

THE CHANGING POSITION OF WOMEN IN ARABIA

UNDER ISLAM DURING THE EARLY SEVENTH CENTURY.

BY

FARYAL ABBAS ABDULLAH SULAIMANI

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ABSTRACT

THE CHANGING POSITION OF WOMEN IN ARABIA UNDER ISLAM DURING THE

EARLY SEVENTH CENTURY

This study of the position of women in Islamic society during the period of the Prophet in the early seventh century A.D., compares their status with the status of women in pre-Islamic Arabia, and investigates the changes, if any, which the new faith brought to the women believers.

The thesis is composed of three chapters. The purpose of the first chapter is to outline the nature of the socio-economic and legal status of women in Arabia before Islam; it surveys the concept of Jahiliyyah, the tribal society as a whole, the practice of burying daughters alive, marriage, polygamy and divorce. The second chapter contains an over view of the new moral and legal status granted to women under Islamic law, according to the specific rules governing the rights and duties of the people as laid down by the Prophet himself. This can therefore be taken as the ideal example, in all aspects, of the true Islamic community. The third chapter contains cases of illustrious and influential women in the first seminal period of Islam: Khadija, the first believer and first wife of the Prophet, ^ʿAīsha, the young wife and important transmitter of tradition and Fāṭimah, the Prophet's daughter, and other various examples of women in different aspects.

INTRODUCTION

The Islamic and Arabic world today has been influenced in many areas by the western world, through various channels including colonisation, the media, translations, literature, or through the presence of Muslim students in western countries. One of the principal areas to have been affected is the status of women.

Muslim women have been, and still are, often portrayed as submissive and subordinate to their male counterparts. While there are many parts of the world in which women in practice seldom enjoy real equality with men, Muslim and Arab women are repeatedly singled out as illustrative of suppression and degradation brought about - it is held - by the teaching of their faith. Since the last century, different schools of opinions in the Muslim countries have held contrasting views as to the status of Muslim women. At one end of the spectrum, unconditioned liberation of the Muslim and Arabian women, and equality with men was advocated. The beginning of this appeared in the writings of Rifā'ā Rāfi al-Taḥṭāwī in Egypt. He called for co-educational schools, as an end to segregation of the sexes from an early age, and for the removal of the veil.¹ Qāsim Amīn in Egypt contributed two books to this field; the first called (Tahrīr al-Mar'ah) "Liberation of Woman" in 1898. His second book (al-Mar'ah al-Jadīdah) "The New Woman", established his reputation amongst some readers as an extremist due to the uncompromising arguments and proposals it contained.² There was also Huda Sh'arawī in Egypt, who is considered to be the founder of the Egyptian women's

1. For more detail, see Muḥammad, Aḥmad, al-Mar'ah al-Maḡriyyah Bayn al-Maḡl Wa al-Ḥaḡīr, (The Egyptian Woman between the past and the present), P. 46.

2. Ibid, P. 47

movement and "she was recognised throughout the Arab world as an early leader in the field of the woman's rights..... she came to the public attention during the public nationalist demonstrations in Egypt against the British. These took place at the end of world war 1." ¹

At the other end of the spectrum, extremists tried to prevent women from making any contribution to their society. The most rigid advocates of this view deprived them of fundamental rights, such as equality with men in education, in the mistaken belief that this is in accordance with Islamic laws.

Between these two extremes, a third approach has emerged trying to create a middle zone, where women can contribute to their society and at the same time observe the Islamic laws and traditions; as for example, Muhammad⁶ Abdu in Egypt, who concentrated on improving the status of women in the villages of Egypt. He drew upon the aspects of Islamic law which enjoin liberal treatment of women to argue for the end of humiliation and oppression. ²

The first question to consider here is whether Islam does or does not guarantee its female adherents the rights and the status which enable them to function in and contribute to their society and, secondly, if it does, how this can be achieved in today's fast moving, complicated and demanding societies. A study of the early sources, and of the practice of the first Islamic community in Mecca_ and al-Madinah during the time of the Prophet and the first four caliphs and comparison of this community with the pre-Islamic Arabia may help to formulate an opinion on the subject.

1. See Fernea, Elizabeth and Bezirgan, Basima, Middle Eastern Muslim Women Speak, P. 194.

2. See Muhammad, Ahmad, op. cit., P. 52

The status of women in Islamic and Arab societies has been discussed and investigated in different areas through literature, the media and various channels; the particular contribution of the present thesis is the comparison between the status of women in a specific place and time, that is in Mecca and Madinah, before the dawn of Islam and during the Prophet's time, from an academic approach.

CHAPTER ONE

Our knowledge about the period before Islam derives from various sources such as The Qur'an, The Hadith, Literature and various biographies. That era is usually called Jahiliyyah (ignorance), a term which is found in the Qur'an.

"While another band was stirred to anxiety by their own interest, moved by wrong suspicions of God - suspicions due to ignorance (Jahiliyyah)." ¹

In addition, the Prophet Muhammad is reported to have told Abu Dharr, when the latter upbraided a man's mother :

"You are a man within whom there is Jahiliyyah." ²

A clear delineation of Jahiliyyah was given by Ja'afar ibn Abū Ṭālib as he stood before the Negus of Abyssinia seeking asylum for himself and the group of early Muslims who had fled the persecution of Pagan Mecca to the safety and liberality of the Christian Kingdom across the Red Sea. "O King," he said, "we were a people of Jahiliyyah worshipping idols, eating the raw flesh of dead animals, committing abominations, neglecting our relatives, doing evil to our neighbours and the strong among us would oppress the weak." ³ For Ja'afar then, Jahiliyyah was associated with ignorance of and deviation from the true religion, a deviation which had also moral, social and political implications. It implied a general way of life, a pervasive code of behaviour, which was to be supplanted by the new faith. The Qur'an describes the transformation as a movement from the depth of darkness to the light. ⁴

The term of Jahiliyyah is a purely Islamic coinage, a term implying 'Ignorance' - either of the true faith or of the way of

1. Q. 3, 154.

2. See Ali, Jawād, Tārīkh al-ʿArab Qabl al-Islām (The Arab History before Islam), P. 40.

3. Zakaria Bashier, The Meccan Crucible, P. 18

4. Q. 57, 9.

civilization or of both combined. Society in pre-Islamic Arabia was not an organized one in many ways. For example, the major cities like Mecca, Taif and Yathrib were moving fast towards social conflict. Idolatry prevailed in the Peninsula. 'The Sixth Century A.D., found them plunged into depravity, perversion and dark idolatry and indulging in all the other characteristics of primitive life.'¹

Initially, people started worshipping idols on the pretext that these were symbols that might get them nearer to God. As the Qur'an states:

"We only serve them in order that they may bring us nearer to God." ²

And over the ages, they started to worship idols instead of God. And from there, they departed from the true worship and diverged from the right way.

There were many kinds of idols, for example, . . . angels, stars. . . . but the three principal objects of pagan Arab idolatry were the goddesses Lāt, Uzzā and Manāh, as the Qur'an says:

"Have ye seen Lāt and Uzzā and another, the third goddess Manāh." ³

And the Qur'an says:

"These are nothing but names which you have devised you and your fathers, for which God has sent down no authority (whatever) they follow nothing but conjecture and what their own souls desire." ⁴

On the other hand, there was a small number of people called Hanifs who believed in God, who were the descendants of the Prophet Isma'īl ibn Ibrāhīm. Judaism had also spread to some places like Yathrib, Khaybar, as well as the south west of the Peninsula, e.g. Najran. It has been suggested that people did not seem to be receptive to the Prophet's teachings in early Islam

1. Khan Majed, Muhammad The Final Messenger, P.31

2. Q. 39,3

3. Q. 53,19

4. Q.53, 23

and people who were living in that period and in that culture found it difficult to change their ways then, and alter their rigid beliefs completely to a new religion. It was difficult for people to change their whole life completely.

While customs which were regarded as acceptable were not abolished, but were reevaluated in Islam. For example, polygamy existed in pre-Islamic Arabia, a man being free to marry any number of wives without limitation. Islam modified this by limiting the number of wives to four, so a man can marry four wives at the same time, but under certain conditions, as will be discussed in detail later.

Pre-Islamic Arab society had special social and political conditions which stemmed from, and were in accordance with, the natural environment, which had a profound influence on women's lives. Most areas of the Arabian Peninsula were desert, extending over the middle of the Peninsula with no rivers and very little water. The desert was called Al-Rab' al-Khālī (the vacant section); described in the Cambridge History as that "Empty Quarter", the most savage part of the arid area and the most extensive body of continuous sand in the whole world.¹ There is not a single river to facilitate transport and communication through the vast expanses of sun scorched desert. However, there were some small valleys with oases but these were of little effect in view of the vast expanse of desert. In the west, this desert was surrounded by a chain of mountains called al-Sarawāt Mountains. Some areas in the west are considered to have been dry and barren. An example of such an area is the Mecca region which is described in the Qur'an as an

1. Holt, P.M. Lambton, ANWK, Lewis, Bernard, The Cambridge History Of Islam, Vol. 1, P.4.

'uncultivable valley', although it has some oases and springs such as 'al-Ta'if and al-Madinah. There is also the northern region (present day Jordan, Syria and Lebanon) which is the region of fertile plains called the region of Al-Hilāl al-Khaṣīb.

The southern region which consists of fertile lower slopes and mountains rich in water and permeated by valleys was known as al-Yaman al-Sa'aīd, (Arabia Felix). The Arabian Peninsula is divided into two parts. The first one which is rich in water : the northern, southern and western regions. The other part which is the barren dry region in which water and rain are scarce, is the larger.

The topography and the climate helped shape the social, political and the economic conditions in the Peninsula. People were either nomads or town dwellers. Communities developed in the areas which were rich in water such as al-Yaman and Hilāl al Khaṣīb, while Bedouin communities developed in the middle areas because of the scarcity of water. The former worked in agricultural trade (such as Mecca and Ta'if). These people were more highly civilised than the Nomads, who roamed the spacious desert, moving from one oasis to another, looking for water and sustenance. These Nomads were forced by the climate to struggle for existence.

The co-operation of all the members of the tribe was therefore essential in the constant search for water and pasture. These essentials were obtainable either by wandering from one place to another looking for an oasis or fertile valley, or by taking possession of other tribes' water and pasture by force. So, the aims of the tribe were common to all its members, and hence, the tribal system developed. Thus, the tribe became the basis of political system in that society.

A tribe comprises a group of small clans headed by the chief of the tribe, who had certain responsibilities as explained by Lebon. "At all times, the desert Nomads of Arabs were divided into small tribes. Each of these tribes was under the command of a Sheikh or Amir (a leader) whose responsibility was to lead warrior and distribute booty, and to be the guest of honour on some ceremonial occasions.¹

It is not known whether a woman was ever the leader of her tribe; it is however, unlikely, in view of the higher status held by men both in the tribe and the family. There is no historical evidence that women had any higher status in their tribes at that time.² However, sometimes a woman might play an important role in politics. For example, she might be a particularly influential wife or sister, or daughter to the tribe's chief, or a messenger of peace between disputing tribes.

For livelihood, the Bedouin depended on three sources. These were fees and animals:

1) Every tribe had the right to protect its territory just as states do. If a foreigner wanted to cross this territory, he would need to be under the protection of a member of the tribe. Any group, such as a caravan or another tribe, needing to cross it, had to seek and be granted permission. It was customary, for such permission, for a tribe to pay a fee. The tribe's pastures were clearly considered to be the tribe's own land as long as that tribe remained and settled on the land. However, when the tribe moved on to another place, the new land becomes its own, while the previous territory became the property of whoever moved on to it. Refusal to pay the required fees often caused inter-tribal wars.

1. Lebon, Gustave, Ḥadārat al-ʿArab, P.100.

2. al-Ṣabbāgh, Laylā, al-Marāḥ Fī al-Tārīkh al-ʿArabī (Women in Arab History), P. 235.

2) The second source of support was camels and horses. "The Bedouin is truly the parasite of the camel, just as the camel is truly the ship of the desert." ¹ The importance of the camels and horses to the society, particularly in transport and for warfare, is indicated by the fact that they were a means to estimate dowry and a measure of a man's wealth. ²

3) Finally, and most important of all as a source of livelihood, were the spoils obtained in wars and raids. Such raids were usually made by a tribe against other tribes unconnected with it by blood or kinship. The aim of the raiding tribe, most of the time, was to take possession of such booty as cattle, camels, horses, weapons and even women. As it was suggested:

"raids were a basic way of earning a living and there were many reasons for them. For example, when drought happens and water becomes scarce and pasture disappears, strong tribes make raids on the weak ones with a view to taking possession of their resources." ³

"Wars might also be a result of deterioration in personal relationship between the chiefs of tribes which sometimes were connected with marriage, divorce and rivalry." ⁴

All these factors necessitated that a tribe be constantly in a state of military mobilisation, either to undertake raids on other tribes or to defend itself against the raids of others. So, these political and economic factors in Bedouin society had a great effect on the woman's status. But what was the woman's role under such severe social and political conditions?

We can divide the role of woman in these aspects into two parts: in her negative role, she was a victim sometimes captive in these continual wars, while in her limited positive role, she might be either the reason for going to war or sometimes, the 'messenger of

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1. Holt, Anwk, Bernard, op. cit, P. 4.
 2. Ali, op. cit., Vol. 5, P. 337
 3. Ibid.
 4. Ibid.

peace' between the disputing tribes. This second role was of minor importance. Her passive role was a natural consequence of continual raids and wars between tribes. Ancient Arabs valued the capture of hostages and women above that of cattle and booty, since the former were far more profitable to them. They could ask a high ransom for hostages or exchange them for their own hostages. Another advantage of women captives was to marry them without a dowry, and to get more children, thus increasing their numbers and therefore their strength, which would raise their status among other tribes. Moreover, in taking women captive, greater humiliation is sustained by their enemy, so that sometimes the major aim of a man was to take the enemy's women captive in order to inflict shame and humiliation upon the enemy's whole tribe.

Since wars were continual, women, as we mentioned before, were frequently taken as captives. For example, when Biṣṭām bin Qays made a raid on Banī Malik,^{bin} Ḥanzalah, he took some women captive, one of whom was the mother of 'Asmā' bin Kharijah. Also, on the day of Nisār, many of the noble women of the Banī 'Amir were taken captive.¹ Such women hated their captivity. They were usually treated by the enemy as bondmaids and were held in contempt, while even if kindly treated by their captors, they were still humiliated, deprived of their own people and homeland. Such hatred took a number of forms. Sometimes, when a woman was taken captive, she blamed her own people and reproached them with their weakness for failing to protect her. Women could only attempt to avoid capture by the most extreme measures; when they knew of an enemy's victory over their own people, they went out naked so that the enemies would think that they were bondmaids

1) al-Ḥufī Aḥmad, al-Marāḥ fī al-Shī'r al-Jāhili, P. 465

and would not take them captive, because they knew that only free women would be desired by the enemy.¹ Some even preferred death to being taken captive. An example is the story of Fāṭimah bint Khurshub al-'Anmāryyah, who was one of the noble matrons who bore the title al-Munjibat (the mother of heroes). When Hamal bin Badr raided Banū'Abs, the tribe to which she belonged, and made her his prisoner, she cried, 'Man, thy wits are wandering. By God, if thou take me captive, and if we have behind us this hill which is now in front of us, surely there will never be peace between thee and the sons of Ziyad.' (Ziyad was the name of her husband) 'because people will say what they please and the mere suspicion of evil is enough.' 'I will carry thee off' said he, 'that thou mayest tend my camel.' When Fāṭimah knew that she was certainly taken captive, she threw herself headlong from the camel and died, so greatly did she fear to bring disgrace to her husband and sons.² If the woman taken captive had no alternative but to submit herself to her captor, she married her captor without a dowry, lived with him and gave birth to children. However, whenever she had a chance to flee back to her people, she would do so, as in the case of Jamrah bint Nawfal.³ It was regarded as praiseworthy for the leader of a tribe to reward his men lavishly with the captives and booty of their battles. When the war was over, they distributed women captives as well as booty among the fighting men of the tribe. Everyone took his captive, and unless her own people took her back either by ransom or by force, he had a free hand regarding her. He could marry her without a dowry, as mentioned before, to satisfy his desire for having more children, or give her as a present to one of his relatives or friends, as did Al-Nu'aman.

1. Ibid

2. Nicholson, R.A., A Literary History of the Arabs, P. 88

3. Al-Hūfī, op. cit., P. 482

This procedure was praised by al-Nabighah.¹ Alternatively, when a man did not want to marry his woman captive, he might sell her; in Mecca, there was a market place for selling slaves.² Although killing captives was considered to be disgraceful by Arabs, women captives were sometimes slain. For example, al Mundhir bin Mā'a al-Samā'a slew his captives from the Bakr on the Mount of 'Uwārah and burned some of the women captives.³ So, taking women captives was common with the exception of the people of Mecca because they were secure. None of Quraysh's women was taken captive.⁴ Thus, the woman in pre-Islamic society was treated most of the time, as if she were an article of merchandise to be sold. In a society of wars and raids, women suffer constant humiliation and contempt since they are helpless. It was also the result of life in an unstable and lawless society which needed organising to impose some degree of order. Although in most wars, she was powerless and not actively involved, there were wars behind which she was the actual reason for fighting, and in which she played an active role. An example of such a war which was triggered by a woman was Al-Basūs war which had continued between Bakr and Taghlib for about forty years.⁵

However, sometimes, women are shown to have encouraged men to fight and arouse their rage as was done by women of Shaybān, Bakr bin Wā'el and Ājlān on the day of Dhī Qār.⁶ Sometimes a woman wanted to instigate her people to revenge as Kabsha is said to have done, on behalf of her brother, Abd Allah. Hind Bint 'Utbah went out with the unbelievers during the battle of Uhud to incite them to

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1. Al-Ḥawī Iylyā, al-Nabighah Siyāstah wa Fannah wa Nafsiyyatuh, (Al-Nabighah His politics, arts and psychology), P. 21.
 2. See Al-Ḥufī, op. cit., P. 489
 3. Ibid, P. 491
 4. Ibid
 5. For more details, see Ali, op. cit., Vol. 5, P. 336.
 6. Al-Ḥufī, op. cit., P. 445

fight Muslims; not satisfied with that alone, she cut open the belly of Ḥamzah and take a piece of his liver and chewed it up.¹ Another role for women was accompanying the fighters to encourage them, give them water to drink and nurse the wounded among them. Furthermore, women were on occasion, involved in making peace between tribes. Either she was married off to strengthen an alliance between tribes, or she was used as a 'peace messenger' between the disputing tribes as mentioned before. For example, the daughter of 'Aws of the tribe of Ṭayy imposed the difficult task on her husband (Ḥārith b. 'Awf) of making peace between the tribe of 'Abs and Dhubyān, who had for long been fierce rivals. It must be pointed out that, although captivity continued to exist in Islam, Muslims are encouraged to treat captives kindly, not to humiliate or degrade them. As Levy pointed out, 'It has already been indicated that the Qur'an and the Ḥadīth make it a commendable act for masters to emancipate slaves.'²

It is probable that woman's status varied between urban and nomadic tribes. When settlements developed in the areas which had plenty of water, such as al-Hilāl al-Khaṣīb, al-Yaman and some cities in the Al-Hijās areas such as Mecca, Yathrib and al-Ta'if, these cities were heavily populated because of the need of migrant tribes for a lasting source of livelihood to save them wandering from one place to another. These societies settled and developed some form of civilization although it cannot be called a civilization in the full sense of the word as we understand it: "The urban people though they settled and stayed in fixed places, were not urban in the ultimate sense of the word. They were different from the Roman and Persian people. They were only urban in terms of settling and staying in the same place, i.e., in terms of their clinging to land and dwelling

1. See Ibn Hishām, al-Sīra al-Nabawīyyah, Vol. 3, P.19.

2. Levy, Reuben, The Social Structure in Islam, P. 95

But regarding thinking and system of social life, they were more similar in their nature to the Bedouins than town dwellers." ¹

Even though now settled in towns, these urban people, having formerly shared a life style similar to the Bedouins, still retained many of their characteristics. Typical of these were pride in the memories of that past, a love of stories and poetry, strong imaginative faculties, a tendency towards fanaticism and interest in lineage. ² On the other hand, the Arabs who settled in the big cities, and who were enabled by their natural conditions to stay beside water wells and springs, had communication with Persians, both from trade, and from allowing Persians the facility to go across their land and stay on it, either temporarily or permanently. In these areas, which were abundant in water, civilization developed in the form of villages, settlements and seasonal market places which were strongly influenced by the Arabs' life in general. This was due to the exchange of ideas that took place in these areas between urban and bedouin, and between all of them (urban and bedouin) on one side and Persians. ³ Consequently, these changes brought about by urban society must have had influence on the woman's status. Apparently, women in urban societies held a higher position than women in Bedouin societies, which gave them some rights. From historical sources, it is known that queens ruled some countries, an example of which was Bilqīs, the Queen of Saba' in Yaman, who had permission from her father to be a queen and mentions her communication with Sulayymān in this verse:

"I found there a woman ruling over them and provided with every requisite, and she has a magnificent throne." ⁴

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1. See 'Alī, op. cit., Vol. 4, P. 284
 2. Ibid
 3. Ibid
 4. Q. 27:23

From the Qur'an, we know that she was not an autocratic queen (Q.27:29). She was a strong ruler, but she used to consult her wise people about certain matters. Another queen whom the historical books wrote about was al-Zabbā', who ruled Tadmur, who was known for her courage and wisdom and for fighting a long war with the Roman Empire.¹

It is possible that the ordinary woman in some Arab societies had a fair degree of status. Here we shall sketch the portraits of some women who took the stage and outline certain of the scenes in which they played a role in their own society. For example, Khadijah, the first wife of the Prophet, was a rich widow of Quraysh who was an independent business woman, engaged in trade, and managed her own affairs. It is known too, that Hind bint Utbah, the wife of Abū Sufyān had high status in her own family, and that her father did not give her in marriage without her consent.²

Although there is little direct information to illustrate the personal history of these women, the impression given is of an increase in status. The picture is far from complete and it may well be that even in the urban areas the majority of women had few rights.

1. Al-Ḥufī, op. cit., P. 530
2. Ibid

Marriage in pre-Islamic Arabia

Marriage in Jahiliyyah was the institution for creating a family, which was the primary unit of society. Without marriage, there would be no family and no ties to unite the different members of a community. Marriage in pre-Islamic society was one way to increase the strength of the tribe by begetting more children who would be the next generation of the tribe. The question for consideration here is, what kind of institution was marriage in Jahiliyyah? Did society through marriage, give the Arabian women any rights, as a wife?

Most of the time, women in Jahiliyyah were degraded, without any rights and regarded as non-entities as Lebon remarked: "Men, before the dawn of Islam, used to consider the position of women as midway between animals and human beings, and her role either as a servant or captive. Islam was a just religion shifting the status of women."¹

In general, marriage in Jahiliyyah was not a private matter, but the tribe itself had the full right to accept or refuse any marriage which depended on how far the tribe would benefit from this marriage. Marriage was the practical way of making alliances with other tribes. Arabian society before Islam had known two types of marriage: Edogamy (marriage between cousins) and Exogamy (marriage outside the tribe).²

The first kind required marriage between cousins and did not allow marriage outside the tribe. Possible reasons for favouring this type of marriage include the Arabs' belief in the purity of lineage and reluctance to marry off their daughters to foreigners, while parents would not welcome marrying off their daughters to their enemies. If her cousin was not willing to marry her, sometimes she

1) Lebon, op. cit., P. 10

2) Ḥaṭab, Zuhayr, Taṭawwur Benā' al-'Usrah al-'Arabiyyah wa al-Judhūr al-Tarīkhiyyah wa al-Ijtimā'iyyah Li-Qaḍayāhā al-Muāsirah, (The Development of the Arabian's Family Build Up and the Historical and the Social roots for its contemporary matters), P. 45

would not marry at all unless she had permission from him. ¹ Such endogamic marriage united all the members of the tribe by a blood bond which encouraged co-operation from all in protecting the tribe interests in the knowledge that no foreign element was included.

By contrast, the purpose of exogamy was to strengthen the relationship with other tribes. In addition, as far as the husband was concerned, marriage with a woman not of the kin was often preferred because it was thought that the children of such a match were stronger. ² The exogamous marriage started with marriage to captives who were used as a way of begetting children to increase the power of the tribe; but later on, they used to get married outside the tribe to a free woman to make an alliance with other tribes in order to belong to a strong tribe who could protect them from danger. ³

Marriage between different tribes might take various forms:

(a) The first one was if the woman left her tribe and found herself a permanent home among strange kin. In this case, the children would belong to the father.

(b) If the woman by tribal rules is not allowed to leave her tribe, she might take in a stranger as her husband. In this case, the children would belong to their mother. ⁴

Exogamy encouraged the growth of wider relationships and co-operation between tribes. Thus, alliances through marriage increased the tribe's strength.

In spite of the fact that these two kinds of marriage were different, they had the common aim of ensuring the survival of the community. Therefore, women were the means of fulfilling this aim.

1. Smith, Robertson, Kinship and Marriage in Early Arabia, P. 75.

2. *Ibid.*

3. Ḥaṭab, *op. cit.*, P. 75

4. Smith, *op. cit.*, P. 75

The qualities which men sought in their wives

Generally, both men and girls used to get married young.¹
The Arabian man preferred to marry a young girl because this would give him a chance to father more children, particularly sons.

The Arabian man used to desire some specific features in his bride, besides youth. These are sometimes referred to in the amatory verses with which poets began their works. We can summarise these qualities: firstly, a man wanted his bride to be of noble origins, but this does not mean she had to be rich. On the contrary, he preferred that she was poor, because she would not demand things that he could not afford, as we gather from the words of Qays ibn Zuhayr, the chief and hero of Banī 'Abbs, when he asked for a wife who was humbled by poverty, but had the good manners of the rich.² Secondly, the Arabian admired beauty in a woman, which was clear in the amatory poetry. The poets used to start their poems in praise of the woman's beauty and her noble qualities. Thirdly, the Arabian admired elegance of speech in a woman (for example, abu Ramāda divorced his wife because she had an impediment in her speech.)³ He preferred his wife to be sharp witted. For instance, Imru' al-Qays made a vow that he was not going to marry anyone unless she could explain his riddle. On eventually meeting a girl who could explain his riddle, he married her. Generally speaking, the man in Jahiliyyah hated women who were stupid or foolish because they might give birth to children who might become stupid as well. However, fathers in Jahiliyyah did not let their daughters be married in an

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1. al-Sabbagh, op. cit., P. 137
 2. al-Hufi, op. cit., P. 150
 3. Ibid, P. 156

unequal match. "If you can't find an equal match, says Qays ibn Zuhayr to the Namir, the best marriage for them is the grave."¹ This was one of the reasons for burying daughters alive as will be discussed later.

