongly prescribed it, 6.28 per cent did because they provide security for women, 4.07 per cent did because they do not want to break the tradition, and 2.79 per cent did not give any answer (Cf. Table 8.2, p.95). Out of the 116 women who do not observe *Purdah*, 56.03 per cent think it is a hindrance to employment and education; 18.10 per cent due to influence of other communities, 5.17 per cent think that the *Shariah* is not rigid in this respect and 13.7 per cent because of their old age.

Two tables i.e., Table No.8.4(A) and No.8.4(B) have given the educational achievements of the women who observe and who do not observe *Purdah*. "In both the tables we find that the majority are illiterate. But the percentage of non-literate women is higher among those who observe *Purdah*, 89.98 per cent as against 66.38 per cent among those who do not. Likewise the latter are more educated; 21.55 per cent literate with no educational level of achievements; 7.76 per cent who have completed primary or junior basic level, 3.45 per cent with matriculation or higher secondary, and 0.86 per cent who are undergraduates. The corresponding percentages among those who observe *Purdah* are, 5.36, 2.68, 1.05 and 0.70. Surpris-

ingly there are two women among the latter who have completed education upto graduate or post-graduate level. (Cf. Masood Ali Khan, p.98).

It is to be noted in the end that the families who did not observe *Purdah* were residents of either mixed localities, or fringe areas frequently visited by the members of the other communities. (Cf. Ibid., p.98).

INHERITANCE

From the Survey conducted in Jaipur City it was disclosed that 96 per cent of the respondents were aware of the right of a share in the father's property, but only 17 per cent reported to have actually received it after their father's death. About 80 per cent of the respondents were aware of a right of a share in the husband's property but a very negligible number of respondents (3 per cent) could identify the exact amount of that share; sixty per cent of the women were sure that they would not get any thing from the father's property after their death and were unwilling to pressurize to take legal action against their brothers, for getting their share in the father's property. (Cf. Sushila Jain, p. 59).

Malika Mistery, on the basis of her research observes, "Often, the Muslim women in India are not allowed to enjoy their right to inheritance and even when they receive a share, only a pittance is given to them. For instance, Kokni women do not inherit landed property. (Syed 1976:253). Gujar, Bakarwal women do not inherit pastoral lands. (Khatana, 1976:110). In Uttar Pradesh too, sisters are forced to surrender their right to inherit in favour of their brothers. (Syed and Syed, 1982:121)." (Malika Mistery, pp.170-71).

MAINTENANCE

There is no direct investigation by any researcher on how much maintenance is provided by the husbands to their wives. However, from the data that are available some inferences can

be drawn. For instance, in the Survey of the Jaipur City it was found that 80 per cent of the respondents were married. The married respondents husbands' occupations were in the administrative, technical and professional category of jobs: in 7 per cent cases, gazetted service category; in 4 per cent cases, in non gazetted category; in 31 per cent cases, in home industries and small scale business, 50 per cent cases; in large scale business in 4 per cent cases and in crafts in 3 per cent cases. (Cf. Sushila Jain, pp.55-56).

If we consider these data in relation to their husband-wife relationship, we can get fairly good idea of the problem of maintenance. Sixty per cent of the respondents reported that although the final decisions were made by their husbands, they were all consulted before any decision was taken. On statistically measuring the association between women being consulted by their husbands in terms of four variables, namely educational qualifications, occupation of their husbands, economic status and family pattern, it was found that all four variables were positively associated with consultation. However, as regard the degree or intensity of the association it was found that three factors (educational qualification, family pattern and husbands' occupation) have moderate association, but economic status had weak association with women consultation in decision making. Further it has been observed (and it is quite important with regard to the maintenance) that "Women did not find their position in the family frustrating. On the contrary, they found their life experience satisfying. About three-fourths of the respondents (73 per cent) had harmonious and highly satisfactory relations with their husbands and 14 per cent had normal relations." (Sushila Jain, p.57).

Further it is observed that "About three-fourths of the respondents (72 per cent) felt that their husbands treated them as equal: always 82 per cent, often 16 per cent, occasionally 4 per cent." (Sushila Jain, p.58). Sushila Jain adds, "The proportion of women who are satisfied with their marriages was virtually identical to that of the women who were satisfied with their family lives." (p.58).