The qualities sought by a woman in a man are less fully documented since it was shameless for her to disclose her opinion. In general, the girl liked a man who was a free man of noble origin, and who had good manners. Naturally, some preferred a rich man, and some a young man.²

When a partner reputedly possessing these features had been found, the man used to send a trustworthy woman from his tribe to make sure that his future bride genuinely was of this calibre. For example, Kenda's king sent al-Ḥārith bin 'Awf (a man) together with a woman who was known for her shrewdness, to check on the features of Gumānah bint 'Awf.³ After this step, the groom himself, or anyone from his family, would ask the father for her hand in marriage. If guardian agreed, the marriage would be arranged. The guardian in Jahiliyyah played a significant role in the life of the girl. "For women generally, this would appear to have been the rule, it is to be doubted whether more than a very few had any degree of personal independence to the extent of being able to choose a husband for themselves, or even to have disposed of property of any value."⁴ However, exceptions might be seen in some cases where the father consulted his daughter in choosing the groom; for example, when Ḥārith bin 'Awf

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1. Smith, op. cit., P. 97
 2. al-Ṣabbāgh, op. cit., P. 157
 3. Ibid, P. 159
 4. See Levy, op. cit., P. 93

asked a father for permission to marry one of his daughters, the two elder ones in turn refused to marry him but the third and the youngest, Buhaysa, agreed to accept 'Awf as a husband. When he attempted to assert his conjugal rights without any ceremony, she refused to be treated like a slave and get married without any ceremony. Before she finally consented to be his wife in more than word, she imposed on him the difficult task of making peace between the tribes of 'Abs and Dhubyān.¹ Another story which shows that some fathers consulted their daughters in marriage, was al-Khansā', the famous poetess in the pre-Islamic period, whose father consulted her concerning her marriage to Durayd bin al-Ṣimmah.² Also, Hind Bint 'Utba, whose father gave her the full right to choose her husband when Abū Sufyān and Suhayl ibn 'Amr proposed, but she preferred Abu Sufyān and she married him.³ So, these cases are a proof that instances of higher status of women were exceptional, and have, for that very reason, been recorded.

The kinds of marriage in Jahiliyyah

1. Bu'ūla marriage: This kind was called Bu'ūla marriage or marriage of dominion.⁴ This was the most common type of marriage in Jahiliyyah, which is similar to present day marriage, in that it involved engagement and dowry, by mutual agreement. It was an arranged marriage which was organised by the family, and by which every member gained rights and incurred duties. "Accordingly, the husband in this kind of marriage is called, not in Arabia only,

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1. Ibid.
 2. al-Hūfī, op. cit., P. 184
 3. Ibid.
 4. Smith, op. cit., P. 92

but also among the Hebrews and Arameans, the woman's lord or owner Ba'al. ¹ From this, the expression Bu'ūla marriage is derived.

In this kind, the wife was under her husband's authority, or in his possession, and he alone had the right of divorce. ²

Contract and dowry were required, but the dowry, as we will discuss later, was paid to the father of the bride, and was considered as an addition to his own wealth since he would add it to his flocks. So, Bu'ūla marriage was in some ways similar to the marriage by capture which had the same idea of the wife being, in a sense, her husband's property, but the difference would appear in the dowry which was offered to the father of the bride which made it a marriage by purchase. "Here, the suitor made a sum of money known as the (Mahr) dowry to the father or nearest kinsman of the girl he wished to marry, but it was possible, where the woman was regarded as the prospective mother of warriors, for the mahr to be very large." ³

2. Mut'a marriage : The second kind, Mut'a marriage differed from Bu'ūla marriage in that "its object was not the establishment of a household or begetting children, but simply to provide a man with a wife when he was away from home on military service, or for some other reasons." ⁴ It was founded on consent between a man and a woman, without any intervention on the part of the woman's kin. No witness, or dowry were required for the contract. "All that was needed that the man should say "suitor" and that the woman should reply, "I wed" and the marriage straight away was accomplished without witness or wali." ⁵

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1. Ibid
 2. Ibid
 3. See Levy, op. cit., P. 95
 4. Ibid, P. 115
 5. Smith, op. cit., P. 84.

So in that case, no guardian was required. The wife might receive a gift from the husband as a price for her consent. "It was a marriage that no one need know anything about. The children in that case would be considered legitimate, but they would keep their mother's name because "they might not see their father again."¹ It was a purely temporary marriage and the contract specified for how long it should hold.² At the end of the specific period, both of them were free to do whatever they wanted. In fact, "Nawawi says that no right of inheritance followed from Mut'a marriage."³

Islam condemns it and makes it "the sister of harlotry,"⁴ because it does not give the husband the legitimate offspring.⁵ It is not really a marriage, but a sexual relationship between a man and a woman for a period of time. There is evidence that this kind of marriage existed in pre-Islamic Arabia. Altogether different is the story of Salama bint 'Amr who promised that she would not be married to any one except on condition that she should be her own mistress and separate from him when she pleased.⁶ Another story which contained the same conditions was the story of Umm Kharija, a woman who contracted marriages in more than twenty tribes, and is represented as living among her sons, who therefore had not followed their respective fathers.⁷

In general, this kind did not give the Arabian woman any rights as a wife, because it was a purely temporary marriage without any dowry or ceremony and there was nothing to protect the wife's rights.

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1. See 'Alī, op. cit., Vol. 4, P. 537
 2. See Levy, op. cit., P. 115
 3. Smith, op. cit., P. 85
 4. Ibid.
 5. Ibid
 6. Ibid
 7. Ibid

The fact is ^{that} this marriage does not fulfill any of the essential requirements of marriage and does not treat the woman as a wife in a long-lasting relationship, and she has no dowry, ceremony, approval of kin and at the end of the period, she was left alone while if she had a child, she was the one responsible for all the burden of caring for it.

3. Nikah al-Muqt : This marriage also was called Nikah al Dayyzen which means "the hateful marriage" and Daizan was an epithet of reproach applied to a man who had made such a marriage. This marriage allowed a son to have his step-mother in marriage, after the death of his father. Al-Tabari, one of the great commentators gave an explanation of this marriage : "In the Jahiliyyah, when a man's father or brother or son died and left a widow, the dead man's heir, if he came at once and threw his garment over her, had the right to marry her under the dowry (mahr) of (i.e. already paid by) her (deceased) lord (sahib), or to give her in marriage, or to take her dowry. But if she anticipated him and went off to her own people, then the disposal of her hand belonged to herself. ¹ This custom shows that marital rights are rights of property, which could be inherited or sold. So. the eldest son would take his father's widow as a sign that he was taking her in marriage as a part of his inheritance after which he could keep or sell her as he pleased. But the woman might be free if she went off to her own people or if she paid her dowry to him, ² in which case, his right of inheriting her would lapse. Moreover, sometimes the heir, instead of taking the woman to

1. al-Tabari, Vol. 3, P. 219, quoted by Smith, op. cit., P. 109

2. Ali, op. cit., Vol. 4, P. 535

himself, simply confirmed her and kept her from marrying.¹ The Qur'an forbade all that, "Ye who believe, ye are forbidden to inherit women against their will. Nor should ye treat with harshness, that ye may take away part of the dowry ye have given them."² That custom shows the harsh oppression which the woman suffered from in Jahiliyyah. There is evidence to indicate that this kind of marriage was widespread : for instance, "Amina, mother of Abu Mu'ayyit, was married first to Omayyah ibn 'Abd Shams, and then to his son Abu Amr, and Nofayl, grandfather of Caliph Umar, left a Fahmite widow who was married by his son, 'Amr."³

Islam's prohibition of this kind of marriage was first issued to "Kabsha, wife of Abu Qays, who went to the prophet and told him that Abu Qays had died and his son, who was the best of men, suited her." The prophet kept quiet, and then 'this verse' was revealed to him:⁴

"And marry not women whom your fathers married,
except what is past. It was shameful and odious,
an abominable custom indeed." 5

Somewhat similarly, Islam discouraged simultaneous marriage to sisters. When Kharash al-Re'ayni, who was married to two sisters, became a Muslim, the prophet asked him to choose one of them only to be his wife.⁶

4. al-Shighar Marriage: This was a type of marriage in which men exchanged their daughters or sisters in marriage without paying dowry.⁷ Its widespread practise amongst the poorer classes might be

1. Smith, op. cit., P. 106

2. Q, 4 : 19

3. See Smith, op. cit., P. 106

4. al-Shafi'i, al-Sira al Halabiyyah, P. 44

5. Q, 4 : 22

6. Ibn Kathir, Vol. 1, P. 373

7. Sahih al-Bukhari, Vol. 7, P. 35

related to the economic and social conditions because there would be no dowry required. It resembles al-Badal marriage without dowry.

Islam forbade this kind of marriage. Ibn Umar narrated that Allah's apostle forbade al-Shighār, which means that somebody marries his daughter to somebody else, and the former¹ married this man's daughter without paying Mahr (dowry). 1

Again, Islam's prohibition^{of} this kind of marriage was because it denied the woman's rights as a human being to express her opinion or to take dowry for herself. She was being considered as a chattel.

5. al-Istibdā' marriage : When a man wanted a virile line of descent, he might send his wife to cohabit with another man until she became pregnant by him. The child in this case was considered the husband's son. This is clear in the Hadith of 'Aisha "where a man is told to say to his wife after she had become clean from her period, send for so and so, and have sexual relations with him. Her husband would then keep away from her and would not sleep with her until she got pregnant from the other man with whom she was sleeping. When her pregnancy became evident, her husband would sleep with her if he wished. Her husband followed this procedure so that he might have a child of noble breed and courage inherited from their high chiefs. However, this kind of marriage was common in the slave class, where the masters used to send their women to any man who was known to have courage and strength. When they had their children, they would belong to the Master, and when they grew up, he might sell them or keep them.² This indicates that in this type of marriage, the woman was used purely as an instrument to give birth to children who might please the father without any consideration of her status as a mother and a wife.

1. Ibid

2. 'Alī, op. cit., Vol. 4, P. 539

There were other kinds of marriage such as al-Khidan marriage (friendship marriage). This was a secret relationship between a man and a woman based on mutual agreement between them, without any legal contract and they were known as 'secret lovers'.¹ In general, this kind of relationship was considered as adultery rather than a marriage because there was no dowry and no contract. Some historians say that Jahiliyyah people forbade open adultery and condoned the secret one. And they said blatant adultery was shameful, but secret adultery was not harmful.²

Islam forbade all these kind of sexual relationships as the Qur'an says :

"Wed them with the leave of their owners, and give them their dowries, according to what is reasonable: they should be chaste, not lustful, nor taking paramours when they are taken in wedlock."³

Another kind of marriage was polyandry. In fact, historians did not consider this kind as a marriage, but they regarded it as prostitution.⁴ In this marriage, one woman chose fewer than ten men to commit adultery with her and if she became pregnant, she would send for them to choose one of them to be the father and the man selected could not refuse. If the child was a boy, he could carry his name, but if she was a girl, she (the prostitute), would not inform him of the birth.⁵ Polyandry is the opposite of polygamy, where one man marries a number of women. Some sociologists supposed that this kind of marriage was due to the custom of burying daughters alive which diminished the number of women in the Arab society.⁶

1. Ibid

2. Ibid

3. Q, 4 : 25

4. 'Alī, Vol. 4, P. 540

5. Ibid

6. Ibid

However, Islam forbade this kind of marriage on the grounds that it was a sort of fornication and that there was no dowry or engagement, but the aim behind it was simply enjoyment and spending time in pleasure.

Adultery

The widespread occurrence of adultery through the Peninsula contributed to the oppression of women, since the man involved generally went unpunished and society encouraged him to take pride in his manly achievement with women. Moreover, his wife had no right to prosecute him legally. However, it is probable that her relatives sometimes took private action against him. Furthermore, he might be punished by the relatives of the woman with whom he committed adultery, in revenge for her honour.¹ This state of affairs again illustrates contradictory elements within the society since the woman's rights were sometimes protected yet sometimes disregarded. The Islamic position on the question of adultery was revealed when Hind Bint⁶ Utba went to the Prophet to become a Muslim after the conquest of Mecca. In the course of teaching her the basis of Islam, this verse was revealed:

"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, that they will not kill their children, that they will not utter slander."²

Hind's retort, "But Prophet of God, could a free woman

commit fornication?"³ supplies evidence that in

Jahiliyyah, a wife or a free woman sometimes had a secret relationship with a man without consent and it was considered as a kind of friendship

1. Ālī, op. cit., Vol. 5, P. 561

2. Q. 60 : 12

3. Zakria, op. cit., P. 20

as mentioned before.

Connected with adultery, prostitution was common throughout the Arab world, particularly among women of a low social class in Mecca, many had been brought as slave girls, or belonged to poor tribes or poor families.¹ The customary procedure is described in the Hadith of [‘]Aīsha :

"In which many people would come to a woman and she would never refuse anyone who came to her. Those were the prostitutes who used to fix flags at their doors and signs, and he who wished could have sexual intercourse with them. If any one of them got pregnant, and had a child, then all those men would be gathered together and they would call the 'Qafah' (woman skilled in recognising the likeness of a child to his father.) and she would let him belong to him and he called it his son. The man could not refuse all that." 2

Islam prohibited prostitution altogether.

The particular case of a master forcing his slaves to commit fornication was clarified by the following verse which was revealed when one of Abdullah bin Salūl's women slaves went to the Prophet to complain about her master's acts:

"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. But if anyone compels them, yet, after such compulsion, is God oft-forgiving, most merciful (to them)." 3

The definitive position taken on adultery in Islam is given in this passage from the Qur'an:

"The woman and man guilty of adultery or fornication, flog each of them with a hundred stripes, let not compassion move you in their case, a matter prescribed by God, if ye believe in God, and the last day. And let a party of the believers witness their punishment." 4

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1. Ibid
 2. Sahih al-Bukhari, Vol. 7, P. 35
 3. Q. 24 : 33
 4. Q. 24 : 2

How was the wife treated

Most of the kinds of marriage which have been mentioned did not show any sign of deep emotions or feelings between the two partners which might suggest a true conjugal life. On the contrary, it was regarded more or less as a sexual relationship and in consequence of that, there were no deep intense feelings. However, if we consider BU'ula marriage as the ideal kind of marriage, the relation between the husband and the wife would depend on three important factors :

1. The first one was the position of the wife's family; if the family of the wife was in a high position, this means that the husband might consider her family position and treat her well.
2. If her tribe was far from her, the wife's position might be influenced by the loss of the protection of her tribe.
3. If the husband and the wife were cousins, it would be necessary for the husband to treat his wife well. But if the wife were from a low class in society, in this case, the wife might face a terrible life with her husband, who would ignore her, fail to respect her, or even beat her, with a whip. ¹

In general, the man in Jahiliyyah would not accept disobedience from his wife, but sometimes we might find the wife in settled society had a higher position than the one who lived in bedouin society as Ḥaṭab mentioned "In summary, some women became wealthy, either through inheritance or trading and managed to keep their wealth even after marriage, because in the marriage contract, the husband had the right to live with her and produce children but not to own her. These women took advantage of their status and dictated conditions to their husbands, like for example, having the right to divorce them, or the children being named after their mother. ²

1. Ḥaṭab, op. cit., P. 53

2. Ibid

Dowry in Pre-Islamic Arabia

Arabs considered dowry a sine qua non for the validity of a marriage contract. If such a requirement was not met, they considered the marriage to be adultery or fornication.¹ Most Arabs had considered a dowry to be a token of a woman's nobility.² The dowry was paid by the husband. Originally, it was intended to be for the woman herself to spend on her needs for the marriage home. However, her guardian sometimes took the whole dowry for himself in which case, it was called a daughter's Hilwān. Alternatively, the guardian might give some to the woman and keep the rest. That part which he kept was called the Hilwān or Al-nafijah and they used to congratulate one another saying "May Allah bless your nafijah". Smith rightly explained that the dowry is paid by the husband to the bride's kin and indeed, the lexicographers, in explaining the odd formula 'hanian laka al nafijah' used to congratulate a father on the birth of a daughter, in the times before Islam, say that the daughter was welcomed as an addition to her father's wealth, because when he gave her in marriage, he would be able to add to his flocks the camels paid to him as her mah'r.³

Although this suggest that a father needed to be consoled in this way for the birth of a daughter, it also shows the importance placed on receiving and enjoying a dowry. However, there were some kinds of marriage in which there was no dowry at all. An example of such marriages is the Shigār marriage, which had no dowry because as explained earlier, it was an exchange marriage.

1. 'Alī, op. cit., Vol. 5, P. 525

2. Ibid

3. See Smith, op. cit., P. 96

Another example is the Zāinah marriage, the marriage of a man to the woman taken captive by him. He had a right, even if she was, before captivity, married to someone else. (According to the Arab practice), captivity invalidated a man's rights to his wife.

The man in Jahiliyyah had the right to recall the dowry he paid for his wife after her death, from her inheritance and if she did not leave any wealth or possessions behind, he could ask her family to return his dowry. That suggests that laws or customs in pre-Islamic Arabia were in many aspects biased against women. There is no evidence that there was a fixed amount of dowry at that time; it depended, to a great extent, on the husband's financial status. For example, the historical sources mentioned that Abd al-Muṭalib bin Hishām gave Fāṭimah bint 'Amr one hundred camels and one hundred pounds of gold as dowry. ¹

The procedure for determining the amount of dowry was as follows: the guardian of the bridegroom used to deliver a speech when they went to ask the girl's guardian for her hand, in which he explained all the aspects of the marriage agreement, and mentioned the dowry. The girl's guardian answered in a similar speech which contained his acceptance of the bridegroom and his people. As it happened with the Prophet Muhammed, when he went with his uncle, Abī Ṭālib, asking for Khadija's hand, Abī Ṭālib delivered the speech as the guardian of Muhammad. ² The ceremonies and customs of the wedding day were of great importance in pre-Islamic Arabia. On such an occasion, boys competed with each other, playing with spears, racing horses, gambling (which was one of their favourite games),

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1. 'Afīfī, al-Mar'ah al-'Arabiyyah fī Jāhiliyyat̄hā wa Islāmihā, (The Arabian Woman in her Jahiliyyah and Islam), Vol. 1, P. 158
 2. Ibn Hishām, Vol. 1, P. 174.

playing with bows and arrows, rejoicing, drinking and amusing themselves. In the house, they spread Oakum (clothes in brilliant colours) to make coloured pictures on the house walls, as women played the tambourine.¹ Also, women used to help girls to deck themselves out and to wear their jewels. Moreover, families even borrowed jewels from other families. For example, Utbah bin Rabi'a, who had a remarkable position among the people of his tribe, borrowed jewels to marry off his daughter to Abū Suf'yān, and pawned his son for them. Jewels were kept for one month by the borrowers before they were given back. It is significant that the more lavish ceremonies of pre-Islamic weddings accompanied less emphasis on the quality of the marital relationship, whereas Islam stressed the responsible internal nature of marriage and simplified the extraneous festivities.

Polygamy in Pre-Islamic Arabia

According to the Arab law, a man was allowed to have more than one wife at the same time as it was suggested that 'some interpreters had reported that it was customary to the men of Quraysh to have ten wives each, sometimes more or less.² This practice might prevail in urban societies more than in the Bedouins, as Ḥaṭab believed that 'as a result of urban life, appearance of technicians and rich class, stability of resources of living and men's ability to spend, the rate of polygamy had risen.³ In fact, polygamy was not confined only to Arabs, it existed among Jews and Christians.

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1. 'Afīfī, Vol. 1, P. 161
 2. 'Alī, Vol. 5, P. 535
 3. See Ḥaṭab, op. cit., P. 45

'Except for rare cases in countries where Muhammedan law prevails, monogamy is enforced by both law and custom among Jews, although neither Bible (Old Testament) nor Talmud formally forbids polygamy.¹ And it was said that 'Some Rabbis prohibited polygamy, but others allowed it only in the case of the first wife being sterile.'² Moreover, it was reported that King Solomon had seven hundred wives, Princesses and three hundred concubines. His son had eighteen wives and sixty concubines. Each of Rehobama's twenty eight sons had many wives. Even the wise men of the Talmud have given good advice that no man should marry more than four wives.³ And according to some accounts, 'The Hebrew Family, along with the whole family system of the Middle East historical times, has been characterised as polygamous. The Bible set no limit to the number of wives or concubines a man might take.'⁴ Also, the Persians used to have many wives with a view to having as many boys as they could, because boys were needed for wars.⁵ So it was not strange that polygamy was common in Jahiliyya's time. Possible reasons for an ordinary man taking a new wife included the desire for more children to strengthen family and tribe or to father more sons if only daughters were borne by his former wife, for sons would help him in his work and give a source of pride.

The Chief of the Tribe, in addition, sometimes desired to bring reconciliation between conflicting tribes or to strengthen their relations with another tribe. A further reason operated when a man had some women captives from noble families, in which case they used to consider it better to free them and to get married to them.

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1. Hastings James, Encyclopedia of Religion and Ethics, Vol. VIII, P. 461.
 2. 'Abd al-'Atī Hamūdah, The Family Structure in Islam, P. 113.
 3. Ibid.
 4. Ibid.
 5. al-Ṣabbagh, op. cit., P. 245

However, before Islam, Arabs did not treat their wives fairly, most of the time, they used to favour one over the other which aroused jealousy in the hearts of wives. ¹

As a result of such jealousy, also each wife tried every possible way to get the love of her husband, including sorcery, incantation and other superstitions ² which were prohibited by Islam.

However, polygamy was restricted in Islam to four wives only, and as a result of this restriction, husbands who had previously had a large number of wives were forced to divorce some of them. For example, Ghilān bin Salamah al-Tha^qafi had married ten wives during paganism, but when he converted to Islam the Prophet ordered him to divorce some of his wives, keeping only four of his, as decreed by Islam.

Divorce in Pre-Islamic Arabia

Divorce existed in Arab society before Islam. Divorce in Jahiliyyah entailed the husband renouncing his rights to his wife, upon which they separated. The man had the right to divorce whenever he liked without any restrictions or conditions. Grounds for divorce which were to them important and understandable, may seem trivial to us. Among such reasons were the lack of harmony between their dispositions, the woman's refusal to accommodate herself to the husband's temper and disposition, her rejection of control, and her being disrespectful to her husband. In such case, the man used to divorce with a view to punishing his wife. An example is that of Amr Bin Shās who had a black son from a bondmaid who was called

1. al-Ḥufī, op. cit., P. 239

2. Ibid

Arār; The wife of Shās used to disregard his son, and because of that, he threatened her with divorce.¹ Another reason for divorce was the woman's giving birth to girls only. However, there was divided opinion on this. It was reported that when Abu Nukhail divorced his wife, who was from his own tribe, for bearing a daughter, his people blamed him for what he did so he returned to his wife.² A further reason for divorce was poverty. For example, when Bunaih al-Hajāj al-Sahmī became poor, he divorced his two wives³ Some men used to divorce their wives if they had any suspicion of their unchastity. An example of that is made very clear by the story of Hind Bint Utba. "We are told that she was married to al-Fakih of the tribe of Quraysh, and that he dismissed her to her home after catching sight of a man in suspicious circumstances near her tent. When she arrived at her father's house, he urged her to tell the truth. 'If the accusation is a true one' he said, 'I will set someone on to kill al-Fakih and prevent people from talking about you. If it is false, I will have him arraigned before one of his kahins (soothsayers) of Yemen."⁴

The social and the economic condition in Pre-Islamic society had the greatest effect as regards the occurrence of divorce. Divorce was a very simple action which a man undertook against his sometimes wife in order to take revenge either on her or on her own people. Sometimes, this was because of reasons which had nothing to do with the marriage itself. Also, poverty, and prejudice were important reasons for the occurrence of divorce; what sin had a woman committed

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1. Ibid, P. 262
 2. Abu al-Farj al-Asbḥānī, al-Aghānī, Vol. 23, P. 8129
 3. Al-Hūfī, op. cit., P. 263
 4. Levy, op. cit., P. 206

to be divorced just because she gave birth to girls only ?! Family pressure might also be brought to bear; many husbands had made divorce a means for harming wives, embezzling their money and forcing them to give up their rights.

A husband could divorce his wife and get married to her again many times. It had been reported that a man from al-Anṣār, when he became angry with his wife, said to her: "I will not treat you as the husband treats his wife, and at the same time, I will not let you go away." The wife asked, "How?" The man said, "I will divorce you, and as the interim period for divorce comes to an end, I will remarry you again, and I will keep on doing that." And he had done that many times in order to embarrass her.¹ So divorce was an easy matter, a woman was just like a puppet in her husband's hands. He could play with her feelings, humiliate her, and divorce and remarry her whenever he liked without her being able to defend herself and her life. And even more than that, 'before Islam, a husband could prevent his divorced wife from remarrying, and could drive a bargain for his consent to the application of a suitor.'²

When divorce took place, he secured her agreement written and endorsed by witnesses. When she had an offer of marriage from another man, she had to pay her ex-husband, and get this agreement for her to marry another man, otherwise he could prevent her.³ This reflected the position of woman generally in the Peninsula in pre-Islamic times.

Although divorce and remarriage to the same woman was unlimited in some tribes as already seen, in Mecca and perhaps elsewhere, the husband could divorce his wife only three times. An account of this kind of divorce is related of Isma'īl bin Ibrāhīm.⁴

1. 'Alī, Vol. 5, P.550.
 2. Smith, op. cit., P. 115
 3. Ibid.
 4. See 'Alī, Vol. 5, P. 550

A man could divorce his wife, remarry her, divorce her for a second time and remarry her again. However, once he divorced her for the third time, he could not remarry her again; in this case, the divorce was final. However, if the divorced woman got married to another man, who was called a 'Muhalil', her ex-husband could get married to her after 'Muhalil' had divorced her. However, this kind of practice was not welcome.¹

Some Arabs used to divorce their wives without allowing them to get married to other men because of jealousy. Some Arabs had taken that so seriously, that whenever the divorced wife of one of them tried to get married to someone else, he threatened her and her people.²

In pre-Islamic times, a man used not to pay a divorce settlement to his divorced wife even in the final divorce.³ Moreover, a divorced woman in that era had no interim period (i.e. that period that follows a woman's divorce and during which that woman cannot get married to another man.) A woman in paganism used to marry again immediately.⁴ If she was pregnant when she was being divorced and got married to another man, when she gave birth, the baby was considered to be that of the new husband, although the new husband was then considered to be the legal guardian of the baby, sometimes the baby might join his real father when he grew up, as mentioned 'The mother of the tribe conceived by one husband and was delivered of the bed of another.'⁵ Islam forbade this custom and it considers that 'the child belongs to the bed' as we shall discuss later.

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1. Ibid, and al-Ḥufī, P. 263
 2. 'Alī, Vol. 5, P. 550
 3. Ibid
 4. Ibid
 5. See Smith, P. 132

However, we can not generalize, that the right to divorce was completely in the hands of the husband; sometimes, it was in the hands of the wife. There were some women who stipulated that the right of divorce should be in their not in the hands of their husbands. We are told 'the woman in the jahiliyyah or some of them had the right to dismiss their husbands and the form of dismissal was this: If they lived in a tent, they turned it round, so that if the door had faced east, it now faced west, and when the man saw this, he knew that he was dismissed and did not enter.¹ Among those women were Salma Bint 'Amr b. Zayed b. Labīd al Khazrajiah, Fātimah bint al Khurshb al Anmāryyah and 'Āatikah bint Murrah. To Arabs, those women were particularly known for the many children they gave birth to, because they got married so many times. However, the woman's procedure for divorce was different from that of the men in that she did not have to make any verbal statement or to declare her decision of divorce to her husband as we mentioned. Although this may seem a strange procedure, it did at least grant women in some tribes, the opportunity to express their views and take action in the event of an unsatisfactory marriage.

Kinds of Divorce

Divorce had many forms which stemmed from the style of life in the Arab society in which the Bedouin spirit prevailed. There were many kinds of divorce and they used many conventions which had the same meaning as divorce.

1. 'Ilā' (vow of continence). Some men took the vow of continence to leave their wives for unspecified periods of time.² Islam suppressed this kind of divorce because this custom was unfair to

1. Ibid

2. See al-Jazīfī, Abd al-Rahmān, Kitāb al-Fiqh 'Alā al-Madhāhib al-Arbāh, Vol. 4, P. 474

women as the Qur'an says:

For those who take an oath for abstention from their wives, a waiting for four months is ordained; if then, they return, God is oft forgiving, Most Merciful. 1

In such serious matters like that affecting the wife, Islam in the first place disapproved of thoughtless oaths, but insisted on solemn intentional oaths being scrupulously observed. Islam allowed four months as a maximum period of separation between husband and wife under any circumstances, if reconciliation is reached within the period, the vow is nullified and the parties can resume their life again. But if the husband is really against reconciliation, divorce is required in these circumstances. The wife would be considered divorced if the period (four months) expires before reconciliation, and the marriage becomes dissolved, even without a confirmatory pronouncement.

Ibn Umar used to say about 'Ilā' which Allah (God) defined (in the Holy Book), 'if the period of 'Ilā' expires, then the husband has either to retain his wife in a handsome manner, or to divorce her as Allah has ordered. 2 Islam defines the 'Ilā' period because it was believed that a wife could tolerate her husband's abstention up to four months without an abnormal reaction, and because of that, Umar the second Caliph, ordered that fighting soldiers should not have to be separated from their wives for more than four months.

2. The second form of divorce which was known in the pre-Islamic period was called al-Zihar, (literally, declaring that his wife is to him like the back of his mother) in which a man said to his wife: 'Be thou to me as the back of my mother.' 3 So the man describes his wife as part of his mother's

1. Q. 2, 226-227

2. Sahih al-Bukhari, Vol. 7, P. 160

3. al-Jaziri, op. cit., Vol. 4, P. 478

body which meant that she became unlawful to him and in general, he divorced her. This pronouncement made it illegal for a man to resume the marital life with his wife and was a divorce which freed the husband from any responsibility for marital tasks while preventing the wife from remarrying again to another man. We learn that 'Aws Bin al-Samit divorced his wife in this way. But it was hard for his wife Khawla to accept that situation particularly since she had small children with no resources to support them and under, Zihar, the husband was not responsible for supporting them, so she went to the Prophet urging her plea. Here, the custom and that kind of divorce was abolished by the Qur'an and her plea was accepted, as the Qur'an says:

"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." 1

Islam condemned this custom and laid down conditions if a man committed this practice and then wished to return to his wife..

'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 you 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.' 2

3. The third kind was called al-khul': Divorce, in general, the man had the complete right in divorcing his wife, but in this kind of

1. Q. 58, 2

2. Q. 58, 2, 3, and 4.

divorce, the man takes compensation from the divorcee if she could not live with her husband but offers to pay him money, and he had the right either to accept or not, as Smith mentioned: 'In old times, Khul' was a friendly arrangement between the husband and his wife's father by which the latter repaid the dowry and got back his daughter.' ¹ Under this kind of divorce, the marriage was absolutely cancelled because the husband had his dowry back and it was believed as Smith suggests, that 'the husband had purchased the exclusive right to use the woman as a wife, and the right was of the nature of property, and did not revert to the woman or her kin simply because the owner declined the use of it.' ²

On the other hand, if the man refused to live any longer with his wife, and he did not get his dowry back, 'It is plain that they would not be absolutely free under such a theory of marriage.' Moreover, some Arabian men refused to divorce their wives and used a way called Al-Adal in which a man totally demeans his wife's life either by ignoring her without divorce for a long term or by not allowing her to remarry anyone else after his divorce unless she pays him money to permit her to have a divorce or to remarry another man, and even if he dies his son or relatives had also the right to control her life, either by keeping her to themselves, or by preventing her from marrying another man. The Qur'an condemns these practices, as it says:

"When ye divorce women, and they fulfil the term of their (iddat) do not prevent them from marrying their (former) husbands, if they mutually agree on equitable terms. 3

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1. See Smith, op. cit., P. 113
 2. Ibid
 3. Q. 2,232

None of these kinds of divorce gave the woman in pre-Islamic Arabia full rights and all these practices were humiliating to the woman's position. When Islam came, it changed all these ways of divorce and laid down the rules for it which safeguard the woman's rights as we shall discuss later.

The Woman's Inheritance in Pre-Islamic Arabia

The issue of women's inheritance in Pre-Islamic times is controversial. Some argue that she had a share in the inheritance, others that she never had such a share.

Some sources state that the general practice during that time was to distribute the inheritance among the adult males (not females); men who could ride a horse and who could use a sword; i.e. among male fighters.

As Levy remarked, 'In Jahiliyyah, only they could be heirs who took their share of duty in tribal battle in guarding tribal property..... therefore women were excluded from inheritance.¹ So, in most cases, a woman was deprived of her right to a share of her inheritance. Sometimes the woman herself, as a widow, was included in the property to be inherited by her step-son, as mentioned previously. As Smith mentioned, 'So far as the widow of the deceased is concerned, this is almost self-evident; she could not inherit because herself part of her husband's estate whose freedom and land were at the disposal of the heir.'²

However, the right conclusion seems to be that we cannot generalize the statement that all women were deprived of their inheritance; since some women could obtain some property, for example, women had to pay sums of money in order to free themselves from the ban on marriage imposed on them by some men. However, even though a woman did not share the inheritance, there were some women who were known for their wealth. For example, Khadija bint Khuwyyid was a

1) See Levy, op. cit., P. 96

2. Smith, op. cit., P. 117

merchant who had both fame and wealth and who had many men to work for her.¹ Another example was that of Hind bint 'Utbah, the wife of Abu Suf'yān who was the leader of the tribe of Banī 'Umayyah. She was also, together with her husband, a corner stone of the campaign of violence against the prophet before the conquest of Mecca.

It was reported also that Bint al-Muhalhil owned one hundred cattle.² From these examples, it may be concluded that some women in Mecca could hold property before Islam. It is more likely that a woman in the Urban Community had possession of some property and enjoyed the right to run these properties more than did a woman in the Bedouin community as al-Ṣabbāgh suggested: 'This phenomenon was particularly obvious in the pre-Islamic Meccan society which was dominated by aristocracy of capital represented in the richest merchants of the Quraysh.'³ But Smith believed that women were in a somewhat better position at Mecca than Medina and he offered the reason behind it that in Mecca the influence of higher civilization may have been felt for the townsmen had large commercial dealings with Palestine and Persia, and some of them had lived in Roman cities like Gaza.⁴ Anyway, such women who owned property in pre-Islamic Arabia might have had that wealth either from the rest of her dowry, or from her inheritance when some families started to give a girl a portion of the inheritance capital of half the portion given to her brother.

It is reported that the first, of pagans, to give a portion of the inheritance to a girl was 'Amr bin Jashm who distributed his wealth

1. See Ibn Hishām, Vol. 1, P. 171
2. See Smith 120.
3. al-Ṣabbāgh, op. cit., P. 295
4. See Smith, P. 120

among his children, giving to a male a portion equal to that of two females.¹ His way of distributing the inheritance was in accordance with what was decreed later by Islam, as we shall discuss later.

To conclude, generally speaking, a woman in Arab society did not have the right to inherit, apart from a few exceptions. These exceptions were so few, that it did not affect the majority of women in pre-Islamic Arab society. So we can assume that during pre-Islamic time, the woman's right to inherit was negligible; the one who inherited was the man, the strong knight who could defend his tribe. The girl was considered to be weak and dependant on her family, and because of that, she was deprived of her right to inherit, and she remained so until Islam came along with its guidance to protect her rights.

1. See al-Nūfi, P. 335


The Status of Women as Mothers in Pre-Islamic Arabia

In pre-Islamic Arabia (al-Jahiliyyah), Arabs used to esteem their mothers highly. The status of women was improved if they delivered male children. Children used to pride themselves upon having a mother from an old and respected family of noble descent. It is said that sometimes, women used to marry men from other tribes without leaving their own, living with their husbands under the protection of their own tribe. If the husband divorced his wife, she used to keep the children and give them her family name, as Smith stated: 'But it is also possible that by tribal rule a woman is not allowed to leave her own kin, but may entertain a stranger as her husband. In this case, we may expect that the children will remain with their mother's tribe and therefore the law of kinship will be the child is of the mother's stock.¹ Sometimes a woman might marry a man from another tribe, and live with him, but under a condition to restore the offspring of the marriage to her people.² There are many men who took their mother's name, such as 'Amr bin Hind, also as al Mundhir bin Ma'ā al-Samā'.³

Sometimes, mothers had such a high status that a man might do anything to protect her and her dignity, and honour, an example of which is 'Amr bin Kalthūm who started a big war with 'Amr bin Hind, the King of Hira because he (Hind) humiliated 'Amr's mother. The story started when one day 'Amr bin Hind said to his companions, 'Do you know any Arab whose mother would disdain to serve mine?' They answered, 'Yes, the mother of 'Amr bin Kulthūm.' Then the King sent to 'Amr bin Kulthūm, inviting him to pay a visit to himself, and

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1. Smith, op. cit., P. 77
 2. Ibid
 3. al-Hūfī, op. cit., P. 90

asking him to bring his mother, Layla to visit his own mother, Hind. So they came and the king entertained 'Amr and his friends in his tent. Meanwhile, the king ordered his mother, as soon as he should call for dessert, to dismiss the servants, and cause Layla to wait upon her. At the pre-arranged signal, she desired to be left alone with her guest, and said, 'O Layla, hand me that dish'. Layla answered 'Let those who want anything to serve themselves. Oh shame!' cried Layla, 'Help Taglib, help.' When 'Amr heard his mother cry, he seized a sword hanging on the wall and killed the King. ¹

Women were highly appreciated if they gave birth to brave knights. Women who did so were given the description al-Munjabāt (the mothers of outstanding men). One of these mothers was Fāṭimah bint Khurshb who had the perfect sons () some of whom were leaders in pre-Islamic times. ² There was also 'Umm 'Āatikah and Khubayyah who gave birth to Khālīd, Mālik and Rabī' ^{by} Ja'afer bin Kulaib. ³

In the tribes, poets often boasted in their poems of having of noble birth mothers. The best example is Zuhayr bin Abī Salama who prided himself upon having a woman such as Fāṭimah bint Khurshub who had brave and courageous horsemen. The mother's status was naturally related to their social status, i.e. being free or slaves. Indeed, free women were more highly esteemed than slaves; children used to pride themselves upon having free mothers. This fact had various effects on children, since many children were subject to degradation and ridicule because of their origin. Despite this fact, sometimes children tried to defend their slave mothers. For example, 'Antar bin Shaddād the Poet and the brave knight, was a son of a black slave but he defended himself and his black skin and he regarded himself as a Courageous

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1. See Nicholson, op. cit., P. 110
 2. Ibid
 3. See Ḥufī, P. 85

Horseman who did not fear the battleground. ¹

Despite the respect which the women received as mothers, not all children in pre-Islamic Arabia were good towards their parents. Many children used to become recalcitrant. Al-Hūfī remarked in this connection that 'It is unnatural for them all to have good children, it is natural for some of them to deviate and mistreat their mothers and fathers, and there are many examples of such children. Mainly, this ill behaviour is due to the wife who usually intervenes in family life, attaches the son to her and monopolises him and teaches him to hate his parents. ² This quotation displays male prejudice in attributing the main cause of the disaffection of the children to the wife; in fact, various factors caused their disobedience and maltreatment of their parents; Sometimes, for example, a child was illegitimate and did not know his father. This might have a bad effect on the child's mental life and driven him to hate his mother. One example of this is the Poet al-Huṭayyah who composed defamatory poems against his mother, after becoming aware of his anonymous origins. He used to associate himself with a certain tribe until it dismissed him, when he moved to another tribe. ³

Despite cases of this nature, it is evident that in pre-Islamic Arabia, it was in her capacity as a mother that the woman had the greatest respect and status. With the advent of Islam, this honour was confirmed, while her status in other respects was also advanced.

1. ibid 498
 2. Ibid
 3. Ibid

Burying Daughters Alive

In Pre-Islamic Arabia, males were a source of strength while females were a burden on their families. It is no wonder that the female was treated in some tribes as an unwanted person from the moment of birth. Some Arabs used to kill their daughters by burying them alive. This was condemned by the Qur'an in more than one passage. On the Day of Judgement, we are told:

"When the female (infant) buried alive, is questioned for what crime she was killed." 1

So the full horror of the deed committed against her could be known and condemned before all, while she could be compensated and consoled. The Qur'an captures most vividly the feelings of a pagan Arab who has been informed of the birth of a female child. The description is most dramatic as it illustrates the contradictory emotions and fears which swept the mind of such a man after such an occasion.

"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." 2

It was an evil choice he had to make; either to keep the innocent girl to suffer and be treated as contemptible, or to kill her by burying her alive.

The previous verse is a clear proof that this practice existed in pre-Islamic Arabia. One question we have to consider here is what the motives were behind this custom.

1. Q. 81, 8

2. Q. 16, 58.

The Motives behind burying infant daughters alive

1. The first motive is explained clearly in the Qur'an:

"Kill not your children for fear of want:
we shall provide substance for them as well
as you. Verily, the killing of them is a
great sin." 1

Poverty was, in this case, the main motive behind it (as the Qur'an indicates). As Smith remarked: The Nomads of Arabia suffer constantly from hunger during a great part of the year. The only persons who have enough to eat are great men. 2 In such circumstances, it is safe to conclude that the pressure of famine was a major factor responsible for infanticide. These innocent girls were a burden to their families. We might consider burying daughters alive was an act of cruelty, but this might be a normal reaction for these people who were suffering from a harsh life. "To the poorer, a daughter was a burden, and infanticide was as natural to them as to other savage people in the hard struggle for life." 3

Burying daughters alive was regarded by some Arabs as a sort of kindness and mercy to the female, because their parents knew about their weakness and their inability to struggle against all the harshness of life. They preferred to choose death for their daughters instead of letting them undergo the hardship and dangers of life. They chose the bitterness of losing a daughter with all its grief, instead of burdening themselves with the responsibility of a female.

To Pre-Islamic Arabs however, "the despatch of a daughter is a kindness." 4 "The burial of daughters is a noble deed." 5

1. Q. 17, . 31
2. Smith, op. cit., P. 294
3. Ibid
4. Nicholson, op. cit., P. 91
5. Ibid

2. The second motive was the fear that their daughters would be taken captive and thus bring disgrace and ignominy to their family. As Nicholson remarked: "Fathers feared that they should have useless mouths to feed, or lest they should incur disgrace in consequence of their daughters being made prisoners of war." ¹ Moreover, wars between Arabs before Islam were broadly of two kinds, as we said. The first was motivated by the desire to plunder. The second, by revenge. As Smith affirms, "That in plundering excursion, not much blood was shed, women were captured often and (as some contemporary poems indicate) were simply taken to the slave market of some such trading place as Mecca and sold out of the country." ² In the war of revenge, on the other hand, the men were immediate victims; the women were, as a rule, taken captives. So, together "With the idea that it was humiliating to beget daughters, there ran the thought in that in a society where marriage by capture was common, girls might be carried off in wars to become the wives or concubines of enemies, " ³ and bring disgrace on their parents, clans and tribes. It was reported that "when al-Ahnaf bin Qays was told about his daughter's birth, he wept. When he was asked why, he said, "How can I not weep?" She is shame. Her presence is theft. Her weapon is crying and her good is not for me but for another." ⁴

Burying daughters alive was reported in more than one Arab source to have started with a chieftain of Tamīm al-Nūmān b. Mundhir (the king of Hīrah). It is narrated that his troops made a foray against the tribe Tamīm and carried off all the women, but the king ordered that the captives should choose to return to their husbands or to stay, if they

1. Ibid
 2. Smith, op. cit., P. 294
 3. Levy, op. cit., P. 92
 4. Al-Hūfī, op. cit., P. 292

so wished, with their captors. A daughter of Qays (the chieftain of Tamīm) chose to stay with her captor and refused to return to her husband. Qays was provoked to anger. His vengeance was that he killed all his daughters by burying them alive and he never again allowed any daughter to live.¹ It is, however, illogical, as al-Hūfī has observed to say that Qays was the first man who practised the custom because he became Muslim later in the prophet Muhammad's period whereas the tradition of burial alive must have begun long before.² However that may be, the story of Qays is worth noting for its extreme nature. One day, Qays was talking to the prophet Muhammad after he became a Muslim, telling him that in Jahiliyyah days, he buried many daughters alive, but one daughter was born when he was away and she was sent by her mother to her tribe. When Qays returned, he was told that his wife had been delivered of a dead child. The years passed and the girl grew up. One day, the girl came to visit her mother. Qays told the prophet that when he came in, he saw the girl, so he asked, "Who is this pretty girl?" Her mother answered, "She is your daughter. I sent her away to be saved." "One day I dug a grave and laid her in it," said Qays. The girl was crying. "Father what are you doing to me, your own child? Father, are you going to bury me alive and leave me alone?" Then I covered her up with the sand until I did not hear her cries and that was the only time I felt pity when I buried a daughter alive." The Prophet cried much and then he recited Q. 81, 8.³

Besides being logically unsound to nominate Qays as the originator of this custom, because of the time-span involved, it is also difficult to believe that this custom could have originated in one tribe alone.

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1. Ali, op. cit., Vol. 5, P. 90 and Afīfī, op. cit., Vol. 1, P. 50 and al-Aghani, Vol. 12, P. 143 and al-Hūfī, P. 295
 2. al-Hūfī, op. cit., P. 295
 3. al-Khurāsānī, al-Mar'ah wa al-Islām, Vol. 2, P. 28

"But infanticide was not a new thing, nor was it limited to one group of tribes. The mother of Amr b. Kalthum, daughter of Muhalhi, was sentenced by her father to be destroyed, but saved by her mother. This must have been about A.D. 500 or earlier." ¹ Some reporters have asserted that burying daughters alive was first practised by the Rabīah tribe. They claim that the head of the tribe had a daughter who was held captive by another tribe during a raid. When the war between the two tribes was over, that daughter did not wish to come back to her home and preferred to stay where she was held captive. As a result of that, the Rabīah's head became angry and invented this custom. Then he was imitated by other tribes until it became common among all tribes. ² This is a variant of the same story, with different names.

3. The third motive for burying daughters alive was ill health. Some parents used to kill their daughters, if they had been born with some disease, or if they were unhealthy or weak because they might not get married, thus bringing shame and disgrace to their parents, or because they would not be able to endure the harsh way of life. Such children were described by the Qur'anic commentators as the diseased, the blueish, the child with white spots or the crippled and paralysed child.

1. Smith, op. cit., P. 293

2. Ali, Vol. 5; P. 90

It was reported that Sawdah b. al-Kahinah was the aunt of Wahb, the father of 'Āminah, the mother of the Prophet) was sent to a place called al-Hujūn because when she was born, her father noticed that she was black (clearly as a result of illness). So, she was sent there to be buried alive, but the digger could not bury her because he heard a voice saying, "Do not kill her." When her father knew that, he spared her to become in time the priestess of Quraysh: ¹ It is also interesting to find some sources suggesting that some Arabs killed their daughters if they had some disease because it was thought unlucky. ²

4. The fourth motive for infanticide might be descended from an old kind of worship in which females were offered as human sacrifice or oblations. ³ This suggests that the practice of infanticide was due to a religious motive, but most of the historical sources do not mention this, except in the story of Abd al-Muttalib, who vowed to kill one of his children when he had ten sons and offered the last one as a sacrifice to God. ⁴ Since pagan sacrifices involved the shedding of blood, which was the main purpose in such an offering, it is unlikely to be the true source of the custom under discussion by which daughters were buried alive without any bloodshed. ⁵

How old were these girls ?

There are different opinions about the age at which parents buried their daughters alive. Was it done at the first moment after

1. al-Shāf'ī, op. cit, Vol. 1, P.50.
2. Ali, op. cit., P. 88
3. Ibid and Bint al-Shāfi', Tarāgim Sayyidat Baytal-Nubūwah, P.449
4. Ibn Hishām, Vol. 1, P. 140
5. Ali, Vol. 5, P. 97

Or was it at any specific age ? The Qur'an (16:57, 58, 59) suggests that the girl was an unwanted person from the first moment.

So, they committed this practice in such a way that no blood was shed. Commenting on Q. 81:8, al-Zamakhsharī states: "The grave was ready by the side of the bed on which a daughter was born." ¹ But sometimes she was buried when she was six years old. Al Zamakhsharī gives a graphic description - "It was common that whenever a man had a baby girl whom he wanted to keep alive, he dressed her in a coat made from the wool of sheep which had been bred in the wilderness for that purpose. However, if he wanted to kill her, he would leave her until she was six years old and then say to her mother, "Dress her up and perfume the girl that I may bring her to Abmā'eha. In the meantime, he prepared a hole in the desert for her. Then he would take her to it, and as they reached that hole, he would ask her to look at the hole. While she was doing so, he pushed her from behind into the hole, and put sand on the girl's body until the hole was level with the ground." ²

Other methods of infanticide are recorded, including throwing the girl from the top of a high mountain or drowning her, or slaying her. However, burying daughters alive was more common. ³

Nevertheless, although the hideous practice of burying daughters alive was known to most Arab tribes, certain tribal chiefs went out of their way to save the lives of those innocent girls. It was said that the famous Sa Sa'a saved as many as three hundred or four hundred girls ⁴ from that by paying compensatory money to their fathers.

Al-Farazdaq expressed his pride about his grandfather Sa'sa who prevented such burials.

1. al-Zamakhsharī, al-Kāshāf, Vol. 2, . . . quoted by Smith, op. cit., P. 293,
 2. Ibid Aghāni, 19, 2-3.
 3. Ibid and al-Hūfī, op. cit., P. 297
 4. Ali, op. cit., Vol. 5, P. 97

Another example was Zayd b'Amr who made it his duty to save the girls whenever he saw or heard a man intending to bury his daughter, he would ask him not to kill her and he (Zayd) would take care of her financially. When she grew up, he would ask the father whether he desired to take his daughter back or whether he should carry on cherishing her.¹

The attitude of the Mother

Unfortunately, the historical sources do not give us the mother's reaction, or feelings about the atrocious murder. Was she sympathetic to her daughter? Did she hate her and share the father's feelings and attitude? Or was she the one who carried out the murder? In the story of Qays which was mentioned before, we noticed that the wife kept her daughter alive and hid her and sent her to her own tribe or family for protection, which is proof that some mothers hated this terrifying custom and many loved their babies dearly which, of course, is a natural reaction. But there was another story which gives us the opposite view about a mother's reaction. "That Kabirah bint Abu Su. fyan said to the prophet that she had buried four children alive in Jahilyyah time. The prophet ordered her to emancipate four slaves."² It is possible to assume a normal reaction for a mother to be afraid and worried about her baby girl, which is an innate, God-given feeling, but this does not protect her from being influenced by the society in which she was living. Since the major worry of the tribe was existence in time of war, and with the general assumption in mind that girls cannot fight and protect themselves and their tribe,

1. See Kaḥhalah, al-Mar'ah fī 'Ālāmy al-'Arab wa' al-Islām, Vol. 1, P. 10
 2. Al-Hūfī, 289

some mothers must have felt that it was useless for their daughters to live. Perhaps the feelings of some mothers went as far as that of the father after the delivery of the girl and identified with him in his sadness, shame and anger. This is not unknown in some Arab societies, even in the Arab world at this time. Furthermore, some men used to divorce or leave their wives if they continued to give birth to girls only.¹

It is a mistake to believe that the practice of burying daughters alive was prevalent among all tribes. It was found only in some tribes such as Kinda, Qays, Hudhayl, 'Asad, Bak'r Bin wā'el. It was widely spread in Tamīm. They attributed their actions to the fear of oppression and the union of the unequals.² However, this does not mean also that this custom was common to all Arabs without exception, resulting in an inferior status for all women.