The most interesting observation of Sushila Jain is as follows: "The fully satisfied women were those who were illiterate who did not work and earn and who were completely dependent on their husbands. On the other hand, the less satisfied or dissatisfied were those who were educated and who either earned or helped their husbands in their economic pursuits." (pp.61-62).

In the survey of Aurangabad city it is found that a large number of women in the sample are either self-employed persons or are wage earners. In the high income families belonging to these categories the house-wives are mostly confined to the domestic work. In the middle or low income groups it was found that women have either to supplement the family's income by working for wages and/or have to take the responsibility of partially looking after the outside house-hold work. The joint-families do not need their women to go out for outside work. (Cf. Masood Ali Khan, p.92).

It is found that the women "going out for employment is dictated by exigencies of life and they seek employment to supplement family income, to earn a living for the family as a whole and to discharge family obligations and not to be independent of it. They do not seem to be motivated solely by self interest." (Masood Ali Khan, p.105).

In the Aurangabad City in the sample of 300 families the total number of women above 19 years of age are 974. Out of these 862 are not in service. Out of those who are in service 381 do not have adequate skill or education to do the service and in the case of 93 women it is not favoured by their husbands who provide full maintenance. (Derived from Table 7-8, p.106).

FAMILY PLANNING

In the case of the Survey in Vidharba Region of Maharashtra it was discovered that out of 300 families in the sample, in 142 cases family planning measures were adopted; in 13 families each family had one child; in 69 families two children in each;

in 98 families, 3 to 4 children each and in 20 families there were 5 or more children. (Seema Sakhare, p.61).

The prominent demographer, Malika Mistry mentions that the general opinion is that Islam is against family planning. This is far from true. Two very prominent scholars of Islamic Shariah Z. Haque and A.H. Khalifa (vide their articles entitled "Family Planning in Islam" and "Islam and Birth Control" included in a volume entitled *Muslims Attitudes towards Family Planning* edited by Olivia Schieffelin, Population Council, New York, 1973) have stated in unequivocal terms that Islam is not against family planning (Malika Mistry, p.165). In fact Khalifa has been quoted to have said: "To produce children who cannot be trained in the temporal and religious sciences is an unforgiveable crime in the eyes of religion, morality and common sense." (Malika Mistry, p.165).

The Operations Research Group (ORG) conducted three National Surveys and Family Planning; and attitudes towards it among different religious groups were also collected in these surveys. "These data reveal that attitudes of Muslims to family planning were less favourable and family planning practice was lower than for Hindus. Over time, disapproval has declined and family planning practice too had increased, among both communities. But this decrease in disapproval and increase in Family Planning has been less for Muslims. It is observed that, compared to Hindus, Muslims favour spacing methods rather than sterilization." (Malika Mistry, p.166). Subsequently, she has observed, "Though the acceptance is lower, resistance to family planning on grounds of religion is not strong in the younger generation of Muslims." (Malika Mistry, p.172).

ECONOMIC BACKWARDNESS

Most of the things pertaining to the important issues as mentioned above can be correctly understood in the perspective of economic backwardness of the Indian Muslims. Data on National income by religious groups are not available. But some surveys have been conducted which can surely indicate

the great poverty of the Muslim community. One very competent and unbiased officer of the Indian Administrative Services, Mr. N.C Saxena has conducted a survey on "Public Employment and Economic Backwardness among Muslims in India," which has been published in the Political Science Review, Vol.XXII (22) Nos.2 and 3, April and September 1983, on pp.119-21. He remarks (vide p.152) "The benefits of various government scheme, aimed at improving the lot of weaker sections have not accrued to Muslims. Of the houses allotted by State Governments to lower and middle income groups only 2.9 per cent were allotted to them. Of the licences issued for fair price shops only 6.9 per cent were awarded to them. Finally, Muslims received only 0.2 per cent of the tangible benefits extended to artisans by The Khadi and Village Industries Commission. In the cooperative sector, too, Muslims do not fare well. Of the loans advanced by financial institutions only 3 per cent of those between Rs. 50,000 and Rs. 1 lakh was given to Muslims. Of loans between Rs. 1 lakh and Rs. 2 lakh less than 2 per cent was received by Muslims. For loans between 2 lakh and 10 lakh the figure was under 1 per cent. Thus, economically too Muslims seem to be more backward." (Quoted in Malika Mistry, p.169).