There were some fathers who honoured their daughters and gave them the right to decide on their future life and to choose a partner of their life. An example of such a father was 'Aws ibn Ḥārithah al-Ṭā'ī.³ Moreover, some fathers used to consult their daughters and to take them as their companion on raids, one such being Laqet b. Zarār.⁴

Deep love between a father and his daughter is manifested in this story: It was reported that, when Sa'sa ibn Mu'awiyya went to 'Amer ibn al-Zarab asking him for permission to get married to his daughter, 'Amer asked him to be kind to his daughter since the husband is a good father after the real father.⁵ This is evidence for the father's love for his daughter, his pride in her and his generosity to her.

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1. 'Alī, op. cit., Vol. 5, P. 96 and Ḥūfī, op. cit., P. 289
 2. See 'Alī, op. cit., P. 96
 3. Al-Ḥūfī, op. cit., P. 285
 4. Ibid
 5. Ibid, p. 280

The society in fact spanned all the contradictions and opposite extremes. While some fathers are seen to be burying their daughters alive, others are reciting poetry that urges people to love their daughters.

As we have said, burying daughters alive was not a widespread practice. Some fathers kept their daughters as Smith mentioned: "Oṣaim the Fazarite did not dare to save his daughter Lacīṭa without concealing her from his people, although she was his only child." 1

Such fathers preferred to love their daughters and to offer them good education. Mān b'Aws had three daughters whom he considered to be better than boys. 2 Daughters were loyal to their fathers, they nursed their fathers in illness, visited them in sickness and wept over them after death. 3 The idea concerning father's hatred of their daughters and burying them alive just after birth is widely known. However, if we look at the Arab community before Islam, we find many women who had high positions among their people. If this custom was so common, then how did the community come into being? Women are one half of the community. Further, how did women get married to men? And, how can we neglect the instinct for maintaining species and the desire for survival with it, particularly if we realize, as Ali says, "That obtaining many children was the major aim of marriage as far as an Arabian is concerned. So, he had as many wives as he could, particularly if he had money. An Arab was also keen to choose his wives to be as young as possible so that they could give birth to as many children as possible and because of this, it could be noted that a tribal head was usually a man of many wives." 4

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1. See Smith, op. cit., P. 293
 2. al-Ḥufī, op. cit., P. 279
 3. Ibid
 4. See 'Alī, op. cit., Vol. 4, P. 349

So it is not surprising that the two extremes existed in the same community. Some were shocked when they had a birth of a baby girl and might bury her alive either because of their love and desire not to let her suffer and endure the difficulties of life, or because of their abhorrence of them. On the other hand, a female was honoured in every man's life, she was a mother, a wife, a lover or a sister. In poetry there is evidence for that.

One form of father's love is his immediate response to his daughter's call for help whenever she seeks his help.

An example of that is 'Utbah bin Rabī'ah who supported his daughter in her ordeal when her first husband accused her of adultery.¹

There were many examples in the Jahiliyyah poems which show love and devotion from daughters towards their fathers. Al-Ṣabbāgh says "He is the house master, source of provision for family, the family protector and supporter and he is the one who looks after every individual in the family.... So, the relation between a father and his daughter was a relation of love associated with fear and apprehension as if the father was an enshrined person."²

One of the manifestations of a daughter's love for her father was her worry about the possibility of his being killed in war and accordingly, her attempting to change her father's mind regarding war. Salamah ibn Jund composed some poetry in this connection describing her daughter's fear and worry about him.³ On the other hand, a father's love for his daughter was so great that he usually worried about her grieving for him when he died.

A daughter used to miss her father when he died; she felt that she had lost a person who had been particularly dear to her. Not only this, but she also felt that she had lost her protector and the one

1. See al-Ṣabbāgh, op. cit., P. 242

2. Ibid

3. al-Ḥūfī, op. cit., P. 311

who used to look after her. Safiyya bint Musāfir describes how her eyes were injured by tears as if they were having ophthalmia, and how she was crying from the early morning and how she was right in doing that; the home is ruined as a result of her father's death. ¹

Moreover, some fathers were nicknamed by their daughter's name.

Examples of these were al Nābighah al-Dhubyanī who was nicknamed Abu 'Umāmah, Abu 'Umayyah, 'Abu 'Azzah and Ḥatim al-Ṭāī was nicknamed Abu Suffānah. ² This is a strong evidence that the emotion or the relation between a father and his daughter was not overwhelmed by the griefs associated with the ordeal of burying daughters alive. This is an evidence for the father's love for his daughter, his mercy on her and his worry about her. For some fathers, such emotion was so strong that they preferred to bury their daughters alive instead of leaving them to suffer hunger and endure the hardships of life. So, natural and social conditions might appear to be the reason behind the spread of the custom. This is a natural reaction to what mankind suffers from severe conditions, famines, poverty and severity of life. This is supported by the fact that parents' killing of their children was known not only to Arabs in the peninsula but also to other nations. ³

However, when Islam came with its light, the custom of burying daughters alive was among the many practices of paganism to be abolished. The Prophet (Peace be upon him) had promised women not to kill their daughters, 'Ubāda bin Al-Ṣāmit narrated. Allah's Apostle said to us while we were in a gathering, "Give me the pledge of allegiance : Not to associate anything with Allah, not to steal, not to commit illegal sexual intercourse and not to kill your children. . . ."

1. al-Ḥufī, op. cit., P. 311

2. Ibid

3. For more details, see al-Ḥufī, op. cit, P. 304

4. Sahih al Bukhari, Vol. 9, P. 244,

The Qur'an came prohibiting this great crime and providing a solution to its problem that Allah made good provision for children and their parents. This is stated in this verse of the Qur'an:

"Do not kill your children fearing a fall to poverty; we shall provide for them and you." 1

So, in the verse, Allah has mentioned his provision for the children first and then for their parents to confirm that he will provide for children.

There are also many Hadiths (sayings of the Prophet) that prohibit parents from practising this sin. It is related by Abdul Allah bin Masūd that he asked the Prophet: "O Messenger of Allah, what is the greatest sin? The Prophet said, To make a partner for Allah who has created you. Then, Abdul Allah bin Mas'ūd asked, What is next? The Prophet said, To kill your child fearing that he will share with you your food. Then Abdul Allah b. Mas'ūd asked, What is next? The Prophet said, To commit adultery with your neighbour's wife." 2

Respect for the individual's ^{right to} life from the moment of birth is thus paramount; in the face of this, all other considerations lose validity.

Moreover, both the Qur'an and Sunna (what the Prophet used to do) recommended parents to be kind to their daughters, to treat them in the same good way they treated their sons and not to prefer sons over daughters (as will be discussed later).

In conclusion, society in Pre-Islamic Arabia was full of contradictions pervaded by chaos and unrest. It needed a radical and comprehensive reform of customs and laws for changes to come about. In fact, Islam did not make a radical change in all customs and laws, only those which contradicted the Islamic Law. Islam forbade some acts completely, such as burying daughters alive, and amended others to conform to the Islamic System. For instance, divorce and polygamy.

1. Q. 17, 31

2. Tafsīr Ibn Kathīr, Vol. 3, P. 606

Many of these modifications were particularly beneficial for women.

Islam even left certain traditions untouched because they were good

and consistent with the Islamic law. In order to clarify this in the

next chapter, we shall discuss the status of women under the new

faith.

CHAPTER TWO

In the previous chapter, we discussed the woman's position in Arabian society before Islam, i.e. her position as a wife, a daughter and a mother. To compare the change, if any, between her status before and after Islam, one must study, both generally and in detail, the woman's position in Islam. It will then be possible to answer such question as : Did the woman's status remain as it was in pre-Islamic Arabia or was there any change ? If so, was the change in her favour ?

Islam is the religion of equality; it does not discriminate between rich and poor, black and white, Arab and non-Arab. The only basis of discrimination between people is their good deeds and their faith. Islam has also equated man with a woman in many respects; both the man and the woman are human beings and both are equally regarded as the source of procreation for their offspring, as the Qur'an emphasises:

"O Mankind. We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (Not that ye may despise each other). Verily, the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well acquainted (with all things). 1

The word "people" in the previous Qur'anic verse includes both men and women without discrimination. Furthermore, Islam has laid down some religious duties for both men and women such as prayers, fasting Ramadan, paying the Zakat, 'the payment of poor tax' and pilgrimage. However, the woman has certain exemptions because of her biological and physiological make up. She is exempted from

certain religious duties such as prayers and fasting during menstruation and childbirth. She is also exempted from the obligatory congregational prayer on Friday which would entail her leaving the protection of her house which she might be unwilling to do, however, she was perfectly entitled to attend if she wished. Both are enjoined to worship Allah through these religious duties and accordingly to be submitted to the same reward or punishment, as the Qur'an says:

"And their Lord hath accepted of them, and answered them : Never will I suffer to be lost the work of any of you, be he male or female: you are members, one of another." 1

And it says also -

"Who ever 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." 2

Thus, there is in the Qur'an a clear understanding that religious obligations are equally binding on either sex. This also extends to the social restrictions laid down by Islam, concerned with behaving with modesty in public. The rules about modesty apply equally to men and women. About this, the Qur'an says:

"Say to the believing men that they should lower their gaze and guard their modesty : that will make for greater purity in them : And God is well acquainted with all that they do. And say to the believing woman that they should lower their gaze and guard their modesty." 3

In Islamic Law, both sexes are equal, the same legal penalties being imposed on both men and women for breaking any moral or legal laws. The Qur'an for instance, states:

"The woman and the man guilty of adultery or fornication flog each of them with a hundred stripes. Let not compassion move you in their case, in a matter prescribed by God, if ye believe in God and the last day : And let a party of believers witness their punishment." 4

1. Q. 3, 195
2. Q.16, 97
3. Q. 24, 30 and 31
4. Q. 24, 2

"As to the thief, male or female, cut off his or her hands : A punishment by way of example, from God, for their crime : And God is exalted in power." 1

Furthermore, a woman has the same rights and privileges as a member of Islamic society as the man has, with some exceptions in certain aspects of life where Islam gives the man some rights over the woman. One of these exceptions is the Qiwama of husbands over their wives. A husband is Qawam, i.e. he protects the interests and looks after the affairs of his wife. The Qur'an mentions that the idea behind giving the right of Qiwama to the husbands over their wives is because it is the duty of the man to provide for his wife, and his family as the Qur'an says:

"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." 2

"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." 3

It should be borne in mind that, the fact that husbands have such a right over their wives does not suggest any undervaluing of the woman. The Islamic view is that a family, like any other small group, needs a leader or head to be in charge of all the family affairs : a responsibility which Islam has made the man's duty. This follows from the idea that a man is responsible for providing for his family. As mentioned before, he must provide food, clothes and a house for his wife and children; accordingly, in the sight of Islam, it was quite understandable that a degree of authority should be given to the person who takes on such great responsibilities. However, from the example of the Prophet and from many of his Hadiths, such

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1. Q. 5, 41
 2. Q. 2, 228
 3. Q. 4, 34

leadership must be based on mercy, kindness, mutual consultation and shared responsibilities. It was never intended as a basis for tyranny or humiliation.

The second exception is in the matter of giving testimony in legal matters, in financial transactions. According to Islam, such evidence should be given either by two men or a man and two women.

As the Qur'an says:

"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." 1

This does not have anything to do with the credibility or dignity of women. It is the Qur'an that states that such transactions being carried out mainly outside the domain of women, it is possible that one of them may forget, then the other one can remind her, as the Qur'an explains in this verse:

"For witnesses, so that if one of them errs, the other can remind her." 2

It is suggested that a woman in pre-Islamic society was usually at her home looking after her children and running her domestic affairs. So women were, most of the time, away from what was going on in the market place, its problems and affairs. It is enough that Islam gave the woman the right to participate in the society through testifying, even in part.

The third exception is the matter of inheritance. Our discussion about the woman's status before Islam, in the first chapter, gives us a clear idea about how she was, mostly, deprived of the right to have a chance of an inheritance. The idea behind this, as we showed, was that she was not qualified to be an heir since she could not fight either.

1. Q. 2, 282
2. Ibid

to defend the tribe or bring in booty. So, the property of a man who had only female children was distributed among their uncles.¹ (i.e. the dead man's brothers).

Depriving the woman of a share in the inheritance was not practised by Pagan Arabs only. This practice was common among many other nations. For example, in ancient Greece, the woman could not inherit property, and she was even treated as a commodity and was considered as a part of her custodian's wealth. It was suggested that "Following the death of a Greek woman's father, his inheritance was distributed among her brothers. And, if she had no brothers, she was to be married to the oldest heir. So, she was a part of the inheritance from which she had nothing. Her son from such a marriage was to belong to the mother's father, and was to be given into custody later on."²

Moreover, in the same way, in Hamurabi's law, women were deprived of the right to inherit.

In the Roman society, during the times of the first republic, a man was the head of his family. He had the proprietor's rights over his wife and child/^{ren} He was the religious and political leader of his family and he was the person who was charged with all his family affairs; he was responsible for buying, selling, contracting and running all the affairs of his family. The woman had status relative to the man and even legally she had no consideration as femininity did not provide a qualification for such consideration, just like childhood or madness.³

Also, the Hebrew woman did not have a share in the

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1. See al-Khulī, al-Bahīyy, al-Islām wa al-Mar'ahal-Muāsrah (Islam and The Contemporary Woman). P. 201
 2. Bayyham Muhammad, Al-Mar'ah fī al-Tarīkh wa al-Shar'ī 7, quoted by al-Hūfī, op. cit., P. 339
 3. Bar Muhammad, Mabādī'a al-Qanūn al-Romanī, P. 107, quoted by 'Arfa Sulaiman, Huqūq al-Marāh fī al-Islām, P. 32

inheritance. She was even inherited just like property. However, inheritance among the Hebrews largely follows lines of descent within the family. From this rule, it follows that males are preferred to females as heirs since the line of descent is patrilineal." ¹ However, in a later time, Hebrews gave the woman a share in her father's inheritance if the father had no male children. And, in such a case, the woman who inherited must get married to a man of her father's tribe or clan. The idea behind that was to keep the properties of the children of Jews for themselves and not to allow the properties of one tribe to be transferred to another. However, a wife was not allowed to have a share in her husband's inheritance; she was to be inherited just like her husband's inheritance. In general, the woman's status in many ancient nations was such that the woman's rights were denied for the most part; her position was so weak that she was not even able to defend her humanity or her rights, and she had no right to inherit or to run property. Now, we must pause to ask, what is Islam's position regarding the economic affairs of the woman? Did Islam change the practices which prevailed in the pre-Islamic era? Did Islam give the woman the right to inherit and to run property?

Islam strengthened the woman's position, gave her new rights, and a share in the inheritance. The Qur'an has laid down the general principle of the woman's right to inherit in this verse:

"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." ²

1. See Abd.al-'Ati, op. cit., P. 250

2. Q. 4, 7

For the majority of Arab men, this was a difficult notion to accept : that a woman, or a minor, who could not bear arms and defend or gain booty should be allowed to inherit a share in the family property. It is actually stated that men hoped this new idea should be ignored or forgotten. It is evident that a woman's having the right to inherit property was only gradually and sometimes reluctantly accepted but the authority of the Qur'an finally prevailed to grant her these rights. ¹ Tabarī reported that a woman called UmmKuhah had come to the Prophet saying: O messenger of Allah : I have two daughters whose father has died. Following the death of their father, their uncle has taken all the father's inheritance leaving nothing for me or for my daughters. This was, because it was their practice to give nothing from the inheritance to women. The Prophet called him and when he came, he said, 'O Messenger of Allah : They cannot ride the horse or hold the sword.' The Prophet asked them all to go until Allah revealed to him what to do. They left, and later on, Allah revealed (to the Prophet) the former verse. ² This incident was the first inheritance for the woman in Islam

After the Qur'an had established the general principle of giving the woman a share of inheritance, it went on to explain that general principle in detail. The woman's portion varies according to her relationship to the dead person whose property is being divided and according to the number of people who are to share the inheritance, but in principle a woman gets half a son's portion, as the Qur'an states:

"God (thus) directs you as regards your children's (Inheritance): to the male, a portion equal to that of two females." ³

Islam treats men and women as equal ^{human} beings as mentioned before, as is clear in many of the Qur'anic verses such as:

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1. See Tafsīr Al-Tabarī, Vol. 4, P. 176 and Ali op. cit., P. 566
 2. See Tafsīr Ibn Kathīr, Vol. 1, op. cit., P. 35 and Ali op. cit., P.566
 3. Q. 4, 11

"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." 1

The apparent inconsistency of allowing a woman to inherit a small share of all property than a man reflects the different financial responsibilities of men and women. For example, the man is charged by Islamic Law with the responsibility of looking after the family financially, and providing for it and of being the head of his family. This is seen as in accordance with the qualities God has given to the man; he is physically stronger and more able to work and support his family. According to Islamic Law, therefore, the man is responsible for the financial affairs of the family, and the woman is totally exempt from it. For instance, the bridegroom must pay a dowry to his bride and is ultimately responsible for providing everything she needs - housing, food, clothes ... etc. The man must also provide for his children. Furthermore, it is the man's responsibility to provide for his mother, if due to any reason such as death or inability of his father, the father cannot do so. The man is financially responsible to maintain his sisters until they get married. Accordingly, his portion of the inheritance needs to be larger because it has all these claims on it. On the other hand, the woman's portion has no claims on it and can even be increased when she takes her dowry from her husband and keeps it for herself, and disposes of it in any way she likes, and she is free from any liability to provide for the family and even for herself.

The young girl is maintained by her father or brother, and when she gets married, she is provided for by her husband. Accordingly,

the Islamic system for sharing out an inheritance appears fair; Islam has also given her the right to run her financial affairs as she likes; she can buy and sell, she can own property, she can trade and increase her wealth by any lawful means, whether she is single or married. Here, it must be pointed out that she even keeps her own maiden (family) name without taking her husband's name after the marriage. She has no legal obligation to spend her own money on her family unless she wants to. If so, she can, providing that she is sufficiently mature and consents freely. An example of such women was that of 'Aīsha, the Prophet's wife who pressed forward with emancipating Bar:īrah; she paid 360 Dirham from her own money to the lords of that slave to set her free from slavery. ¹ Another example was that of Khadija, the Prophet's first wife, who gave up her slave, Zayd Bin Hārithah to the Prophet. ²

In conclusion, Islam has given the woman the complete freedom to run her own property, as long as she consents, she has the right to contract, to fulfill her obligations to own and to run her property.

The fourth exception is women as Heads of State. Islam does not deny the woman's right to work as long as her work is suitable for her as a female and within the Islamic traditions, and laws. For instance, without any suitable mixing with men and as long as she wears Islamic dress. Moreover, the Ḥanafītescholars agreed that a woman is fit to be a judge. ³ However, there are certain jobs or positions which Islam gave the right solely to men to practice and not women, for example, the position of Head of State. This headship is not merely a symbol but entails tremendous responsibilities and difficulties. The Head of State in Islam, specially in early Islam, is the chief of

1. See 'Arafaṣop.cit., P. 171

2. Ibid.

3. al-Sibāī, Mustafā, al-Marāḥ Bayn al Fiqh wa al-Qanūn, P. 39

staff of the army during war time, and in practice he used to lead the fighters. This sort of responsibility is thought to be too hard for a woman to carry, because of her physical build and the physiological changes during pregnancy, delivery and lactation.¹ Moreover, the Head of State in Islam also has to lead the people in prayers and this again is not allowed in Islamic law, since during prayer, the Imām must stand in front of the Muslims, mostly men, and during the prayer he has to make certain movements in different positions like bending to the ground and to prostrating himself. The public performance could embarrass a woman, compromising her shyness, modesty and dignity. Also a woman leader was felt to affect the people's concentration on prayer. For these reasons, we conclude that Islam in denying the position of the Head of State to women, was taking into account her physique, physiological and psychological changes rather than seeking to humiliate or degrade her.

1. Ibid

Marriage in Islam

The family is the basic unit of any society, which in most cultures is established by marriage. Without marriage, there would be no family, and without family, and the sentiments, discipline, and cohesions it engenders and inculcates, there would be no civilisation. It is the family which has, through the ages, prepared the children for participation in society by giving them their first education and the necessary 'backbone' to face the problems of life. It inspires the child to integrate but also to be original, inventive and competitive. Because the family exerts a seminal and lasting influence and is the key-stone and the first unit for civilisation, Islam paid special attention to the family structure and problems and made every effort to build this unit on a healthy and strong foundation.

The Importance of Marriage in Islam

In Islam, marriage is considered the right way to form a family. Through marriage, a person can satisfy, in a lawful way, his needs, whether such needs are emotional, psychological or biological. Marriage was known in ancient societies although the regulations and systems associated with it differed from one place to another, according to the prevailing customs and traditions. However, what concerns us here is marriage as far as Islamic Shari'ah Law is concerned Islam has urged Muslims to get married as soon as they can in order to protect individuals from turning to evil, to encourage procreation and to look after the children properly. As the 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." 1

1. Q. 24, 32.

Ibn Kathīr, in his interpretation of this verse pointed out that Al-Ayyim (the singular form of Al-Ayama) is the man who has no wife or the woman who has no husband. He also explained that the verb 'marry' in this verse is imperative - i.e. an order to get married, and some Islamic scholars are of the opinion that marriage is compulsory for every Muslim who can afford it.¹ The Qur'an emphasises that as

"They (your wives) are your garments, and ye are their garments." 2

Yousuf Ali explained this verse that "Men and women are each other's garments. i.e. they are for mutual support, mutual comfort and mutual protection, fitting into each other as a garment fits the body".³ The Qur'an also says:

"And among His signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between you (hearts)." 4

The Qur'an is awakening the desire for marriage which is recommended in this statement:

"Marry women of your choice." 5

In the Sunnah, the Prophet stressed the importance of marriage. As Abdullah narrated : We were with the Prophet while we were young and had no wealth whatever. So, Allah's apostle said, "O young people! Whoever among you can marry, should marry, because it helps him lower his gaze and guards his modesty (i.e. his private parts from committing illegal sexual intercourse etc.) and whoever is not able to marry, should fast, so fasting diminishes his sexual power." 6

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1. Ibn Kathīr, Vol. 2, op. cit., P. 602
 2. Q. 2, 181
 3. See 'Ali Yousuf, The Glorious Kur'an, trans and comm, P. 74
 4. Q. 30, 21
 5. Q. 4, 3
 6. Sahih al-Bukhari, Vol. 7, op. cit., P. 4 and Sahih Muslim, op. cit. P. 703.

A tradition reported that "when a man has got married, he has made his religion half perfect. Then let him fear Allah for the remaining half." ¹

The Prophet declared that marriage was one of his most sacred practices and added, "whoever dislikes my way of life is not of me." ²

He also said, marry and multiply for I will boast about you over other nations on the Day of Resurrection, even about the least among you." ³

It may demonstrate the importance of marriage that Muslims scholars have differing views regarding the emphasis placed on it. Some scholars were of the opinion that devoting oneself to worshipping Allah is better than getting married, while others had the opinion that getting married is better than such devotion. * Anas Bin Mālik narrated that a group of three men came to the houses of the wives of the Prophet asking how the Prophet worshipped Allah, and when they were informed about that they considered their worship insufficient and said, "How can we imitate the Prophet as his past and future sins have been forgiven?" Then one said, "I will offer the prayer throughout the year and will not break my fast." The third said, "I will keep away from women and I will not marry forever." Allah's apostle came to them and said, "Are you the same people who said so and so? By Allah, I am more submissive to Allah and more afraid of him than you, yet I fast and break my fast, I do sleep and I also marry women. So he who does not follow my tradition in religion is not for me." ⁴ Islam thus

treated marriage as a fundamental institution, in which husband and wife exercise their rights to physical and spiritual pleasure and stand equal in the sight of their Lord. Adultery came to be regarded as an

1. Al-Istanbūlī, Mahmūd, Tuhfat al-Arūs, p. 31

2. Maddain Farah, Marriage and Sexuality in Islam, A translation of Al-Ghazālī Book on the Etiquettes of marriage from Ihyā', P. 48

3. Ibid

4. Sahih Al-Bukhari, op. cit., Vol. 7, P. 1 and Shih Muslim, Vol. 2 op. cit., P. 703.

* Farah, op. cit., P. 47

assault on this institution. Adultery furthermore, subjected men and women to degradation and the gradual erosion of their spiritual well being. More often than not, it was a debasement for women and subjected them to special strain. Chastity (that is fidelity to one's husband or wife) was a commitment to God as well as to one's lawful partner. It is significant moreover, that the Qur'anic verses refer to Muḥsināt and Muḥsanīn (chaste) in the context of marriage, one verse states;

"Are (not only) chaste women who are believers, but chaste women among the people of the Book revealed before time, when you give them their due dowers and desire, chastity, not lewdness nor secret intrigues." ¹

Saddiqi comments: "The Qur'an has constantly used the word Muḥsin for chaste men and Muḥsināt for chaste women, both of which came from the Arabic root 'Ḥisn' meaning fort. The underlying idea is that marriage safeguards and protects chastity in the same manner as a fort protects the garrison within from a beseiging army." ²

Irrespective of such differences, marriage in Islam has a permanent importance; it protects the individual from committing sins, it regulates the individual sexuality by lawful means and it is healthier for the individual. Furthermore, marriage and the family encourage the begetting of children and, consequently, help the survival of the human race.

Al-Muḥaramāt (Women to whom a man cannot get married)

Islam has forbidden a man's getting married to certain groups of women. Such women are called 'Al-Muḥaramāt'. Al-Muḥaramāt are of two kinds:

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1. Q. 5,6
 2. Siddiqi, Women in Islam, P. 33

1. The first kind includes those women to whom a man cannot get married for ever as the underlying reason for forbidding it can not be removed.

2. The second kind includes those women to whom a man is temporarily unable to get married; once the reason behind the prohibition is removed, prohibition is lifted. ¹

The reason behind the permanent prohibition are of three kinds - blood, relationship by marriage and breast feeding. Blood relations that cause the permanent prohibition are (i) a man's mother and his grandmother, or any woman from whom he is directly descended.

(ii) A man's direct descendants, such as his daughter, daughter's daughters and son's daughters and their children and their grandchildren.

(iii) A man's parents sisters, i.e. his aunt. However, a man can get married to his aunt's daughter (a first cousin) (iv) A man's parents children which means his sisters, step-sisters, and their daughters, i.e. his nieces or their daughters or grand daughters. This includes his brother's daughters or their descendants. As the Qur'an makes it clear in this verse:

"Prohibited to you (for marriage) are: your mothers, daughters, sisters, father's sisters, mother's sisters, brother's daughters, sister's daughters." ²

Relation by marriage that cause permanent prohibitions are:

(1) the daughters of a wife by a previous marriage (or her descendants).

Such a daughter is called Al-Rabībah (step daughter) whether she is under that man's care or not. ³ But if a man's marriage is not consummated, a man can get married to the daughter of such women as the Qur'an explains:

"Your step-daughter under your guardian-shipborn of your wives to whom ye have gone in, no prohibition if ye have not gone in." ⁴

1. See Al-Jazīrī, op. cit., Vol. 4, P. 61

2. Q. 4, 23

3. See Al-Jazīrī, op. cit., P. 62

4. Q. 4, 23

The words 'Ye have gone in' are explained by Ibn Abbas's commentary on Dukhūl, Masīs and limās (in Arabic) all meaning the sexual intercourse. The grand-daughters (born of one's wife) are also unlawful to marry, like her daughter and her sisters, as indicated by the statement of the prophet to his wife UmmHabībā, "Do not present to me your sisters." Similarly, the wife of a grandson and the wife of a son are equally unlawful to marry. Will a step-daughter of a man be called a step-daughter if she is not under his guardianship? The Prophet gave a step-daughter of his to some people to take care of. The Prophet called his grandson (Al-Ḥasan ibn 'Alī) his son." ¹

(ii) A man's wife's mother : a man can not get married to his mother in law or any of her progenitors once his marriage is contracted even if his marriage is not consummated.

Marriage is also forbidden between relations by marriage. A relation by marriage (Al Muṣāharah) is a description (of relations) similar to blood relations (Al-Qarābah) and it is obtained by one of four possibilities. It can be obtained through a man's daughter in law, step daughter, a father's wife (step mother) or mother-in-law. Islamic Shari'ah has forbidden such a marriage because of Al-Muṣāharah and it is similar to Al-Qarābah in that both bring families together by a bond of love and mutual respect. When a man gets married to a woman, his mother in law becomes similar to his own mother and she should be respected and honoured. A mother can not share a husband with her own daughter as this will result in hatred instead of love and compassion. So, Islam has forbidden a man's getting married to a woman and her daughter.

1. Sahih al-Bukhari, op. cit., Vol. 7, P. 31.

2. Also, Islam has forbidden a man's getting married to a woman if that woman was breast fed by his mother, as the Qur'an implied that:

"Foster mothers (who gave you suck) foster sisters." 1

In the tradition, ^ʿAīsha (the wife of the Prophet) narrated that while Allah's apostle was with her, she heard a voice of a man asking permission to enter the house of Ḥafṣa. ^ʿAīsha added, I said, 'O Allah's Apostle! This man is asking permission to enter your house.' The Prophet said "I think he is so and so, naming the foster-uncle of Ḥafṣa. ^ʿAīsha said, "if so and so," naming her foster uncle, were living, could he enter upon me? The Prophet said, "Yes, for foster relations make all those things (lawful and) unlawful which are '(lawful and) unlawful through corresponding birth (blood) relation." 2

Ibn Abbas also narrated it was said to the Prophet, "Won't you marry the daughter of Ḥamza?" He said, "she is my foster niece (foster brother's daughter)." 3 Some scholars are of the opinion that three meals (breast feeding a baby three times) are enough to forbid marriage; others think that five meals are enough. In the tradition, ^ʿAīsha narrated that the Prophet entered upon her while a man was sitting with her. Signs of anger seemed to appear on his face as if he disliked that. She said, "Here is my foster brother." He said, "Be sure as to who is your foster brother, for foster-relationship is established only when milk is the only food of the child." 4

It is very important to mention here that suckling which brings about foster-relationship is that which is done when the baby is under two years of age. 5 The reason behind the prohibition of marriage by breast feeding is that when a woman breast feeds a baby, she participates

1. Q. 4, 23

2. See Sahih al-Bukhari, Vol. 7, op. cit., P. 24 and 25

3. Ibid

4. For more details, see Ibn Kathir, op. cit., Vol. 1, P. 371

5. Ibid and Sahih al-Bukhari, Vol. 7, op. cit., P. 27

in building his body; milk, as it is known, is the main factor for a baby's growth and building up his bones, particularly in the early months of his life. Accordingly, such a breast feeding woman becomes similar to the baby's real mother, and she must be respected, honoured, just like the real mother. Al-Fakhr Al-Razī stated that "if a woman breast feeds a baby, a part of the baby's body becomes a part of her body; it is her milk which builds up the baby's body. So, in this regard, she is like the baby's real mother who gave birth to the baby. Accordingly, the daughters of such breast feeding women become like the baby's sisters; all their bodies originate in the same woman because she fed all of them on her milk." ¹

3. Temporary prohibitions that ease once the reasons behind it are removed, apply to many kinds of woman. Among those are:

(1) The prohibition known as combining Al-Mahārim. Examples of these prohibitions are a man's getting married to a woman and her sister, aunt or sister's daughter. As the Qur'an says:

"And two sisters in wedlock at one and the same time except for what is past; for God is oft forgiving, most merciful." ²

In the tradition, UmmHabib narrated, I said, "O Allah's Apostle! Marry my sister the daughter of Abū Sufyān." He said, "Do you like that?" I said, "Yes, for even now I am not your only wife; and the most beloved person to share the good with me is my sister." The Prophet said, "But that is not lawful for me (i.e. to be married to two sisters at a time)." ³ Another Hadith was narrated by Jabir Allah's Apostle forbade that a woman should be married to a man along with her paternal or maternal aunt." ⁴

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1. See Ṣāliḥ Suād, Aḍwā'Āla Nez'ām al-'Usrah fī al-Islām (Lights on the Family's Structure in Islam), p. 115
 2. Q. 4, 23
 3. See Sahih al-Bukhari, op. cit., P. 25
 4. Ibid

However, a man can get married to a woman and her aunt's or uncle's daughter at the same time. This is simply because a man is not allowed to marry his own sister or aunt - consequently, he may not marry two women whose relationship to each other is within the prohibited degree (i.e. sisters or aunt and niece). However, when a man divorces a woman he can, after the interim period (Al-Iddah), get married to the woman's aunt, brother's daughter or sister's daughter.

2. The woman who has been divorced three times: Although Islam allows a man to divorce his wife, there are some restrictions and limitations. A man can remarry his divorced wife, if the divorce is for the first or second time. However, if the divorce is for the third time, a man can not remarry his divorced wife unless she first gets married to another man, who then either divorces her, or dies (as we shall discuss later) and her marriage to the other man must be a proper marriage with a contract and must be consummated, after which she can remarry her former husband as the Qur'an makes clear in this verse:

"so if a husband divorces his wife, (irrevocably) he can not, after that, remarry her until after she has married another husband and he has divorced her. In that case, there is no blame on either of them if they re-unite, provided they feel that they can keep the limits ordained by God." 1

3. Getting married to a fifth wife : If a man has four wives, he can not get married to a fifth wife until he divorces one of his four wives and until the interim period of his divorced wife is over

in order to make sure that the divorced wife is not pregnant; if she is pregnant, his divorce will not be valid, until she has the baby.

As the Qur'an states, concerning the permitted number of wives:

"marry women of your choice, two or three or four." 1

4. Getting married to a woman during her interim period (the waiting period after her divorce or husband's death).

If a man wants to marry a woman, whether that woman has been divorced by a former husband or that former husband has died, then the new man must wait until the interim period of that woman is over. The idea behind that is to avoid any doubts about lineage, and to give that woman a chance to rejoin her former husband before the interim period is over.

5. Getting married to a woman who has no religion : Islam forbids a man to get married to a woman who does not believe in a divine religion.

By a divine religion, is meant a religion that has a book revealed to a Prophet who has been commanded of God to call his people to that religion. It is forbidden to marry an unbeliever, as the Qur'an emphasises that in this verse:

"Do not marry unbelieving women (idolaters), until they believe : A slave woman who believes is better than an unbelieving woman, even though she allures you." 2

Ibn Abbas said: if a Christian woman embraces Islam before her husband by a short while, she will by no means remain as his wife legally. 3 'Aṭā was asked about a woman from the pagans who had a treaty with the Muslims. She embraced Islam, and during her 'Idda, her husband embraced Islam too. Could he retain her as a wife ?

1. Q. 4, 3

2. Q. 2, 221

3. Sahih al-Bukhari, Vol.7, P.157.

‘Atā said, No, unless she is willing to remarry him with a new Mahr. ¹
 However, a Muslim is also forbidden to marry a Muslim woman apostate even if her apostasy is to another divine religion. ²

Islam does permit Muslims to marry Christian or Jewish women. As the Qur'an says:

"This day are (all) things good and pure made lawful unto you. The food of the people of the book is lawful unto you and yours is lawful unto them. (Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the people of the book, revealed before your time." ³

It is very important to mention here that, a Muslim man may marry a woman from "the people of the book" i.e. a Christian or a Jewish woman in the same way as he would marry a Muslim woman. For example, he must give her an economic and moral status and must not be motivated merely by lust or physical desire." ⁴

Furthermore, some of the prophet's associates married such women, an example of such associates was Talḥa Bin Abd-Allah. ⁵ However, it is felt to be better for a Muslim man to get married to a Muslim woman, since naturally, a Muslim woman will be more knowledgeable about Islam and accordingly, will be more qualified to bring up the children in an Islamic way. It was reported that ‘Umar b. al-Khaṭṭāb, the second Caliph, used to urge the fighters not to get married to women from the people of the book for that reason. ⁶ A Muslim woman however, is forbidden to marry a non-Muslim man as the Qur'an states:

"O ye who believe : when there come to you believing women refugees, examine (and test) them : God knows best as to their faith. If ye ascertain that they are believers, then send them not back to the unbelievers. They are not lawful (wives) for the unbelievers, nor are the (unbelievers) lawful (husbands) for them. " ⁷

1. Ibid

2. See Ṣāliḥ, Su'ād, op. cit., P. 116

3. Q. 5, 6

4. Ali Yusuf, op. cit., P. 241

5. Ṣāliḥ, Su'ād, op. cit., P. 116

6. Ibid

7. Q. 60, 10

When Islam allowed a Muslim man to get married to a woman from the people of the Book, Islam allows that without encouraging it, and such a marriage is forbidden for a woman, presumably because a Muslim man who gets married to a woman from another true religion believes in her religion and allows her to retain it while a non-Muslim man might not allow a Muslim woman freedom of religion. By Islamic law, the children belong to the father and take his religion. In a case where a husband accuses his wife of adultery without having any evidence for his accusation, a case of *li'ān* arises. By *li'ān* here, is meant the procedure that the man must swear from time that his accusation is true and then once more swear that if he is lying, "May the curse of Allah be upon him." The woman also must swear four times that if she is lying, may the curse of Allah be upon her. This must be done before a judge and then a couple must separate. In such a case, the man is forbidden to remarry that woman until he states that his accusation was false. And, if he does so, then he must be punished for his lying, and then he can remarry his wife again.

In summary, we can say that Islam is prohibiting the marriage to Mubramāt, is trying to regulate relationships within the family and protect the woman's rights. Firstly, by changing the system which existed in Jahiliyyah where the man could marry his step-mother or marry two sisters at the same time, the law prevented marriage to women closely related to each other or to the man. Secondly, women are also bound by similar prohibitions. For example, a woman is not allowed to get married to her step-father, her brother, her uncle etc.. The only difference here is that the man, who is allowed to marry more than one wife, can marry two women from the same family such as two cousins,

but the woman can not have two husbands at the same time.

Islam looks upon marriage as essential for both men and women; it is a contract between two adults as husband and wife. The two parties will share responsibilities, so it is preferable that they should live in harmony. This harmony is not established without the consent of two parties. That is why Islam gives the freedom of choosing one's partner to both man and woman, not man only. Indeed, no marriage can be valid in Islam without the consent of the woman. Islam gave this right at a time when a woman was treated like an object and had no rights or legal status. No doubt the hope was that a marriage chosen by both partners and freely consented to would be a successful one. The Qur'an emphasises the qualities of compassion, peace and contentment, which should be shown in marriage.

"And among His signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your hearts" 1

Although parents, naturally, played a great role in the choice of the husband, Islam sought to prevent their imposing a husband on their daughter and required the consent of their bride. The prophet insisted, on a number of occasions, that the girl must be consulted. Abu Huraira narrated: The Prophet said, "A matron (a mature woman a widow, or one who is divorced) should not be given in marriage except after consulting her, and a virgin should not be given in marriage except after her permission." The people asked, "O Allah's Apostle! How can we know her permission?" He said, "Her silence * (indicates her permission).² Furthermore, Islam considered that marriage which is without the girl's consent is not valid.

1. Q. 30, 21

2. Sahih al-Bakhari, Vol. 7, op. cit., P. 51

* Silence being a mark of a girl's modesty, which was to be respected in such situations.

Khansā' bint Khidām claimed that her father gave her in marriage when she was a matron and she disliked that marriage. So she went to Allah's apostle, and she declared that marriage invalid.¹ A widow or a divorced woman may marry whoever they wish and express their opinion openly since they are considered to have enough experience and maturity to choose for themselves. Before a marriage is arranged, Islam permits a man to see his prospective bride (in her Islamic dress). Several prophetic traditions advise men to see their brides before marriage, thus ensuring that women themselves are able to see their suitors. One may recall the tradition related by Al Mughira bin Shuāba who was seeking a woman in marriage and came to the prophet for guidance. Mughira b. Shuāba reports: I sought a woman in marriage. The Prophet asked if I had seen her. No, said I. He said, "Then look at her, because it is more proper that love should be cemented between you."² This recommendation that the Prophet should actually seek allows a woman the opportunity to refuse a suggested suitor and therefore gives her an element of choice.

At the same time, Islam insisted that a girl must have a guardian before marriage as this safeguard is intended to protect her rights and position in society. The Waliyy (the guardian) of the bride plays a special role in arranging the terms of the marriage. The Waliyy should be her father, grandfather or other relative in the ascendant line. Failing them, her brother, nephew, uncle or male cousin (in that order) may act. In the absence of any male relative, the qadi (judge) undertakes the duty.³ The Waliyy is required to be a Muslim of full age, male, a free man, of sound mind and blameless character.

1. Sahih al Bukhari, Vol. 7, op. cit., P. 52

2. Siddiqi, op. cit., P. 49

3. See Levy, op. cit., P. 114

His chief duty is to see that the principle of the equality of the parties is maintained.¹ The Prophet declared that "There is no marriage without a guardian." It should be reiterated that the guardian has not got the right to force his daughter or sister to marry a man whom she does not like. This is proved by the following tradition which extends to woman the right to repudiate a marriage forced on her : Ibn Abbas reported that a virgin grown up girl came to the Prophet of Allah and claimed that her father had given her in marriage to a person whom she disliked. The Prophet gave her the option.²

Marriage, in Islam, is a religious duty, but it is also a social contract with many responsibilities and duties. As with any other contract, certain conditions must be fulfilled for it to be valid. Some of these conditions relate to the contract itself, and some relate to the status of the contracting parties. (i.e. that the bride must not be married to another man at the same time). A further condition is that there must be two males competent to witness the contract, because no marriage can be valid without the presence of the witnesses, as Ibn Abbas reported that the Prophet declared: "These women are adulteresses who marry themselves without the presence of a witness."³ Umar, the second caliph, was once told that a certain marriage had been performed with one witness only. He said that such a marriage amounted to clandestine relationship which was illegal. If he had knowledge of it beforehand, ∴ he would have dealt stern punishment to either party."⁴ The advantage of the presence of witnesses is that the marriage will be proclaimed to the public. These elements of publicity and proclamation are essential in their own right. Without proclamation, and witness, it is not a marriage but a merely sexual relationship

1. Ibid

2. Abū Dāwūd, quoted by Siddiqi, op. cit., P. 51

3. Tirmidhi, quoted by Siddiqi, op. cit., P. 50

4. Ibid

even though there is a mutual consent. The proclamation of a properly performed and publicly announced marriage is to make it generally known that this ceremony has taken place. Therefore, Islam always encourages people to celebrate a marriage publicly as Abd Al-Rahmān bin 'Aūf says : "The Prophet said to me, give a wedding banquet, even with one sheep." ¹

Dowry in Islam

In general, Islam approved of the dowry which was an existing custom among Arabs. Every marriage contract must include a dowry (money paid to the wife by the husband).

"And give the women (on marriage) their dowry as a free gift." ²

Also:

"Except for these (the prohibited women), 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 dowries (at least) as prescribed." ³

Dowry has many names : it is called al-Ṣadāq, al-Niḥlah, and al-Farīda. ⁴ It is not a bride price, but it is paid as a token of the husband's sincerity and ability to look after the woman and be responsible for her and the children as well. As it was stated that "Allah has decreed dowry as a necessary present from the man to his wife, and it is not a price to be paid in exchange for a merchandise or a pay for her service." ⁵ Islam has made dowry the man's duty because all marital financial duties are the man's responsibility and dowry is no exception. Nobody can exempt the husband from paying the dowry to his wife because it is a necessary condition for valid marriage.

1. Sahih al-Bukhari, Vol. 7, op. cit., P. 70

2. Q. 4, 4

3. Q. 4, 24

4. See Shihātah, Abd Allah, Al-Marāḥī al-Islām Bayn al-Madāī wa al Hādīr (Women in Islam between the past and the present), P. 16

5. Ibid

Dowry in Islam, is the wife's right and she can use it in any way she likes : she can return it or leave it. She can even refuse to consummate her marriage until she has it all. And, the wife's guardian is not allowed to take anything from her dowry unless she chooses to give it to him, as she can also choose to give the husband some which was different from the custom during the pre-Islamic period. As the Qur'an lays stress on that in this verse:

"But if they, of their own good pleasure, remit any part of it to you, take it and enjoy it with good cheer." 1

So this is considered to be one of the things which Islam has changed to benefit the woman and to protect her rights. "Once the marriage contract is validated, the dowry becomes the woman's own property. However, before the marriage is consummated, it is liable to withdrawal either completely or partly, but if the woman has done anything (before such withdrawal) such as selling or pawning her dowry, the action will have to be respected and considered valid." 2

Amount of Dowry according to Islam

As stated earlier, Islam considers dowry as a present or gift from the bridegroom to the bride. Accordingly, there is no particular amount specified for dowry, which is determined according to economic and social standards. A husband offers what he can afford, depending on his economic ability.

However, Islamic scholars differed regarding the minimum dowry; according to Sa'īd bin Jubair, the minimum dowry shall be 50 dirhams others are of the opinion that it should be 40 dirham and there is

1. Q. 4, 4

2. Jazīrī, Vol. 4, op. cit., P. 136

another scholar whose opinion is that it should be one quarter of a dinar. ¹ 'Anas narrated that Abd al Raḥmān bin 'Awf married a woman and gave her gold equal to the weight of a date stone (as a maher). When the Prophet noticed the signs of his cheerfulness and asked him about it, he said, "I have married a woman and gave (her) gold equal to the weight of a date stone in weight (as Maher)." ² Still there is another opinion that the minimum dowry must be 10 dirhams relying on what 'Umar, 'Ali, Abd Allah bin 'Umar have said: they have said that the minimum dowry should be 10 dirhams. ³ However, Islam has urged Muslims not to be over-extravagant:

"But waste not by excess, for God loveth not the wasters." ⁴

"verily, spendthrifts are brothers of the evil one." ⁵

If a man is poor, he need not even pay money as a dowry.

According to tradition, Sahl b. Sa' d said, "The Prophet said to a man marry even with (a Maher equal to) an iron ring." ⁶ He need not even be able to produce this. Teaching is equally acceptable. Sahl b. Sa' d narrated: While I was sitting among the people in the company of Allah's Apostle, a woman stood up and said, "Oh Allah's Apostle. I give myself in marriage to you; please give your opinion. The Prophet did not give her any reply, so she again stood up and said: "Oh Allah's Apostle, I give myself in marriage to you so please give your opinion. The Prophet did not give her any reply. She again stood up for the third time and said, I give myself in marriage to you, so a man stood up and said, "Oh Allah's Apostle. Marry her to me." The Prophet asked him, "Have you got anything?" He said, "No." The Prophet said, "Go and search for something, even if it were an

1. See Shihātah, op. cit., P. 18

2. Saḥih al-Bukhari, Vol. 7, op. cit., P. 58

3. See Shihātah, op. cit., P. 18

4. Q. 7, 31

5. Q.17, 27.

6. Saḥih al-Bukhari, Vol. 7, op. cit., P. 60

iron ring." The man went and searched and then returned. "I could not find anything, not even an iron ring." Then the Prophet said, "Do you know something of the Qur'an (by heart)?" He replied, "I know such and such chapters." The Prophet said, "Go! I have married her to you for what you know of the Qur'an, i.e. to teach her." ¹

However, this was intended to encourage youngmen to get married and to remove any obstacles that might hinder their fulfilling their religious duty by marriage and to protect young men from turning to evil and practising adultery. The Messenger of God declared that "The best women are those whose faces are the most beautiful and whose dowries are the easiest to pay." ² We have an example in the Prophet Muhammad himself, who married one of his wives for a dowry of 10 dirhams and household furnishings that consisted of a hand mill, a jug a pillow made of skin stuffed with two measures of dates and two of mush (sawaq). ³ It is relevant here to mention that on one occasion, Umar b. Al-Khaṭṭāb saw some people squandering money on dowries, so it was his opinion that the dowry should not be fixed at a very high price, for if this had been a point of honour and pleasing in the sight of God, the Prophet too would have acted accordingly, but he did not fix more than a hundred and twenty dirhams of dowry for his wives and daughters. Umar's opinion was, however, challenged by a woman who said to him when he was preaching, "Umar, you have no right to impose such restrictions, because the Qur'an says:

"But if ye decide to take one wife in place of another, even if ye had given the latter whole treasure for dowry, take not the best of it back." (Q 4, 20 and 21).

This shows that the Qur'an allows even a very high rate of dowry.

Umar replied to her saying that she was right and that he had made a mistake himself. As a result of that, Umar retreated and withdrew his opinion. ⁴

1. Ibid

2. See Farah, op. cit., P. 89

3. Ibid

4. Ibid and Shiḥāṭah, op. cit., P. 19 and Siddiq i, op. cit., P. 47

All these stories demonstrate the Islamic concept of the dowry. It is an essential part of the marriage contract, it must be something of value, but need not in fact, should not, be a vast amount of money. The dowry becomes confirmed in the sense that it becomes the woman's own property by three things. Firstly, when the marriage is consummated. If the marriage is consummated, a husband cannot withdraw the dowry of his wife, either partly, or completely, without the wife's own consent. This is because consummation makes marriage confirmed and completes its fundamentals. The man is completely responsible for his wife, and must undertake his marital duties, including paying the dowry to her, once his marriage is consummated. The dowry is also confirmed by Khulwah: This means that when a man and his wife are alone together in a place where nobody can see them, and when there is nothing that prevents them from consummating their marriage, the dowry will be confirmed even without consummation. Finally, the dowry is confirmed by the death of either a man or his wife, although death terminates the marriage contract, its terms still remain valid. "If the dowry is not paid, the wife, and, after her death, her heirs may sue for it.... When she is entitled as against the other heirs of her husband and against the creditors of her husband to retain possession of the property until her dowry is satisfied." ¹

Here appears one of the Islam major changes in the woman's situation in respect of the dowry. In pre-Islamic Arabia, the guardian used to take, in most cases, the dowry for himself and the woman has no right to claim or take it for herself. Islam considered this condition carefully and made the dowry for the woman. Furthermore, she has the right to claim her dowry from her husband's heirs when he dies without

1. Ibid

without paying it. If a man divorce his wife before their marriage is consummated, then the man is entitled to half of the dowry of his divorced wife. But if the divorce happens after consummation, then the husband will not be entitled to any of his wife's dowry. However, if a woman requests divorce and the husband divorces her in response to that request, then the husband will be entitled to all dowry, (as will be discussed later in detail.)

Islam considers the family to be the most fundamental unit in any society. Therefore, it laid down rules to keep this unit strong and healthy. To protect the structure of the family, Islam allocated duties and rights to the major components of this unit, the family members: husband, wife and their offspring. Every member has the rights and duties towards the other members and also towards the family itself. Islam has also defined the rights of women and the duties of men according to their biological nature. The husband's duties assume that the wife has certain rights.

The role of the husband revolves around the principle that it is his major duty to treat his wife with kindness, compassion, and patience and to cause her no harm or grief. As the Qur'an emphasises in this verse:

"Live with them (i.e. a woman) 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." 1

In the tradition of the Prophet, ¹A'isha reported Allah's Messenger as saying: "The best is he who is best to his family." 2 (i.e. The prophet's family life is an example to his followers of this principle. The Prophet advised men to win woman's heart by good treatment. A husband should not hate his wife for one trait in her, as there may be other good attributes in her as well. The Qur'an refers to this in the

1. Q. 4, 19

2. Tirmidhi quoted by Imran Muhammad, Ideal Woman in Islam, P. 29

verse 4, 19, The Prophet said, No Believer should be angry towards his wife. If some of her qualities are displeasing, there will be many other qualities worth appreciation.¹ Moreover, if there are some problems between them, he must treat her kindly without harming her and he must take some steps before thinking of divorce as we shall discuss later.