Farida Hussain has conducted a Survey in the Notified Minority District of South 24 Parganas. This study shows that "...general scenario is one of poverty and deprivation. The major occupation of the Muslim women is *bidi binding*. The standard of living of the households is extremely low. All were using traditional *chulahs* for cooking. (p.136). Further it has been found that all families live in kuccha huts. On the basis of the Government of India interview of people living below poverty line 85.4 per cent of the population were below poverty line. The *bidi bound* by women are purchased by the middle men at extremely low price. Binding 1000 *bidis* fetches Rs. 10 usually and occasionally Rs. 12, whereas in Calcutta situated at a distance of one hour's drive the going rate is Rs. 30 to Rs. 35 per thousand *bidis*. And again compared to men, women get less remuneration for the same work. (Cf. Farida Hussain, pp.156-57).

JOBS FOR THE WOMEN

V.V. Saiyed and Saroj Narain say: "Indications from data support that more and more career girls are freely entering professions with prior training and pre-planning. These girls are also increasingly joining a wide variety of professions. The implication is that, over the years, the upper class Muslims have also liberalized their attitudes." (p.111). They further say that contradiction arising out of the polarization of conservatism and fast forwarding most towards modernity, the results are that the educated women have to accept low-paid home base occupations, suffer exploitation at the hands of the employers and sacrifice even the limited opportunities before them. (Cf. pp.114-15).

In the Survey of the Muslim women in Jaipur it was found that "Two per cent women were in gazetted services, 21 per cent in non-gazetted services, 13 per cent in part-time jobs (self-employed workers) and 7 per cent were labourers. Three per cent women had a total monthly income above Rs. 3,000/-; 19 per cent between Rs. 1801-3000, 57 per cent between Rs. 601-1800 and 21 per cent women below Rs. 600." (Sushila Jain, p.56). Subsequently she says: "Twenty three per cent of the women help jobs and were thus economically independent. Seven per cent reported to be working as labourers and 13 per cent from their homes in some or the other type of crafts and home-industry work." (p. 59). It is further noted that "working women had an education upto the college level. They belonged to the middle age category and none had illiterate husbands." (p.59). Their husbands were educated upto the College level and above. Some of the other findings of the Survey are interesting. "About nine out of ten women (90 per cent) were dissatisfied with their wage earning work. This dissatisfaction, however, were caused by the nature of the work done and the wages they were getting, rather than by the idea of the work itself...About four-fifths of the working women (80 per cent) expressed an unequalled liking for house work in comparison to slightly less than three-fourths (72 per cent)

of non-working women." (p.60). Sushila Jain adds, "The socio-cultural description of these female respondents reveals that 5 per cent were gainfully employed out-side the home *i.e.*, 1.3 per cent were teachers, 2 per cent were professionals and 1.7 per cent clerks. Sixty per cent worked at home and were involved in craft work such as cotton threshing, bangle making, making holes in stones and tie-and dye work. The remaining 35 per cent were engaged in household duties." (p.63).

Further it has been revealed that all women with higher education, which numbered 50 per cent of the sample, had opted for occupations outside their homes such as doctors, teachers and clerks. It is interesting to mention that the Muslim husbands or parents who send their wives/daughters to work outside want them to have as little interaction with men at their place of work as possible. This was one of the reasons why job-wise teaching was so popular among the respondents. Most of the fifty per cent of the total working women in the sample had taken up teaching jobs in schools and colleges. (Cf. p.64).