One of the husband's duties is to maintain the wife with a cheerful spirit. The wife has a right to a house, clothes and food. Her standard of living must be the same as his own. As the Qur'an says:

"Let the woman live in the same style as ye live, according to your means; annoy them not, so as to restrict them."²

The Father of Hakim bin Mu'awiyah reported : O Messenger of Allah, what right has the wife of one of us got over her ? He said, It is that you shall give her food when you have taken your food, that you shall clothe her when you have clothed yourself, that you shall not slap her on the face nor revile (her), nor leave (her) alone except within the house."³ Abu Mas'ud Al-'Anṣarī narrated: The Prophet said, "When a Muslim spends something on his family intending to receive Allah's reward, it is regarded as Sadaqa (a good deed) for him."⁴ Moreover, one should not be a miser towards her, nor should one be extravagant; one should be moderate in spending. However, Islam gives the wife permission, if a man does not provide for his family, to take of his wealth what is sufficient for her needs and the needs of her children. 'Aīsha narrated: Hind bint 'Utba said, "O Allah's Apostle! Abū Sufyān is a miser and does not

1. Istanbulī, op. cit., P. 186

2. Q. 65, 6.

3. Istanbulī, op. cit., P. 225

4. Sahih al-Bukhari, Vol. 7, op. cit., P. 202

5.---

give me what is sufficient for me and my children. Can I take of his property without his knowledge ? The Prophet said, "Take what is sufficient for you and your children in a reasonable way." ¹

The question which may arise here is what will happen if the husband's financial situation does not allow him to discharge his obligation to his wife ? In this case, in the opinion of some scholars of Islamic law the wife shall be supported financially by her family, but what she spends is considered as a debt which the husband must pay when his financial situation improves. "It is the opinion of the Hanīfah school that his obligation remains, and the wife shall be supported by her relatives (if she has not got any money to spend) who would be responsible for her if she were not married. Also, she may be informed that she has the option of borrowing on his behalf in proportion to her needs. In either case, whatever she spends becomes a claim or debt against her husband, which he is to pay when his financial situation improves" ² Islam went further than that, giving the wife, if they suffer from poverty, the option between remaining with her husband, or divorce. On the other hand, Ibn Al-Qayyim pointed out that "the spirit of Islamic law depends on the following: if a man deceives his wife by misrepresenting his financial status or deliberately refuses to support her, leaving her helpless, then she has the right to seek separation from him. But if she marries him without any prior knowledge of his financial problems, or if his position harden after ease, then she has no right to seek separation on account of his poverty." ³

The husband has a duty to take care of his wife if she becomes sick, and to be a source of security to her and to reciprocate her kindness to him. In the farewell message on the occasion of the last pilgrimage, the Prophet spoke of the rights of women at great

1. Sahih al-Bukhari, op. cit., P. 212

2. Abd al'Ati' op. cit., P. 151

3. Ibid

length and said, O People! surely there are rights in favour of your women which are incumbent upon them." And he ended the message with the words "Have therefore fear of God with regard to women, and I enjoin you to treat them well."¹ A husband also should trust his wife. The trust between husband and wife is one of the major components of a successful marriage. It is important for the husband not to speak ill of or defame his wife, or to make accusation which may endanger this marital life and destroy the family. Moreover, if a man is away or absent from his family for a long time, then on returning home, he should not enter his house unannounced at night. He should not surprise his wife in circumstances when she might prefer not to see him, i.e. being untidy or unprepared for him. Jabir bin Abd Allah narrated : The Prophet disliked that one should go to one's family at night on returning home from a long journey² Trusting one's wife is an important conception in Islam; the husband must not rush in to suspicion which has no foundation. Abu Huraiah reported: A Bedouin came to Allah's Messenger and said, "My wife has given birth to a dark complexioned child and I have disowned him. Thereupon, Allah's Apostle said, Have you any camels ? He said, Yes. What is their colour ? He said, They are red. He said, Is there a dark one among them ? He said, Yes, Allah's Messenger. Allah's Messenger said, How has it come about ? He said, Messenger of Allah, it is perhaps due to the strain to which it has reverted, whereupon the Prophet said, It (the birth of the black child) may be due to the strain which he (the child) might have reverted.³ However, if a husband accuses his wife of adultery, even without evidence, and without four witnesses, then Al-Liān (a kind of irrevocable divorce) must be taken as we shall

1. See Anfa, op. cit., P. 74

2. Sahih al-Bukhari, Vol. 7, op. cit., P. 123

3. Bukhari and Muslim, quoted by Imran, op. cit., P. 30

discuss later with divorce in Islam, although she would be punished.

Another positive duty enjoined on the husband is that of spending leisure time ^{with} his wife because this creates happiness and love between them. 'Aisha reported that she accompanied the messenger of Allah on a journey. She said, "I had a race with him and beat him (by running on my feet). When I became fleshy, I had a race with him and he beat me. He said, This is because of that race." ¹ This is an example of how the Prophet treated his wife at times in order to give her comfort and enjoyment.

What has been discussed so far are the wife's rights which are regarded as the husband's duties towards her. Now we can turn to the other components of the wife's marital role in which her duties will be at the same time, the husband's rights. The main duty of the wife in Islam as a partner in married life is to contribute to the happiness and comfort of the marriage as well as possible, as the Qur'an makes clear in this verse:

"And those who pray, "Our Lord! Grant unto us wives and offspring who will be the comfort of our eyes." ²

The wife must be faithful, virtuous, and honest; she must obey her husband in what is right, as the Prophet said, "No obedience is due to a creature in disobedience to the Creator." ³ The husband must be obeyed above anybody else unless this obedience is contrary to the laws of Islam in which case the wife has the full right not to obey him.

This is the basis on which all the wife's obligations rest and from which they flow. More specifically, she must not allow any strange men to enter her home without her husband's knowledge, nor leave home without his permission. Abu Hurairah reported that the Prophet said, "It was not possible for any woman who believes in Allah to

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1. Ibid
 2. Q. 25, 74
 3. Imran, op. cit., P. 52

allow anyone to enter her house whose coming is not liked by her husband. And it is not possible for any woman to go out of the house if her husband resents it." ¹ She should not squander his possessions; she may not lend or dispose of any of his property without his permission. The husband's possessions are her trust. If she has access to any portion thereof, or if she is entrusted with any funds, she must discharge her duty wisely and thriftily. ² Abu Omamah reported that he heard the messenger of Allah say: "Shall I not inform you about the best treasure which a man hoards? A virtuous wife who pleases him whenever he turns his look towards her, and who obeys him whenever he orders her, who guards herself when he is absent from her." ³ So, the chaste and virtuous wife is considered as a treasure to the man because the wife is the centre of the family as the Prophet said, All of you are guardians and are responsible for your wards. The ruler is a guardian and the man is a guardian of his family. The lady is a guardian who is responsible for her husband's house and his offspring, and so all of you are guardians and are responsible for your wards." ⁴ However, the wife must not be rude to her husband, she should neither withhold herself from him or hurt his feelings.

The sexual gratification is one of the main issues involved in marriage, which is considered as the only lawful way for such gratification. Islam enjoined both partners to participate equally and for the woman not to deny herself to her husband without any

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1. Sahih al-Bukhari, Vol. 7, op. cit., P. 123
 2. Abd al-'Ati, op. cit., 169.
 3. Abu Daud, quoted by Imran, op. cit., P. 44
 4. Sahih al-Bukhari and Muslim quoted by Imran, P. 13

excuses as the Prophet said: "If a man invites his wife to sleep with him and she refuses to come to him, then the angels and their curses on her till morning." ¹ However, a woman should not fast (optional fast) except with the permission of her husband. Abu Hurairah narrated that the Prophet said, "A woman should not fast (optional fast) except with her husband's permission if he is at home (staying with her). ² This is because fasting may prevent him from practising his marital rights as a husband. The only reason for insisting on this point is because a wife denying herself to her husband in this respect may make him commit adultery.

1. Sahih al-Bukhari, Vol. 7, op. cit., P. 93
2. Ibid

Polygamy in Islam

Polygamy is permitted by Islam as the Qur'an implied:

"Marry women of your choice, two or three or four." 1

However, it was practised in pre-Islamic Arabian society without any limitations or restrictions as we mentioned before, and as Al-'Aqqād confirmed, "All the pre-Islamic civil laws have permitted polygamy without any limitations as to the number of wives. The only limitation was that the husband should be able to provide for his wives in terms of food and shelter." 2 The practice was also known to many nations, as pointed out by Lebon, "It was not peculiar to Islam; it was known to Jews, Persians, Arabs and other oriental nations before the coming of The Messenger (Muhammad). The nations that converted to Islam did not see anything unusual or unacceptable in Islam's view regarding polygamy." 3

Long before Islam, polygamy was widely practised by Greeks, and was permitted both by Judaism and by Christianity, as we mentioned before in the first chapter. Islam accepted the practice of polygamy and laid down the regulations by which it was to be practised. These regulations protect the women and the family rights.

Islamic Reform of Polygamy

Although Islam tolerated polygamy, it was with reservations. One condition was that the number of wives was restricted to four, and the other condition, that the wives must be treated equally, with fairness. As the Qur'anic verse supports that *view, as follows:* "If ye fear that ye shall not be able to deal justly (with them), then only one."

1) Q. 4, 3

2) Al-'Aqqād, 'Abbas, Al-Mariah Fī Al Qur'an, P. 75

3) See Lebon, op. cit., P. 10

The idea behind the Qur'anic verse is not to encourage polygamy, but rather the idea is to protect orphans and to look after them.

Aisha said regarding this verse (see above), "And if you fear that you shall not be able to deal justly with orphans...." It is about the orphan girl who is in the custody of a man who is her guardian, and he intends to marry her because of her wealth, but he treats her badly and does not manage her property fairly and honestly. Such a man should marry women of his liking other than her, two or three or four." ¹ Ibn Kathīr mentioned in explaining this verse, that if any one in charge of an orphan girl fears that he cannot give her a dowry like others, then it is better for him to marry other girls because there are many." ²

So the word 'marry' in the verse is not meant to be an order that must be followed, but rather it is a suggestion on the way of educating, informing and guiding. ³ Explaining this verse, Al-Zamakhshari stated that, "If you fear that ye might not be able to treat orphans with perfect justice, it will be reasonable also to fear that you will not be able to treat wives with justice in which case you would need to keep the number of your wives as small as possible. This is due to the fact that both injustices are akin to each other, which means that if you commit one of them and give up the other, you have not, in effect, given up either." ⁴ However, when Islam came, polygamy was there as mentioned. So there was no need to permit it, but rather there was a need to put some restrictions on it to protect the women's rights. And, in particular, there was a need for making it a condition for polygamy to treat wives with perfect equality. Equality in everything - food, clothes, allowances, housing, and showing love

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1. Sahih al-Bukhārī, Vol. 7., op. cit., P. 24
 2. See Ibn Kathīr, Vol. 1, op. cit., P. 355.
 3. Ibid.
 4. Al-Khulī, op. cit., P. 85

and affection. There is no doubt that immaterial things and feelings are difficult to equate. That is why the Prophet Muhammad often said: "Lord, I do full justice in what lies in my power, but forgive me that which is beyond my control." 1 Allah is aware of that. Accordingly, when He put the condition of equality, He knew such a condition is impossible to fulfill even if the human being endeavours to fulfill it as the Qur'an makes it clear in this verse.

"Ye are never able to be fair and just as between women, even if it is your ardent desire." 2

Accordingly, a husband who fears that he will not be able to treat his wives with equality must not have more than one wife. As the Qur'an stresses that:

"But if ye fear that ye shall not be able to deal justly (with them) then only one."

"Ye are never able to be fair and just as between women." 3

Islam does not permit a husband to show more love and care to one of his wives than the others, leaving them in a situation where they are formally married, but, in actuality, as if they are not. As the Qur'an says:

"But turn not away (from a woman) altogether, so as to leave her, (as it were) hanging (in the air)." 4

Polygamy, it should be realised, is not an obligation on any Muslim.

It is permitted as a licence only if there are certain special circumstances that make it necessary for a man to have more than one wife. Some of these circumstances might be social while others might be individual or personal.

Social Pressures

1. For instance, when a country fights many wars, this results in a considerable paucity of men which may be due to the fact that many

1. See Ṣāliḥ, Suād, op. cit., P. 127

2. Q. 4, 129

3. Q. 4, 3, 129.

4. Q. 4, 129

men are killed, leaving widows and orphans to be supported. As Spencer suggested in his book, "The Fundamentals of Sociology", if each of the men who survive the war have only one wife, then there will be a lot of women without husbands. The result of that will be a considerable drop in the number of children born which might lead to a considerable imbalance between the rate of birth and that of death. This will weaken the nation. Accordingly, if such a nation is to retain its power, then there will be a need for polygamy in order to make use of all the women available to that nation in terms of getting them to give birth to children." ¹ And, Sayd Qutb also believed that polygamy then, is a necessary legislation to face the odd situations that result from the imbalance between the number of men and women (in the society). However, it cannot be practised in the normal circumstances when the number of men is equal to that of the women, in such a case there will be no spare female without a husband." ² An example to such a case is, at the beginning of Islam when Islamic society was at the stage of establishing itself, there was an urgent need for polygamy. This was due to the fact that there was a lot of battles and wars that Muslims had to fight. As a result of such wars, a lot of Muslim men were killed, leaving behind a lot of widows and orphans children who were in need of men to look after and provide for them. For instance, in the battle of Uhud, 70 men out of 700 Muslims were slain. ³

2. In normal circumstances, when there were no wars, the number of women might still be much more than the number of men. What would happen if the number of women for example, is twice or three times the

1. Al-Danāwī, Muḥammad, al-Zawāj al-Islāmī, Amām al-Taḥdīyyāt, (The Islamic Marriage before the Challenges), p. 123

2. Ibid

3. Siddiqi, op. cit., P. 116

number of men? If we suppose that the one-wife system or monogamy is to be followed, the resulting 'surplus' of unmarried women may have unwelcome social consequences such as a drop in the birth rate or a rise in the rate of illegitimacy. This causes hardship to the women themselves and sometimes a weakening in family bonds. Under such circumstances, polygamy would be the best means in order to protect such women and to protect the society as a whole.

Individual Necessities

1. In certain circumstances, polygamy can be a humane solution to humane problems, for example, if a woman suffers from a chronic or infectious disease, which makes her unable to undertake her marital duties, in such a case, her husband may take another wife. She herself need not be divorced, but remains part of the family and her husband continues to maintain her and at the same time, she loses no social status, and there is no bar to her husband begetting a family. This may well be a better solution in terms of both protecting the family life and the sick wife.

2. If the wife is barren and incapable of giving birth to children, and the husband wants to have children, "It becomes understandable why polygamy is likely to exist or be advocated in societies where adoption, for example, is not legalised and the desire for children can be satisfied only through legitimate procreation and where sexual continence is highly valued and sexual expression is tightly restricted to wedlock or where status indices are limited or fixed." 1 In the Saudi society for example, sometimes the barren wife herself may look

1. Abd. al'Ati, op. cit., P. 111

for another wife for her husband in order to satisfy his need for the feeling of fatherhood. It is believed: "This system (polygamy) does not imply any contempt or humiliation for the woman. And the motive behind it is not just to satisfy lust; the woman herself might, as a result of her desire to delegate some of her domestic duties to somebody else, encourage her husband to get married to another woman .¹

3. Another reason for polygamy which has been suggested is that some men might be so sexually active that only one wife is not enough to satisfy the desires and sexual needs, especially in the days of menstruation or after child birth. In such circumstances, it would be better for such a man to marry another woman to keep himself away from sin.

Obviously, polygamy might have disadvantages, for example, disputes between wives and their jealousy of one another, especially if the husband, in contradiction to Islamic injunctions, is not being fair to all his wives. Polygamous marriages are to be treated equally. After observing that "The aptest to endure troubles is the man who has two wives, the most liable to perish is the man who has three and the nearest to madness is the man who has four."² M. Sibāī states, in the permission of polygamy that Allah has given us there is nothing that forces us to go through troubles and hardship without an urgent need. However, this shortcoming which is the result of the wrong application of the principle of polygamy, not of the principle itself, is nothing relative to the mountain of shortcomings associated with giving

1. al-Sibāī, op. cit., P. 85

2. Ibid, P. 116

up the principle which is in accordance with the human nature and the nature of the marital institution." ¹

It is sometimes asserted that polygamy involves humiliation for the woman and deprives her of the right of equality with men. For example, why should not women be given the right to polyandry? However, giving women the right to polyandry is inconsistent with Islamic social systems. Blood bonds and lineage are serious matters. Whom will be the children of a polyandrous woman belong to as a father? Will they belong to four fathers? Or, will they just belong to their mother? Who will be responsible for the children and for the family? Will it be the wife or the four husbands altogether? All such suggestions would be unacceptable. Polyandry cannot be accepted especially in a patriarchal society where blood and lineage are considered ritual. Polygamy on the other hand does not involve such complications nor does it involve ignoring the woman's rights. As mentioned above, Islam does not force a woman to get married without her own consent. On the contrary, Islam gives a woman the absolute freedom to accept or reject an offer of marriage.

It should be noted that in the final analysis, it is entirely by her own choice that a woman marries a man already married and a polygamous wife still has the choice that if she feels that she cannot bear life with her husband, or is unwilling to live with him, to seek a divorce from her husband. As the Qur'an says:

"if ye (judges) do indeed fear that they would be unable to keep the limits ordained by God, there is no blame on either of them if she gives something for her freedom." ²

Finally, as J.L. said about polygamy, "It is a good system that improves the moral standard of the nations that adopt it. It also strengthens the family unity and gives the woman more respect and happiness." ³

1. Ibid

2. Q. 2,229

3. al-Sibāi, op. cit., P. 78

Divorce in Islam

Islam considers marriage a lasting relationship, not a temporary bond for a certain period. It forbade Nikah al-Muta (a temporary marriage for a limited period of time,) ¹ and protected marriage with a fence of laws and teachings make it a solid, continuous relationship. Islamic law urged married couples to treat each other kindly so as to achieve harmony with each other, and to avoid problems that might damage their life together. (Q. 4 19)

However, marriage may undergo serious problems with devastating effect on all the family members. In such a case, Islam also extends its protection to the family, and does not have simply to collapse. It has many ways of treating the situation whereby it may be possible for the family to continue. However, if such problems reach a stage where it becomes impossible for a couple to carry on living together, then divorce would be the best resort. It has been called by the Prophet Muhammad, "The most repugnant of all things lawful and the act at which God's throne shakes." ² Permitting divorce in Islam does not, however, mean undervaluing of the marriage bond and accordingly, of the woman herself. Islam did not invent divorce. It had been known to many other nations. For example, it was known in the pre-Islamic pagan times and without restriction or limitations as we mentioned in the first chapter. It was also lawful in Judaism and in other nations. What Islam did was that it organised divorce and decreed the rules and regulations that protected the rights of each of the married couples and in particular, the wife's rights. As explained above, when Islam permitted divorce, it did not consider

1. See Sahih al Bukhari, Vol. 7, P. 36, where 'Ali b Abi Talib tells Ibn Abbas during the battle of Badr that the Prophet forbade Nikah al-Muta

2. See Abd al-'Ati op. cit., P. 223

divorce as the first panacea but as a final resort. Islam has put forward some rules and regulations, which if followed, will make divorce not required unless there is a real need for it. For example, Islam urged both husband and wife to treat each other kindly in order to exclude disagreement between the couple. Moreover, Islam also reminds the husband, as mentioned above, that if he dislikes some of his wife's characteristics, she certainly has other characteristics which he may like, as the Qur'an states in the verse (4.19).

However, if there are some problems between the couple, and these problems become too serious, and the wife becomes arrogant and rebels against her husband, to such an extent that it becomes difficult for the husband to deal with her, then he must, before thinking of divorce, take some of the actions which Islam favoured. From among such actions are: advice, counsel and kind treatment, admonition and patience may ease her tension and put her back on the right track, as the Qur'an says:

"As to those women on whose part ye fear disloyalty and ill-conduct admonish them (first), (next), refuse to share their beds (and last) beat them (lightly); but if they return to obedience, seek not against them means of (annoyance)" ¹

Refusal to share her bed: this may make the wife feel how angry her husband is, and accordingly, she may get back to reason. However, such suppression of sexual relations should not exceed a month as the Prophet had done with his wives. 'Umm Salama narrated: "The Prophet took an oath that he would not enter upon some of his wives for one month. But when twenty nine days had elapsed, he went to them in the morning or the evening. It was said to him, "Oh Allah's Apostle! You had taken an oath that you would not enter upon them for one month." He said, "The month can be twenty nine days." ²

1. Q. 4, 34

2. Sahih al-Bukhari, op. cit., Vol. 7, P. 99

Beating (Lightly): If the husband does not succeed in getting his wife back to good conduct by either of the previous means, he can try beating that may not cause any harm. Beating is purely a kind of treatment that one makes use of in certain situations and under certain circumstances as the Qur'an mentions that in the following verse: However, the Qur'an recommends the married couple to sort out their problems themselves as the Qur'an says:

"If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best." 1

However, if disagreement between a couple reaches a stage where it does threaten marital life, and the couple are no longer able to cope with the situation, then the couple should seek arbitration. The wife chooses somebody from her own people, and the husband chooses someone from his own people to arbitrate between them with a view to sorting out their disagreements and to restoring concord between the couple. The Qur'an states:

"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." 2

However, if the two arbiters fail, and both husband and wife insist on separating, then divorce is permitted but it must be carried out within the rules and regulations laid down by Islam.

Therefore, divorce is permitted in Islam in cases of absolute necessity, yet Islam regarded it as the most repugnant of things made lawful. Islam has taken great care to introduce conditions designed to limit its use, aiming to postpone the decision and to give a chance for peace and for both parties to reconsider the situation

1. Q. 4, 128
2. Q. 4, 35

as well as to protect the woman's rights. Once divorce is undertaken there follows an interim period (idda)¹ of three months for the wife or if pregnant, until the childbirth. And, it is better for the wife to spend that period in her husband's house as the Qur'an says:

"Prophet, when ye do divorce women, divorce them at their prescribed periods, and count (accurately) their prescribed periods : and fear God your Lord and turn them not out of their houses, nor shall they (themselves) leave, except in case they are guilty of some open lewdness" 2

The idea behind the wife staying in the husband's house during the interim period is to give both husband and wife an opportunity to think it over again. Such thinking may make them change their mind and regret what has happened and this may result in returning love and calm to the family. In Islam, a husband may return to his wife during the period, if he so likes, without a dowry, marriage contract, or witnesses. He may resume his full marital status by simply revoking his previous pronouncement in words or in deeds, for example if the husband has sexual intercourse with his wife, the divorce lapses automatically even without making any declaration. However, if the interim period expires without his returning to his wife, the divorce becomes final, in other words, the wife becomes free, either to marry another man or if the former husband wishes to revoke the divorce, she may return to him, but by a new marriage contract with all the legal requirements (new dowry and contract). If the couple resume their marital life, whether during the interim period or later on, and disagreement happens again, then they go through the same procedure as before and if reconciliation is not possible, then the husband may divorce his wife again. And, the wife must go through the interim

1. 'Idda is a technical term in divorce. It's general meaning is the prescribed period. It is in the interest of both the wife and the husband to prove if there is an unborn child. See Lane, Edward, Arabic English Lexicon, Vol. 5, P. 1969
2. Q. 65, 1

period (idda) as the Qur'an states:

"A divorce is only permissible twice : after that the parties should either hold together on equitable terms, or separate with kindness." 1

If the couple resume their life again, but disagreement starts again and the husband divorces his wife for the third time, then the divorce is irrevocable and the husband cannot return to his wife unless a very difficult procedure is undertaken. Such procedure is that the wife must get married to another man and live with him (after the interim period is over). And if the second husband happened to die, or divorce her, then the former husband may get married to her. However, in such a case, there should be a new dowry, a new marriage contract and new witnesses, as the Qur'an says:

"So if a husband divorces his wife (irrevocably) he can not, after that, remarry her until after she has married another husband and he has divorced her. In that case, there is no blame on either of them if they re-unite, provided they feel that they can keep the limits ordained by God." 2

And in the Sunnah, ^ʿAīsha narrated that the wife of Rifāā Al-Quraʿī came to Allah's Apostle and said, "Oh Allah's Apostle! Rifāā divorced me irrevocably. After him Abd al-Rahmān bin Al-Qurazī who proved to be important." Allah's Apostle said to her: "Perhaps you want to return to Rifāā? Nay (you cannot return to Rifāā) until you and Abd al-Rahmān consummate your marriage." 3

The idea behind such a procedure is to make a husband think it over again before he decides to divorce for the third time. On the other hand, a woman's getting married to another man has an extremely shocking effect both on her emotions and her husbands.