In the case of Study at Hyderabad the data reveal that in 100 households in the sample there are 144 earning members. "The sex-break-up of the workers is startling in the sense that the female constitute only 26.30 per cent of the workers." (Syed Mehdi Hussain, p.81). "The data further reveal that out of 79 brothers who have completed their education 28 or 35.44 per cent are either employed or self-employed members. Out of 82 sisters who have completed their education only 18 or 21.95 per cent are employed. (Cf. Syed Mehdi Hussain, p.81). The author of the Survey adds: "It also indicates that the tendency among these households is for males, irrespective of their educational background and the capacity to earn to bear the responsibility of providing for the needs of the family." (p.81). It is further revealed that 46 per cent of the respondents (from amongst the women) have chosen teaching as their favourite profession. The remaining have indicated their choice in the following manner: 14 per cent secretarial services; 13 per cent executive officers; 6 per cent for professions like medi-

cines and laws; 6 per cent engineering and 3 per cent clerical jobs. (Cf. p.85).

While concluding the Study, Syed Mehdi Hussain observes: "Regarding their favourite profession it may be concluded that the teaching is the popular profession among Muslim women." and "economic self-sufficiency in life appears to be the primary requirement of the Muslim women." (p.87).

In the case of Aurangabad study, Masood Ali Khan observes: "In the sample families selected for the study there have been instances where the woman has immovable property such as houses and shops, and movable property such as bank accounts, insurance policies, vehicles of transport, etc. legally entered in her name although the management of this property may be in the hands of her husband or any other reliable male member of the family. Where the management of male members of the family or servants employed by them is possible the woman who owns the property may not have to take part in the outdoor transactions personally. This is the case only where returns from the property is quite large. But if the property is small and employment of servant is not possible, the woman herself has to participate in financial transactions." (pp.91-92). There are a large number of women who are either self employed or are wage earners. Many of them are confined to their houses. (Cf. p.92).

It is further seen in Aurangabad city that out of 974 women in the age group of nineteen and above only 112 (i.e. 11.5 per cent) are found in the regular employment. Women who work as casual labourers or on daily wages and who do not have continuous employment are not included in this number. (Cf. p.98).

It is found that "The largest component of the employed women is found in the teaching profession. Out of a total of employed women, 58.93 per cent belong to this profession. Twenty seven (24.11 per cent) work in clerical and equivalent cadres. Women from the nuclear families are mostly found in

the former profession while those from the joint families are found only in about 9 per cent more in teaching than in clerical jobs." (p.101). The author has observed that "The women employed as teachers mostly belong to the middle income groups may be said to look upon their husbands income as insufficient. The 24 women who state that they sought employment because their husbands' income is insufficient obviously belong to 24 nuclear families and the wives of the heads. But the thirty five females who say so belong to joint families do not necessarily belong to thirty five different families." (pp.101 & 104).

Masood Ali Khan remarks: "If the practice of confining women within the four walls and not allowing them to work outside is traditional for the Muslims then the fact that some women have broken this tradition (in howsoever compromising a way), in working as teachers in Muslim-Management, Urdu schools, working with Muslim employers or working in Muslim localities, although this is not the case with every employed woman, speaks of some change." (p.104). It has been seen that the female heads of all the broken families are employed against wages. It is also clear that the women from the nuclear families are employed to a greater extent than the women from the joint families. (Cf. p.104).

The author of the Survey in Aurabgabad City concludes: "On the whole, it can be seen that Muslim women are averse to taking up outdoor work against wages. This may not confer upon them complete economic independence. Their going out for employment is dictated by exigencies of life and they seek employment to supplement family income, to earn a living for the family as a whole and to discharge family obligations and not be independent of it. They do not seem to be motivated by self-interest." (p.105).

I believe what is really required is that Muslim women, if they have to work must be better advised to be in agriculture, commerce and business and small scale industries in addition to the jobs in Government, and the Private Sectors which are

available and suitable to them. Since the Muslim Community as a whole is a backward community, both the Central and State Governments and banking and non-banking financial institutions will have to make special efforts to see that the right due to them must not be ignored. As far back as in 1961 Jawaharlal Nehru had cautioned against the neglect of the country's submerged community. He said, "Our people are immensely tolerant but there are limits even to their patience. If we do not succeed in giving them the basics of life and offering them realistic hope they will throw us out-and they will be right to do so." Similarly, Dr. Ambedkar has cautioned in rather stronger terms when he said : "To the die-hards who have developed a kind of fanaticism against minority protection, I would like to say ... that minorities are an explosive force which if it erupts can blow up the fabric of the State."

There are many schemes like the Integrated Rural Development Programme, Twenty Point Programmes, Jawahar Rozgar Yojana and Prime Minister's Rozgar Yojana. But it is found that the benefits from them do not accrue as much as required to the Muslim community in general and the Muslim women in particular. To the banking and non-banking financial institutions special instructions will have to be given that the need of the Muslim minority and the Muslim women particularly should be looked after.

Farida Hussain, a free lance writer and a social activist while writing on the economic conditions of Muslim women in India has given some extremely useful suggestions. She says that voluntary organizations should be established in concentrated areas. The government of India should also provide supports to voluntary agencies to strengthen the organizational side technically, by providing financial assistance for appointing technical personnel programme planning and supervision. (Cf. p. 1958).

She further adds that minorities should be allowed to start their own Cooperative Urban Banks. Such banks will also

emotionally satisfy the various minorities. They will encourage thrift and self-help among them and induce them to take the industry and commerce rather than make them dependent on government jobs and other odd assignments.

"Cottage industries should be established to provide gainful employment to this target group, *i.e.*, the economically viable schemes should be brought to the door-step of these people. Voluntary organizations should strive to pressurize the authorities concerned to provide the necessary infrastructure like hastening the electrification of these villages, establishing training-cum-production centre, arranging for finance, etc. till their economic ventures become viable and self sustaining. "Zakat money can be tapped by these voluntary organizations." (Farida Hussain, p. 158) She further says: "This money can be channelized for financing of anti-poverty and self-employment schemes. *The concept of paying zakat in a collective system should be encouraged.* Since the receipt of the interest is prohibited in Islam interest-free loans can be utilized for the economic development of weaker sections of Muslim women. Dissimination of information regarding various schemes available to them to improve their skills and eligibility should be provided." (Farida Hussain, pp. 158-59).

CONCLUSION

It is obvious from the above discussion that there is a wide disparity between the status of women in Islam as determined by tenets of the Holy Qur'an and the Traditions on the one hand and the actual conditions in our country on the other. What is urgently required is in that the first instance, the government must fulfil their constitutional obligations of providing free and compulsory primary and middle education upto the eighth standard to all the boys and girls. The Muslim minority should be given supplementary grants to start their own Schools, Intermediate Colleges and Graduate Colleges for the education of the Muslim girls. Both the Central and State Governments must cooperate in the efforts to raise up the educational

status of the Muslim girls/women. The Open Universities in the country should provide facilities for Muslim women by opening up special centres at different places so that the Muslim women can easily get the facilities to learn. The Muslim philanthropist organizations must prepare books for teaching the religious education in Islam in different stages of schools and colleges. Such books must be prepared by a team of experts drawn from the best of the Muslim Scholars in Islamic Shariah. Their readings must be made compulsory for both the girls and boys. It will be a pity if the Muslim boys and the girls and the Muslim men and the women are not encouraged to learn about Islam more than reading the Holy Qur'an in Arabic language without understanding its meaning. In a secular country like ours every religion should be given a right to train their boys and girls at various levels of education in both modern language and their religion.

By following the order of the leader (Messenger) in Islam the Muslim men and the women be much better of as a community and much more useful citizens of our country.

Special funds from various funding bodies such as U.G.C., I.C.H.R. and I.C.S.S.R. etc. at the national and State levels may be obtained to promote and encourage research on problems concerning social, economic and legal rights and the status of Muslim women in the modern Indian society.

It is further recommended that special measures be taken to promote the modern education of Muslim women and girls at all levels in the various disciplines like Arts, Social Sciences, Sciences, Medicine, Surgery, Commerce, Business Management, so that the Muslim women are enabled to effectively participate in the development of the country.

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ ۚ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۗ

And women shall have rights similar to the rights against them, according to what is equitable, but men have a degree (of advantage) over them.

Status of Women in Islam

Mohammad Shabbir Khan