1. Q. 2, 229

2. Q. 2, 230

3. Sahih al Bukhari, Vol. 7, op. cit., P. 136

Divorce has some conditions which must be satisfied if it is to be valid. Firstly, when the husband pronounces the divorce, formally, he must mean it. In other words, he must have the intention of revoking the marriage contract.¹ Secondly, the husband himself must be sane, conscious and mentally fit. The divorce of a mentally ill person is not valid whether his illness is continuous or intermittent. By mental illness here, we mean permanent insanity. It also includes a man who is not in full possession of his senses because of illness, alcohol or drugs. The last case is applicable even if the drugs were taken because of medical reasons as in the case of anaesthetics and morphine which might cause a temporary loss of mental control and in which case, the divorce is invalid. Uthmān said, "A divorce given by an insane man or a drunk is not valid."² Ali also said, "All divorces are legally valid except that of person who has no intelligence (e.g. insane or drunk)."³

Thirdly, he must be adult, of age. The divorce of a young person is not valid.⁴

Fourthly, he must divorce of his own free will. The divorce of a man forced to divorce his wife is invalid.⁵

As far as divorce pronouncement is concerned, two conditions must be satisfied. Firstly, the pronouncement must be a clear statement indicating with no confusion what is intended. For example, if a man gets angry with his wife and as a result of that, sends her to her

1. Al-Jazīrī, op. cit., P. 279
2. Sahih al Bukhari, Vol. 7, P. 144
3. Ibid
4. Al Jazīrī, op. cit., P. 279
5. Ibid

family's house together with all her belongings without pronouncing a divorce statement, this will not be considered a divorce because this is not a clear intention on his part to terminate the marriage.¹ Also, divorce cannot be undertaken just by intention and without pronouncement. But there must be an intention behind the pronouncement of divorce. For example, if a man, for whatever reason, says to his wife, You are divorced, while he does not really mean to divorce her, then the divorce is not valid. The divorce pronouncement was made by mistake.²

Kinds of Divorce

Divorce is of two kinds : "Sunni" and "bidi". The Sunni divorce is conditioned in terms of times (at which divorce could happen) and the number of times. This gives the couple a chance to reconsider their marital life, and they may get back together. The Bidi divorce is the divorce which is not conditioned in terms of time and number of times, for example, if a man divorces his wife, while she is menstruating, because the Sunni divorce require the wife to be in a state of purity. Islam did that for many reasons, for instance, the woman during the period of menstruation is liable to become ill-tempered And easily inaccessible because this time is a very difficult time for her,. A time of changing the physical condition of the body which causes depression, tension and irritability. So, these changes in the body and this physical disability might lead her to act badly which she would regret on becoming clean. Another reason for that is intercourse is forbidden in Islam during all such times of impurity, and is commonly the basis of love and amity between

1. Ibid

2. Ibid

the two partners. So, it is possible that a couple may resume their normal life and forget their conflict after passing this difficult time. There is a tradition that Ibn Umar reported, he divorced his wife while she was menstruating during the life time of the Prophet. Whereupon, Allah's Messenger said, "Command him to take her back (and keep her) and pronounce divorce when she is purified and she again enters the period of menstruation and she is again purified (after passing the period of menses), and then if he so desires, he may keep her and if he desires, divorce her (finally) before touching her (without having intercourse with her), for that is the period of waiting (idda) which God (Exalted and Glorious be He !) has commanded for the divorce of a woman. " ¹

The husband must not divorce his wife while she is in purity (i.e. immediately after menstruation has finished) if he approached her, but he must wait and keep his wife until she has menstruated, completes it without any intercourse and goes through a secondly monthly period to a second state of purity. At this stage, if no change of heart or mind has taken place, a divorce may be pronounced. ²

Idda - The Waiting Period

When the husband divorces his wife after menstruation without approaching her, the wife must wait for three months as the Qur'an confirms that in this verse:

"Prophet, when ye do divorce women, divorce them at their prescribed period, and count (accurately) their prescribed period." ³

Islam preserves the rights of the divorced woman during Idda, for example, she can still stay in the marital home during this period as it was mentioned. One of the ideas behind the probationary period

1. Sahih al Bukhari, op. cit., Vol. 7, P. 130 and Sahih Muslim, Vol 2, P.755
 2. See Abd al-'Ati, op. cit., P. 228
 3. Q. 65, 1

is to give the opportunity to notice any signs of pregnancy if there is any, because in Islam, "the child follows the bed" in the sense that the child takes paternity from the man, whoever he might be, who was married to its mother at the time of its birth. So, idda preserves the child's claim to paternity from being confused as the Qur'an makes it clear:

"Divorced women shall wait concerning themselves for three monthly period. Nor is it lawful for them to hide what God hath created in their wombs, if they have faith in God and the Last Day and their husbands have the better right to take them back

in that period, if they wish reconciliation." 1

In the case of the wife who is pregnant, she must not conceal her condition but she must wait until she gives birth to a child who may change their feelings about the divorce. As the Qur'an says;

" For those who carry life (within their wombs), their period is until they deliver their burdens: And for those who fear God, He will make their path easy." 2

For a woman of menstruating age, the idda is three menstruations after divorce. If there is no menstruation because she is old, or if the courses are in doubt, then idda will be three calendar months. By that time, the woman will know if there is a pregnancy or not. However, the divorce of a woman whose husband never consummated his marriage has no condition of an interim period. She can be divorced at any time and this divorce will be irrevocable, according to the Qur'an:

"There is no blame on you if ye divorce women before consummation or the fixation of their dower, but bestow on them (a suitable gift), the wealthy according to his means and the poor according to his means; a gift of reasonable amount is due from those who wish to do the right thing." 3

It could be argued that giving the right of divorce to the man is to undervalue the woman's status and to insult her. The Islamic view

1. Q. 2, 228

2. Q. 65, 4

3. Q. 2, 236

however, is that in marriage, the man responsible for building up the marital house by saying so, we meant that the man carries out the whole financial burden in protecting and supporting this house. In view of what we discuss Islam noticed that the distraction of the contract by divorce will have more drastic effect on the man than the woman. Therefore, by giving the man the divorce responsibility, Islam considers his contribution. Islam made it difficult for him to practice this right without thinking of his loss beforehand. In the inevitable condition when the man divorces his wife, he knows that he is the only one who faces all the losses. On the other hand, if Islam gave the right of divorce to the wife who did not, as we mentioned financially support the marriage, it would be easy for her to practise this right without losing much and it would be unfair for the man. However, this does not mean that the woman was completely deprived of the right to separate. Islam had given the woman the right to request divorce when she was harmed (because of her marriage). Such a divorce, where a woman divorced her husband is called Khul'.¹

Khul', then is the husband's separation from his wife in which he gets a financial compensation from his wife. The wife's objective in such a case is to get rid of her husband in such a way that he cannot come back to her without her consent. In other words, the wife seeks the separation by giving him (her husband) a part or the whole of the dowry which was given her by the husband or by offering an agreed sum of money to him in return for his consent to divorce her:

"if ye (judges) do indeed fear that they would be unable to keep the limits ordained by God, there is no blame on either of them if she give something for her freedom." 2

In the tradition Ibn Abbas narrated that the wife of Thābit bin Qays came to the Prophet and said: "O Allah's Apostle ! I do not blame Thābit for defects in his character or his religion, but I, being a Muslim, dislike to behave in un-Islamic manner (if I remain with him.)"

1. See Al-Jazirī, Vol. 4, op. cit., P. 406

On that, Allah's Apostle said (to her), "Will you give back the garden which your husband has given you (as Mahr)?" She said, "Yes." Then the Prophet said to Thābit, "O Thābit! Accept your garden, and divorce her once." ¹ The reason for this kind of divorce might be the woman's dislike of her husband because of his temper, physical appearance (such as being old, being weak) or being irreligious, when she fears being disloyal to him. Other cases in which the woman can request divorce are the husband's absence for a long time in such a way that nothing is known about him, or when he is sentenced to long imprisonment. For instance, Ibn al-Musaiyyab said, "If a person is lost from a file in a battle, his wife should wait for one year before she remarries." ² Also, if the husband maltreats his wife and there are a lot of disputes and disagreements between them to such an extent that the wife might be harmed as a result of that, then the wife has the equest divorce. Furthermore, if the husband refrains from providing for her, she can also seek separation. So, Islam protects the women's rights by giving her the right to separate from her husband when she feels that she needs it, and it is the duty of the husband to accept her request for separation.

Līān (a kind of irrevocable divorce)

The word Līān means expelling and dismissal. Al-Nawawy stated that "This kind of divorce is called Al-Līān because a husband and wife are separated from each other irrevocably." ³ When a husband accuses his wife of adultery without any evidence and without four witnesses, then Līān must be undertaken. The procedure is as follows:

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1. Sahih al-Bukhari, Vol. 7, op. cit., P. 149
 2. Ibid
 3. Kahhālah, Umar, al-Zinā wa mukāfahatuh, P. 114

the husband swears by Allah four times, that he is correct in his accusation. Then the wife swears by Allah four times that her husband is lying and she then swears a further time that the curse of Allah will be on her if he is right. Then they separate. *Līān* must be undertaken under the supervision of a judge and before people, as happened in the Prophet's time. The Qur'an explains clearly this kind of divorce in this verse:

"And for those who launch a charge against their spouse, and have (in support) no evidence but their own, their solitary evidence (can be received) if they bear witness four times (with an Oath) by God that they are solemnly telling the truth; and the fifth Oath (should be) that they solemnly invoke the curse of God on themselves if they tell a lie. But it would avert the punishment from the wife, if she bears witness four times (with an Oath) by God that (her husband) is telling a lie : and the fifth Oath should be that she solemnly invokes the wrath of God on herself if (her accuser) is telling the truth." 1

Among the results of *Al-Līān* are the following:

1. A husband will never be allowed to remarry his wife; *Al-Līān* is an irrevocable kind of divorce. The reason for this is that they are no longer able to trust each other; marriage cannot continue with doubts and lack of confidence between a couple. Marital life needs to be based on mutual confidence and love.
2. Neither the man or the woman will be punished for adultery or for ungrounded accusation. Ibn Umar narrated that Allah's Apostle separated (divorced) the wife from the husband when he accused her of illegal sexual intercourse, and made them take the oath of *Līān*. 2
3. If the wife has got a baby whom the husband denies is his then the baby belongs to his mother and will not be entitled to inherit from

1. Q. 24, 6-10

2. Sahih al Bukhari, P. 179

his father. Ibn Umar said, 'The Prophet made a man and his wife carry out Lian and the husband repudiated her child. So, the Prophet got him separated (divorced) and decided that the child belonged to the mother only.'¹

4. A woman divorced in this way is not entitled to any allowance from her divorced husband except the dowry.

5. Nobody has a right to call her adulteress or to call the baby illegitimate so that the woman's reputation and the child's psychological condition will not be adversely affected.

This legislation is a very clear example of how Islam expressly protected the woman's rights by maintaining her status in society at the level she had enjoyed prior to her husband's unproven accusations, in marked contrast to the pre-Islamic husband's ability to divorce his wife on baseless suspicion.

The Rights of the Divorced Woman in Islam

The concern of Islam to improve the status of women is particularly evinced by the measures implemented to preserve their dignity even when divorced. The husband was placed under obligation towards them and rights were assigned to them which safeguarded them against the future, as follows: The husband is compelled to support his divorcee during the legally prescribed period of waiting, Idda (in which the woman may not remarry), according to his financial capabilities. She is also granted the right to reside in his house until the end of this period; These two stipulations provide the couple with the opportunity of a chance to think, re-assessing their relationship, before their final resolution. The only instance in which she was forbidden to remain in his house was if she had committed adultery

1. Ibid

at some previous stage, as mentioned in the Qur'an (65,1).

It is the divorcee's right to receive back the postponed dowry that was agreed upon at the time of the marriage. The husband is obliged to pay his ex-wife the full sum without retaining any amount if he is initiating the divorce; however, she has the right to return part or all of her dowry if she wishes to seek the divorce, as was made clear in the Qur'an (2.229). In the event of divorcing her husband before consummating the marriage, she is assigned half the dowry only. However, the husband might grant her the full sum before consummating the marriage as an act of generosity.¹ If the amount of dowry has not been specified, it is her right before consummating the marriage to be given a sum of money in accordance with the husband's financial situation, Qur'an (2.236). Also, she has the right to be paid for suckling her own infant if she has any;

"And if they suckle your (offspring) give them their recompense and take mutual counsel together, according to what is just and reasonable. And if you find yourselves in difficulties, let another woman suckle the child on the father's behalf." 2

Thus, Islam has imposed the support of an infant on the father, including the provision of a wet nurse, or a foster mother if the mother is not willing to breast feed and if it is impossible to find a good wet nurse. In the case of the child refusing the milk of any other woman than his mother, the wife is obliged to suckle him in order to keep him in good health.

However, if another woman is available, the mother is under no obligation to feed her children herself since she might sometimes be unable to do so out of illness, weakness or lack of milk.

1. al-Hussainī, Mubshir, al-Mar'ah wa Huqūqahā fī al-Islām, P. 84
 2. Q. '65,6

"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 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 you decide on a foster mother for yourr offspring there is no blame on you, provided ye pay (the mother) what ye offered on equitable terms." 1

Allowing her the alternative of a foster mother shows understanding and practicality.

The father is forbidden to take away the child from his divorced wife if she chooses to look after the infant and nurse herself, in order to safeguard him against any emotional distrubances.

Women in Islam have full freedom to remarry whenever they choose after the end of the legally prescribed period (idda). The husband has the choice to revise his decision during this period, or to leave her to marry whoever she wants; but he is totally forbidden from harming her or refusing her the right to marry another man. (Q. 2, 232). as was the case in the Jahiliyah.

Islam is not against re-uniting of wife and husband. The husband has the option to return during the legally prescribed period or afterwards as mentioned above, but on condition that his association is for the good and that he provides his wife with a happy future. However, if his sole motive in wanting her back is to prevent her from marrying another man, this is clearly an act of injustice and as such is forbidden by Islam. She has the right to return to his father's house and to live there as one of the family as if she had

1. Q. 2, 233

not married. The family is expected to receive her as one of them on the same basis as before her marriage. They should never abandon her. Obligation is laid on either father or brother to support her. They were also able to bequeath inheritance to her and on the other hand, to inherit from her.

The safeguards for the woman which are thus built into the divorce procedures are equalled by her rights in her position as a widow.

Widow's Rights

Islam protected widows by establishing a system of rights and duties that secured their lives as opposed to their position before Islam. It is their duty to refrain from marriage for the legally prescribed period, which is four months, ten days. During these days, they should mourn their husbands, abandon ornamentation and the delights of life in respect for the deceased. The wisdom behind specifying the legally prescribed period Idda four months and ten days is to ensure that there ^{is no sign} /of pregnancy so that a legitimate child will not be deprived of his true lineage, and in order to forbid the confusion of the ancestral line; If pregnancy is assured, then the legal period is extended to the end of her pregnancy in accordance with the words of the Qur'an (2:-234, and 228).

After the expiration of the legal period, the widow has the right to take off the garments of mourning and to marry whoever she desires. Islam forbids the relatives of the deceased and his son to deny her this right, as was the tradition before the emergence of Islam, when the son of the deceased used to impose himself on the widow as we mentioned earlier, with full liberty to marry her without assigning a dowry (except that of the deceased) If he did not want her himself,

then he could force her to marry someone he approved of without taking her will into consideration. He could also take her dowry, prevent her from marrying the man she wanted and keep her under his mercy until she redeemed herself with an amount of money. This procedure stems from considering women as part of the inheritance. Islam's prohibition of this system and granting of permission to the widow to remarry after the end of the legally prescribed period is thus highly significant as it changes her position from an inheritable commodity to that of a person in her own right. The suitor should allude to his intentions without declaring it in public during the mentioned period. The Qur'an clarified the ways by which the suitor can allude indirectly either orally or practically to his desire to ask the widow's hand in marriage.

"There is no blame on you if ye make an offer of betrothal or hold in your hearts." 1

If the widow did not remarry, then she had the full right to go back to her late father's house as a member of the family just like the divorcee, and the family was fully responsible for her. The Qur'an indicated that she should take a quarter of the inheritance if she does not have a son.

"Their share is a fourth if you leave no child." 2

And eighth if she does, as the Qur'an says:

"But if ye leave a child they get an eighth." 3

So Islam protected women, not only as wives, but when they were divorced or widows.

1. Q. 2, 235
 2. Q. 4, 12
 3. Q. 4, 12

The Position of Woman as a Daughter in Islam

Islam regards daughters and sons as equals, sharing both the same rights and the same duties toward their families. Parents must treat them equally with no discrimination between male and female children and no favouritism of sons over daughters; the parental responsibility is to give all children the best upbringing possible, with equal love and care for all. Islam has devoted special attention to the rearing of daughters since women are the first people to bring up their own children, and therefore an important element in view of the society as a whole.

The first and most important right of a Muslim girl was the gift of life; Islam urged Muslims to receive their female infants joyfully as a gift of God so that the practise of burial at or soon after birth which existed previously was expressly forbidden by the Qur'an. Moreover, the Prophet showed in words as well as in deeds that daughters must be brought up well and treated kindly. This is well established in many traditions. As He says, "Who ever has a daughter and does not bury her alive, does not insult her and does not favour his son over her will be received by God into Paradise."¹ This shows the necessity for weaning the Islamic people from what was evidently a widespread practice. And he (the Prophet) also said: "Whoever supports two daughters till they mature, he and I will be on the Day of Judgement like this (and he put two fingers close together)."² Daughters were not merely to be allowed to live but also to be generously supported and fully educated. Her rights in financial security equal those of her brother. The father as her guardian

1. al-Hussainī, op. cit., P. 15

2. Ibid

should support her financially until she gets married. As quoted by Abū Masūd al-Ansārī, the Prophet said: "When a Muslim spends something on his family intending to receive Allah's reward, it is regarded as Sadaqa (a good deed) for him." ¹ A good education should be provided for them as well as their brothers with due attention to a proper standard of morals. Emphasis was laid upon not merely the familiarity with the words of Islam but also putting its teachings into practice to find the proper way of life. In the Prophet's saying, "Seeking knowledge is compulsory for every Muslim." ² The literal meaning of the word Muslim is a 'male Muslim', however, there is unanimous agreement among Islamic scholars that the word here refers to all Muslims, male and female so that women, although not mentioned explicitly are also enjoined to seek knowledge. ³ Moreover, during the time of the Prophet it is clear - as we shall discuss in the third chapter - that women had the opportunity to express their own views regarding both material and religious affairs, encouraged by the Prophet himself. There were many Hadiths which show how women were keen to hold fast to their religion, to participate in it and even to act as teachers. For example, Abū Saīd al-Khidrī told that some women requested the Prophet to fix a day for them (to come and learn from him) as the men were taking all his time. He promised them one day on which he would teach the women religious lessons and commandments. ⁴ This Hadith where the Prophet made special provision for women to learn, is a strong evidence for the fact that Islam did not confine teaching and learning to men only. The special responsibility of the woman to learn is well explained in this Hadith:

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1. See al-Bukhari, Vol. 7, P. 201
 2. Ibid
 3. Shihātah, op. cit., P. 73
 4. See Sahih al-Bukhari, Vol. 1, P. 80 and 81

Ibn Umar narrated that 'The Prophet said, "All of you are guardians and are responsible for your words. The ruler is a guardian and the man is a guardian of his family; woman is a guardian who is responsible for her husband's house and his offspring; and so all of you are responsible for your words."¹ Accordingly, it was felt that a woman could not undertake such a responsibility in an effective way without knowledge which would enable her to bring up her children satisfactorily, provide them with useful information, teach them their religion and accordingly, offer them to society as good individuals upon whom the society could depend.

This is a clear advance over the situation in pre-Islamic Arabia, where education was denied to most females. It can be regarded as the most significant of all improvements in the status of women which were brought by the new religion, since education is a crucial instrument by which the values of the next generation are modelled.

1. Ibid

The right of a woman as a mother in Islam

After discussing women's status as wives and daughters in Islam, it is necessary to determine their status as mothers in the Islamic family. The Sharī'a (Law of Islam) honoured mothers greatly, laying upon children the duty to know their parents, as advocated in many Quranic verses.

The 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 their 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.' ¹

Also: '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.' ²

Al-Fakhar al-Razī gives an explanation for this verse. 'His mother is pregnant, that is she became (In the capacity of God,) the reason for his existence and survival for two years; that is because in His capacity the reason for his continuation of existence. This implies that in his act there is something similar to the image of existence and survival.' ³

Moreover, Islam requires a child to respect and honour his parents even if they are heathen or if they embrace other religions, on condition that they do not force him to disobey God as the Qur'an confirms in this verse:

1. Q.17, 23

2. Q. 31, 14

3. al-Hussainī, op. cit., P.55.

"But if they strive to make thee join in worship with Me, things to 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 return to Me (in Love). 1

This is illustrated by the visit of 'Assmā' Bint Abū Bakr to the Prophet to consult him about her mother. 'She was an idolatress' 'Assmā' asked the Prophet, 'May I do good to her?' He said, 'Yes, do good to your mother.'²

Woman's position as a mother is unique in Muslim society. Many Prophetic traditions point to the fact that Islam has granted mothers a higher status than fathers, and has ordered honour to them first, in return for all the hardship they have to bear. It is reported by Abū Hurairah that a man asked the Prophet of God "Who is the most deserving of care from me?" He replied, 'Your mother'. Again he asked who came next, and the Prophet replied, 'Your Mother' again, asked who came next, the Prophet replied 'Your Father', According to another tradition: 'Even Paradise lies beneath the feet of Mothers.' The ordinary Prophetic tradition enjoined children to stay faithful to their Mothers and to obey them. The Prophet also said : God urges you to take care of your mothers, then urges you to take care of your mothers, then urges you to take care of your closest relatives. ³

The tradition also indicated that an act of disobedience towards our parents is an act of ingratitude. Duties towards one's parents come after one's duties towards God and their rights follow one's obligations towards God, 'be praised highly.' The Qur'an made their disobedience a grave sin that is second only to the sin of believing in another God:

"Say. Come I will rehearse what God hath (really prohibited you from: Join not anything as equal with Him. be good to your parents." ⁴ .

1. Q. 31, 15

2. Waddy. Charis, Women in Muslim History, P.22

3. al-Hussaini, op. cit., P. 55

4. Q. 6, 151

Also:

"Serve God, and join not any partners with him,
and do good to parents." 1

The Prophet said 'Know that disobedience of parents is a grave sin. No man will go to heaven if he disobeys his mother.² A son should treat his mother kindly as she grows old and should support her if she is a widow or his father cannot support her financially. Islam had also allotted to her a share of her son's inheritance if he dies. (Q. 4.12)

The status of woman as a mother is a good example of the way in which Islam perpetuated and enhanced the aspects of the existing society where these were already in line with the teachings of the new religion.

It is not surprising that more substantial changes were initiated for the woman in her position as daughter, wife, divorcee and widow than as mother, since in the former instances she had been treated as property belonging to guardians or husband and it was Islam's most fundamental contribution to liberate her from this humiliating position by giving her the rights as a human being on a comparable level to those of the man.

1. Q. 4; 36

2. al-Hussaini, op. cit., P. 65

CHAPTER THREE

The changes in the status of women which have been discussed in the course of the first two chapters will here be illustrated by particular examples drawn from the lives of women, to enable assessment of their contribution to society in various roles. Three women are studied at some length: firstly, Khadijah bint Khwaylid as an example of a woman whose life spanned both pre-Islamic times and the early Islamic period; secondly, 'Ā'isha al-Siddiq who lived completely in Islamic times and provides the best example of wife and teacher, and thirdly, Fāṭimah al-Zahrā' who lived all but five years in the Islamic period, and will be discussed particularly qua daughter. In addition, other women will be included more briefly in a survey of the aspects of life outside the traditional realm of daughter, wife and mother in which Islamic women were able to participate.

The choice of examples is naturally restricted by the range of the sources which cover in detail a far higher proportion of men than women; for example, *Ṭabaqāt Ibn Sād* devotes seven volumes to men but only one to women. It can be argued that other female personalities worthy of being recorded were omitted due to the bias of the male historians. It would be wrong to conclude that no other women made a significant contribution.

KHADIJAH BINT KHUWAYLID

The longest stretch of Khadijah's life was passed in pre-Islamic society; she was influenced by the new religion for only a short time as a mature woman. By comparing her life-style before and after the revelations of the Prophet, we shall find that she was an exceptional woman who anticipated the more active role which the Prophet was to encourage in women before he began to articulate it.

She had the advantage of being born into a good family, her father being Khuwaylid bin'Asd bin 'Abd al-Uza bin Qusayy bin Kilāb bin Murrah bin Lu'ayy bin Ghālīb bin Fīhr, and her mother Fāṭimah, the daughter of Zā'id bin 'Asīm bin Rawāḥah.¹ She was highly esteemed, as Abū Zahrah records: 'Khadijah was strong, honoured and prudent with all the goodness and honour that God endowed her. She was one of the most honoured and rich persons in Quraysh. Many of her people wished to marry her, and granted her money.² She was therefore in a strong position to undertake an activity which few pre-Islamic women engaged in : trade. "She was a rich woman of Quraysh, a business woman, engaged in the caravan trade, and managed her own affairs."³ Further, "the caravan she owned to carry the cargo equalled that of Quraysh in size, quality and shipment."⁴

Since it was impracticable for her to carry out all the travelling and trading in person, she employed one of two systems : she either

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1. See Ibn Hishām, Vol. 1, op. cit., P. 174
 2. See Abū Zahrah Muḥammad, Khātim al-Nabiyyīn, Vol. 1, P.417
 3. Glubb, John. The Life and Times of Muhammad, P. 72
 4. Abū Zahrah, op. cit., P. 418

hired agents to buy and sell in her name, who received a specified salary from her, whether their negotiations had been successful or not, or she used the method of silent legal partnership whereby another person was in charge of the trade and would take a percentage of the profit such as one eighth, one sixth or even one quarter, whereas she, as the owner of the business, would sustain all losses. ¹

In both cases, she needed trustworthy men, to which end she used to investigate the character of each prospective agent or partner. She engaged Muhammad on the strength of his reputation for honour, generosity and good conduct, and his popular appellation 'Al-'Amīn' - 'The Honest'. She reposed complete faith in him, refusing to replace him with anyone else.

Khadijah was so impressed when Muhammad returned with handsome profits and the way he managed the trust . . . she decided to offer herself in marriage to him.

Her decision was not impelled by reckless passion or false caprice;

she was a mature woman, the widow of two honoured Arab leaders -

'Ātiq b. 'Ā'idh bin Abd Allah al-Makhzūmy and Abī Hālah Hind bin Zahara al-Tamīmī. ² (The sources disagree in which order.) She already had a son by Abī Hālah and a daughter by 'Ātiq. When she contemplated marriage with Muhammad, she was forty years old, while he was twenty-five. Her decision was grounded in her respect for his above-mentioned qualities and the evidence that he was a sound business-man.

1. Ibid

2. Bint al-Shatī', op. cit., P. 219

The marriage was effected through the mediation of Khadijah's friend Nafīsa, who recommended her beauty and qualities. Muhammad considered the proposition, sought advice from his uncles and finally requested that they ask for her hand. On marrying her, he gave her a dowry of 20 Bakrah,¹

Khadijah was Muhammad's first wife. The extent of her influence upon him is indicated by his not re-marrying until after her death.

Drawing upon her broad experience and maturity she was able to support him during stressful times; she created a tranquil atmosphere for his contemplation. She showed compassion and understanding of all he had to undergo; she never complained when he went to Hīrā'a to worship God, or when he spent most of his time contemplating the universe. She was a source of encouragement to him and sent someone to watch over him whenever she felt apprehensive on his behalf. Her brilliant mind and powers of reasoning enabled her to fulfil a very demanding role.

When Muhammad received the revelation through the angel Jibrīl that he had been chosen by God as the last Prophet to be a Messenger to the people to save them from the wrong path, she trusted him without reservation. She said, 'Abū al-Qāsim, God protect us, prove your identity to my cousin. (Swear to God) in whose hands is my soul. I hope that you will become the Prophet of this nation. God will never discredit you. You bring people together, you speak the truth, support all others, defend the weak, and assist those who speak the truth.'²

1. Ibid

2. Ibid, P. 227

Her attitude reveals a fully mature personality imbued with wisdom. She took him to the house of her cousin Warqa bin Nawful who embraced Christianity in the pre-Islamic period. They rejoiced and announced him as the expected Prophet.¹

Khadija held a special position as the first to believe in Muhammad's message; she was a continual help to him. It was written, 'God soothes the Prophet's nerves by her presence. She did not let him hear the words of his opponents that he detested or those who disbelieve him. Indeed, God released him from his sufferings by her presence. When he returned to her, she used to ease him, soothe his nerves, and approve of his words.'²

She had at least four children by him.³ She stood by her husband until she died three years before Hijra, having received special recognition from God, who ordained his Prophet through Jibril to send her his greetings.⁴ She never left the Prophet's memory, which prompted his second wife, 'A'isha, to feel jealousy. 'I never envied a woman except Khadijah and the Prophet did not marry me until she died.'⁵ 'A'isha once burst out that Khadijah was a 'toothless old woman whom Allah has replaced with a better.' The Prophet's sharp rebuke is a fervent testimony to his first wife: 'No indeed. Allah has not replaced her with a better. She believed in me when I was rejected. When they called me a liar, she proclaimed me truthful. When I was poor, she shared with me her wealth, and Allah granted me her children though withholding those of other women.'

1. Ibid

2. See Abū Zahrah, op. cit., P. 417

3. Ibn Hishām, Vol. 1, op. cit., P. 417 and Bint al-Shāṭi', op. cit., P.223

4. Abū Zahrah, op. cit., P. 417

5. Waddy, op. cit. P.18

It must be taken into consideration that Khadijah bint Khuwaylid who had a remarkable position before and after Islam, had grown up in pre-Islamic time. When she married the Prophet, she was forty years old, and the message was revealed when he was forty years old, that is, fifteen years after his marriage. Her character may be contrasted with other Muslims, for example, 'Aisha, who grew up in the Islamic milieu. Khadijah had a remarkable position in pre-Islamic Arabia. She was one of the strongest personalities in the Meccan society before Islam. This exceptional strength of character could be due to her family position in the society or due to her wealth or to her intelligence, or to all of these factors put together. Islam did not change her position; on the contrary, Islam recognised her status and did not take away her wealth, nor prevent her from running her business. Accordingly, her position is good evidence that a Muslim woman could have a high position in Islamic society.

'AISHA AL-SIDDIQA

'Aisha al-Siddiqa, 'Mother of the Believers' (Ummal - Mu'aminin) is an example of a woman who was profoundly influenced by Islam. Raised in a totally Islamic household, she embraced Islam from her earliest youth. Her father, Abū Bakr bin Abī Quḥāfah,¹ was a well-respected Qurayshi merchant who 'called all men he confided in to embrace Islam and urged whoever visited him or sought counsel to believe in God.'²

1. See Ibn Hishām, Vol. 1, op. cit., P. 232
2. Ibid

He demonstrated his support of the Prophet and his companions by granting considerable sums of money for the emancipation to the faithful who preferred to join the Prophet when the Muslims emigrated to Ethiopia. The Prophet acknowledged his generosity : 'No amount of money had benefitted us as did Abū Bakr's.' ¹ He accompanied the Prophet to al-Madinah and was his staunch supporter in battle. The Prophet described him as his readiest follower: 'All men I called to Islam had a 'Kabwah' (hesitated and did not give a quick answer) except Abū Bakr bin Abi Quḥāfah who did not hesitate when I mentioned it to him. ² It is said that Abū Bakr cried at the event and said, "Messenger of God. I and my wealth are for you." ³

Ā'isha's mother was held in a similar honour by the Prophet. She was Umm Rumān bint Āmir al-Kināniyyah from an honoured tribe, whom Abū Bakr married when her former husband died, leaving her with a child from pre-Islamic times.

He then had Ā'isha and Abd al-Rahmān by her in the Islamic pre-period. 'Umm Rumān died in the Prophet's life-time. He had commented that if a person wanted to see a hourie of the heavens on earth, he should see 'Umm Rumān; then, when he buried her, he said, God, it is well known what 'Umm Rumān did for you and for the sake of your Prophet. ⁴

Therefore, since Ā'isha was born in the fifth year of the mission, while she grew up in the Makh Zūmī tribe (it being customary in Arabia to send children to be brought up by the tribes in the desert), Islam was the dominant influence on the formation of her personality as well as through the example of both parents.

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1. Bint al-Shāṭi', op. cit., P. 254
 2. Ibn Hishām, Vol. 1, op. cit., P. 232
 3. Bint al-Shāṭi', Vol. 1, op. cit., P. 254
 4. See Mo'in, Mumtaz, Umm al Mu'minin Aishah : Siddiqah, life and work, P.1

"Of the days of her childhood and early education, almost nothing has been recorded, except that she was an extraordinarily intelligent and highly precocious child. As she had opened her eyes and spent the early years of her life in an ideal Muslim family ... she was fortunate in having been brought up and trained in a perfectly Islamic atmosphere." ¹

It is probable that the Prophet recognised special qualifications in her, even as a young child, since his tender feelings towards her while watching her playing would drive him to urge her mother to take care of her and keep her in good health. "A touching story is told of how the Prophet on one of his visits to 'abū Bakr's house, saw the little 'Ā'isha at the door of the home crying bitterly. Affected by her tears, he sought to comfort the child and soon discovered that parental discipline was the cause of her distress. He gently rebuked her mother, 'Umm Ruman, and, though she told him that 'Ā'isha had carried tales to Abū Bakr (which had aroused his temper), yet Muhammad requested her to be gentle with the child for his sake." ²

Thus, 'Ā'isha lived through the event of the Islamic call at the time of its emergence. The upbringing she received in a home which practised Islamic rituals was reinforced by her studies in the house of the Prophet, where she learned the true essence of religion, high moral standards and humane treatment. She was married to the Prophet at the early age of nine years, according to some sources, under the following circumstances:

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1. Ibid
 2. Ibn Sa'd, al-Tabaqat al-Kubra, Vol. 8, P.78.
 3. Kahhalah 'Umar', 'A'alam al-Nisa', Vol. 3, P. 9, quoted by Abbott Nabia, 'Aishah the beloved of Mohammed, P.2

After the death of Khadijah, the first wife of the Prophet, Khawlah bint al-Hakim, wife of 'Uthmān bin Mazūn who was an eminent companion of the Prophet, suggested to the Prophet that he should marry again. "He said, who shall I marry? Khawlah properly replied: among the widows Sawdah bint Zam'ah would be suitable and if you want to marry a virgin, I would suggest 'A'isha, daughter of Abu Bakr. The prophet approved her suggestion and allowed her to proceed in the matter." ¹

However, the Prophet did marry Sawdah bint Zam'ah before his marriage to 'A'isha. Sawdah was a widow who had married Sakrān bin 'Amr who embraced Islam and emigrated with his wife to Abyssinia but on their return to Makkah he died. The Prophet married her shortly after the death of Khadijah. Accordingly, Khawlah went to Abū Bakr's house and made the proposal on behalf of the Prophet. But Abū Bakr had to release himself from the promise which he had made to Mutīm that he would give 'A'isha in marriage to his son, Jubā'ir. So, Abu Bakr went to Mutīm and asked him if he still wanted to marry his son to 'A'isha. But Mutīm was advised by his wife to break the proposal because they were still unbelievers. ² Therefore, they were reluctant to proceed with matrimonial alliance with a Muslim family." ³ So, Abū Bakr, having been released from his promise and become free, then accepted Khawlah's proposal. The Prophet married her after his departure to al-Madina (according to some source) ⁴

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1. See Ibn Hajar, *al-Isābah*, Vol. 4, p. 349. Khalah, op. cit., p. 10. *al-Muḥbbal-Tabrī, al-Simt al-Thamīn fī Manāqib 'Umahāt al-Mu'minīn*, p. 60, quoted by Moin, op. cit., p. 4
 2. Khalah, op. cit., p. 10. *al-Tabrī al-Muḥbb*, op. cit., p. 61. Ibn S'ad, op. cit., p. 58
 3. Moin, op. cit., p. 6
 4. Ibn S'ad, op. cit., p. 61. and *al-Tabrī, Tarikh al-Rusī wa al-Muluk*, Vol. 3, p. 164

"A'isha, although young, was mature and grew up fast like most Arab women, who get old after twenty years of age. She was kind and extremely brilliant, with fresh blooming youthfulness." ¹ In fact, the Prophet left her for some time in her father's house after the engagement because she was still a child, and he did not want to deny her those beautiful days. As Bint al-Shāṭi suggested, "He refused to tear out this happy, lively and kind child from the youthful games in order to burden her with the hardship and responsibility of married life, and left her in her father's house playing around with her friends." ²

During this period under pressure of persecution, Muslims started to leave Mecca for al-Madinah. When, in his turn, the Prophet was granted permission to emigrate, he left with his companion, Abu Bakr, who bore with him the hardships of the journey and stayed the night in the Cave Thawr for fear of being seen and killed by believers in polytheism. All these incidents happened before the eyes and ears of 'A'isha, and had a great influence on her psychology and helped to form her character. When the Prophet settled in Madinah, he sent Zayd b. Ḥāritha to fetch the daughter of the messenger. On the other hand, Abu Bakr sent a letter to his son, Abd Allah, demanding that he came to al-Madinah with the company of his wife, Umm Ruṣṣān, and his daughters 'Asma' and 'A'isha.

During this period, the Prophet was deeply engaged in establishing the Islamic religious foundations, so he worked day and night to build the first Mosque (Qiba'a) in Islam. After they settled in Madinah,

1. Bint al-Shāṭi, op. cit., P. 259

2. Ibid

Abu Bakr asked the Prophet to marry 'A'isha after about three years of engagement and the Prophet agreed. Her wedding was very simple. The Prophet was extremely kind to her, taking into consideration that she was still young, he allowed her to play with her young friends.

In a small and simple house, 'A'isha started her life with the Prophet. Her house was like small huts with walls of unbaked bricks and roofs of palm leaves plastered in clay. There was hardly anything in the house besides a few utensils for cooking food and drinking water and bedding.¹ For nearly ten years she lived in these rough conditions. In this house, she started to attain a remarkable position. "When she first stepped into the house of the Prophet, everyone felt her presence; it is in the honourable house that she grew up and matured. She changed from a child to a mature and experienced young woman, and bore all the consequences, like the other wives of the Prophet. That is, to abstain from the delights of life."² In spite of the Prophet's genuine efforts to deal fairly with all his wives, all the Muslim community knew that 'A'isha was his favourite. For example, once she asked him, "What is your love for me like?" "Like a (firm) knot in a rope," he answered. "And what is that like?" she asked. "Always the same," he said.³

Some traditions portray glimpses of the Prophet and 'A'isha as ideal husband and wife. "I know" he one day said to her. "When you are pleased with me and when you are annoyed or angered."

1. See Moin, *op. cit.*, p. 26

2. Bint al Sha'fi, *op. cit.*, p. 271

3. *Ibid.*, and Ibn S'ad, *op. cit.*, p. 89, quoted by Abbott, *op. cit.*, p. 68.

"How do you know that?" "When you are pleased, you say, O Muhammad! O by the Lord of Muhammad. But when you are angered, you say, O Messenger of Allah! O by the Lord of Abraham'." ¹

On another occasion, Amr bin al-Aas asked the Messenger of Allah, "Messenger of Allah, whom do you like the most?" "A'isha," was the reply. "O Messenger of Allah," he said, "my question was about men." "A'isha's father," replied the Prophet. ¹ This indicates the admiration he felt for his wife's special qualities, in that he put her before all men.

A further quotation uses a homely simile to describe her superiority over other women, "among men there are many who are proficient (in their respective spheres), but among women, there are none except Maryan Bint Imran and A'isyah, wife of Pharaa, and A'isha's superiority over other women was like the superiority of Thrid (a bread soaked in broth which was a favourite Arab dish of the day.)" ²

The Muslim companions knew of his special regard for A'isha. So, they generally used to send her gifts on the day when he was in A'isha's home. ³ although his other wives objected. "Do not say anything against A'isha. She is the only one of my wives in whose house I receive revelations." ⁴

Moreover, when he became ill during his last days, he began to ask his wives where he was to be the next day and where on the day after.

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1. Khalah, op. cit., P. 13, & Ibn S'ad, op. cit., p. 69, Vol. 8
 2. Ibn Hajar, op. cit., P.318, & Ahmad Fazh, A'isha the Truthful, p. 39.
 3. Khalah, op. cit., P. 18.
 4. See Khalah, op. cit., p. 12

His wives realised that he was trying to calculate his day for 'Ā'isha. Then he asked permission from his wives to retire and spend his last days with 'Ā'isha. Therefore, he spent his remaining days in her home and died in her house.

These details from their life together show that 'Ā'isha must have matured swiftly in the Islamic faith in that she retained special favour in the Prophet's eyes. Despite the fact that 'Ā'isha's time with the Prophet was short, these years had a decisive role in forming her character. She learned much at the hand of the first teacher of the Muslim community. Her youthfulness helped her in memorising information concerning jurisdiction and social matters from the Prophet. She took the initiative by asking the Prophet questions concerning women in general for which she did not have an answer. The Prophet in his turn, was intent on giving her every possible chance to attain religious instruction because he appreciated her intelligence and capacities. When she asked the Messenger of Allah if Jihad was obligatory for the women as well as the men when the occasion arose, the Prophet replied in the negative since their pilgrimage to Mecca (Haj) was their type of Jihad.¹ A further example is a question about the consent of the woman in marriage. She said, 'Oh Apostle of Allah, out of bashfulness virgin girls often remain quiet at that moment.'² The Prophet replied that their silence was in fact an expression of their consent. Since 'Ā'isha utilised her familiarity with the Prophet to gain Islamic knowledge she is considered one of a few witnesses who memorised many of the Prophet's sayings in all fields, especially on social or religious matters. He is reported to have said to his companions:

1. See Ibn Sa'ūd, Vol. 8, op. cit., P. 72, quoted and trans. by Moin, P. 19

2. See Moin, op. cit., P. 20

"Take half your religion from this red-coloured woman." ¹

After his death, 'Ā'isha utilised her close knowledge of the Prophet's precepts in the areas of religious instruction, legal advice and political involvement. She continued to teach Muslims in matters of Islam, answered questions put to her, and directed them until the end of her life. She used to put a curtain in front of her door while teaching, which drew both men and sometimes women to learn first hand the true essence of the Islamic religion. Thus, hundreds of Muslims were able to benefit from her education. This indicates that woman in early Islam had a significant role as educators. Thus, it was after the death of the Prophet that 'Ā'isha's role in the community took on its greatest significance. She taught the Muslims the Qur'anic verses she memorised and recorded around 2000 Hadith. ² Masrūq says, "he saw some of the most senior companions of the Prophet coming to 'Ā'isha to seek her advice in regard Farā'id." ³

Also, Abū Burdah bin 'Alī related that his father said, "Whenever we faced a problem, and asked 'Ā'isha about a solution, she gave a satisfactory answer." ⁴

'Amr bin Abd al-Bār said, "'Ā'isha was unique among her contemporaries in the areas of information on Islamic regulations, medicine and poetry." ⁵ Urwah bin al-Zubayr said, "he had never met a person more knowledgeable in Islam, Harām (forbidden things according to Islam), poetry, Hadith and lineage than 'Ā'isha. Al-Zuhry said, "The knowledge of 'Ā'isha alone was much more than that of the Prophets other wives and all women together." ⁶

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1. See Kh̄hālah, op. cit., P. 105
 2. Ibid
 3. Ibn Sa'd, op. cit., Vol. 2, P. 375
 4. Ibid
 5. See Kh̄hālah, op. cit., P. 105
 6. Ibid

All these sources are strong evidence that 'A'isha's knowledge was deep and well respected. She was an eye witness of many incidents the Qur'an had revealed. Her presence with the Prophet most of the time helped her to read the Qur'an in a correct way. Every night the Prophet was diligent in his prayers. He read long verses. Often she prayed with him, heard him reading. Hence, 'A'isha relied on the holy Qur'an to give answers to matters concerning jurisprudence. For example, she gave a clearer explanation of the Qur'anic verse 2:158 which had previously been obscure. ¹

The other case which has also been mentioned is the Qur'anic verse 4:3 permitting polygamy and the connection between polygamy and the treatment of orphans, as was discussed in the second chapter. Her role as educator included the personal raising of at least four orphan nephews. One famous person was greatly impressed by her education is 'Abd Allah bin al-Zubayr, her nephew, by whom she was called 'Umm 'Abd Allah; Also, his brother, 'Arwah bin a-Zubayr who is considered one of the best teachers in al-Madinah. There is also al-Qasim, her nephew, who grew up under her direction, and Abu Salama, her other nephew, Abd al-Rahman and Masruq and others, all of whom she raised in accordance with Islamic rules. ²

Giving legal advice to the companions was a further way in which 'A'isha participated in the public life of Muslims as well as in religious affairs. As al-Zarqani remarked, "A'isha was skilful at explaining the law. It is said that she used to give legal opinions in the days of Umar and Uthman till her death,

1. Mo'in, op. cit., P. 146

2. Ibid

and the leaders who were companions of the Prophet, such as Umar and Uthmān sent her letters consulting her about Islamic laws. ¹

An example is that when Umar bin al-Khaṭṭāb was dying from a stab wound perpetrated by Abu lu'Luah al-Majūṣī, he sent his son, Abd Allah, asking permission from her to be buried beside the Prophet and Abū Bakr. 'Ā'isha answered, yes, most gladly. Then she added, "My lad, send my regards to your father and tell him to choose a caliph (successor) since the Islamic nation should not be left without a shepherd and at a loss. I fear civil strife." ²

Moreover, 'Ā'isha had an important role in Islamic society concerning the political life of the Islamic nation (Ummah) a clear indication that in the Islamic era, women played an important and active role in society, and were not shut away in their houses. 'Ā'isha felt very angry on hearing of the murder of Uthmān - the third caliph, and demanded the punishment of the assassins right away. She was in Makkah and stood in the Hijr (near the northern wall of the Ka'abah) and addressed the people from behind the screen.

She told them that the murders of Uthmān "had shed sacred blood in the sacred place and in the sacred month, and had looted the property which was unlawful of them. By God, even if the murder of the murderers was so large as would not be contained by the whole world, one finger of Uthmān would be better than a

1. Khālah, op. cit., P. 105

2. Ibid

whole world full of the likes of them..."¹ 'Ā'ishā complied with the request to inflict the maximum punishment on 'Uthmān's assassins. Her own supporters advised her to leave for Madīnah, but when she determined to leave for Basrah, the wives of the Prophet changed their minds to go with her. Hafsa, one of the (Mothers of Believers) wanted to accompany her, but her brother, Abd Allah, forbade her and ordered her to stay at home. She sent a letter to 'Ā'ishā explaining that her brother prevented her from leaving. 'Ā'ishā's response was "May God forgive Abd Allah". She mounted a camel which was dressed in a tiger's skin, with a shield of steel over it. Her army was said to comprise up to one thousand fully equipped men.² Talḥah and Zubayr, who supported her, went with her to fight 'Alī b. Abī Ṭalīb. The outcome was victory for 'Alī, upon which he demanded that she should leave for Madīnah, honoured and respected. Some argued that 'Ā'ishā was angry with 'Alī because he had suggested that the Prophet should marry another woman when he asked his advice during the Ifk incident. However, the reasons that made her go against 'Alī are of secondary importance here; what is of interest is 'Ā'ishā's deep involvement in political affairs since this demonstrates women's effective role in Islamic society. Islam did not deny them the right to participate in political life, nor prevent them from expressing their opinions, or from playing a role in the leadership of a whole army or party. On the contrary, 'Ā'ishā enacted the role of a public leader of the army, giving orders, making speeches while riding her camel to fire the enthusiasm of the warriors. Her experience in leadership was equal to that of the best leaders.

1. Ibid. P. 35.

2. Ibid. P. 36.

Although her actions in this event were criticised both during and after her own life, certain benefits did not come of them, such as, the aim to avoid conflict among Muslims. It appears that these wars were later regretted by both factions.

'A'isha died in the year 58 on 17 of Ramadan.¹ Her life story both during and after the time of the Prophet has established her a symbol or a model for Muslim women since she combined the virtues of a wife with competence in many other aspects of life which would have been scarcely possible in pre-Islamic times. Through her teaching she influenced the entire community, men as well as women.

FĀTIMAH AL ZAHRA'

Fātimah is here principally discussed as an example of the woman in her role as a daughter. The fourth and youngest daughter of Muhammad and Khadija, she was born five years before the mission of the Prophet. When the revelations occurred, her life took a dramatic turn away from carefree childhood to an awareness of the responsibility her father now shouldered as the Messenger to Mankind. Frequent exposure to scenes of opposition towards her father during her formative years fostered life-long devotion to him. "Often she would be at his side, walking through the narrow streets and alleys of Makkah, visiting the Ka'abah or attending secret gatherings of the early Muslims who had accepted Islam and pledged allegiance to the Prophet."²

On one occasion, a group of Quraysh gathered about him while he was at prayer in the Masjid Haram with Fātimah beside him. She witnessed

1. Ibid. P. 89.

2. Hamid Abdul Wahid, Companions of the Prophet, P. 12

One of them, at the instigation of the ring leader, throw the entrails of a slaughtered animal over the Prophet as he was prostrating himself. Fāṭimah showed her filial loyalty and her courage by removing the entrails and then angrily upbraiding the men. Her strength of character is borne out by their ensuing silence. The Prophet was able to complete his prostration and prayer.¹

Fāṭimah was also eye-witness not only to insults but to an attempt on his life. As he made Ṭawāf around the Ka'abah, some Qurayshī men tried to strangle him with his own clothes. When Fāṭimah screamed for help, Abū Bakr rushed to the scene and managed to free the Prophet, bringing the violence of the mob upon his own head. Fāṭimah was sensitive to the effect that such behaviour was having on her father.

Perhaps the most difficult experience of her childhood was being forced (with her family) to leave home and seek refuge in a place called Shu'ab Abī Ṭālib. The Quraysh allowed no food or any contact with Muhammad and all the Muslims severely limited their food supplies. Fāṭimah, as one of the youngest, had to suffer with the rest. This boycott lasted for about three years. Such events undoubtedly had a very profound and lasting effect on a child of such tender age and served to shape her character and personality, for she had to develop resilience and patience.

When the siege or boycott was finally over, the family returned to Mecca where the death of her mother, Khadija had a devastating effect on her, not only because of her own need of her mother's presence and love, but also because she could see

1. Ibid

the depth of sadness that her father experienced from losing one of his most important sources of strength. Fāṭimah felt that she now had even greater responsibilities towards her father. In recognition of her devotion to his needs, she came to be called 'Umm Abīhā (the mother of her father).¹

Eventually, she began to receive suitors. Amongst the contenders for her hand were Abū Baker and Umar bin al-Khaṭṭāb, both of whom were told by the Prophet, "Await her destiny". Then 'Alī bin Abī Tālib's family said to him, "Ask for Fāṭimah's hand," and he exclaimed, "after Abū Baker and Umar." But they reminded him that he was the Prophet's first cousin and his mother was Fāṭimah bint 'Asd ibn Hishām ibn 'Abd Manāf. 'Alī went to the Prophet to ask for Fāṭimah's hand, and received his permission.

Thus, the next major event in Fāṭimah's life was her marriage to 'Alī bin Abī Tālib. When the Prophet tried to leave the wedding, Fāṭimah broke down. It was the first time that she had been separated from her father who until now had been her main source of affection and support. The prophet comforted her with these words, "I am leaving you with a person of the strongest faith, a man who is the most knowledgeable among those with knowledge, the most ethical among those with ethics and the highest of spirits among the spiritual."²

On her marriage, it was said that their house was presented with a wooden bed intertwined with palm leaves, a velvet coverlet, a leather

1. See Ibn Hajar, al-Isābah fi Tamyīz al-Sahāb, P. 160.

2. Ibid

cushion filled with palm fibre, a sheepskin, a pot, a water skin and a quern for grinding grain.¹ This indicates that the Prophet married his daughter for a very modest dowry, despite his status in society as the Messenger of Allah and the fact that there were men far richer than Ali bin Abī Ṭalib competing for his daughter's hand and offering great sums of money for the privilege of becoming related to him in marriage. However, the Prophet chose Ali because he felt that he would be a more suitable husband, despite his poverty. In fact, the marriage and the congratulations were conducted by the Prophet with the utmost simplicity, contrary to what might have been expected from his status as Prophet in the community. So began her married life which is described as difficulty and full of poverty and hardship. Throughout their life, Ali remained poor. Fāṭimah was the only one of her sisters who married a man who was not wealthy. Given her husband's financial situation, of which she was well aware, and the appreciation of costs involved in a marital relationship, the load she then had as the wife of a poor man was heavy. In addition, Ali naturally could not afford a maid, but he did try to help with the housework. However, the circumstances she had experienced as a child had well prepared and taught her strength and fortitude. In fact, it could be said that Fāṭimah's life with Ali was even more rigorous than life in her father's home. At least before marriage, there were also a number of ready helping hands in the Prophet's household. But now she had to cope virtually on her own."²

In the event, she seems to have coped admirably. The couple were blessed with two boys and two girls, Hassan, Hussain, Zainab and Umm Kalthūm.³

1. Hamid, op. cit., P. 20

2. Ibid. P. 21.

3. Muhibb al-Ṭabrī, al-Simt al-Thamin fi Manāqib 'Ummhāt al-Muminīn, P. 181.

The Prophet was elated by the birth of his grandchildren. In fact he would refer to Ḥassan and Ḥussein as his sons. He would sometimes be seen sitting in the Mosque with his grandchildren who used to climb onto his back when he prostrated.¹ Many stories reveal the depth of his affection towards them. Sometimes he would be on the rostrum and Ḥassan and Ḥussein would come along, stumbling as they walked, his tenderness would overcome him and he would descend from the rostrum and carry them and say², as the Qur'an says:

"Your possessions and your progeny are but a trial."³

Time passed peacefully for Fāṭimah until her father complained of a pain which at first was thought to be a passing ailment. As soon as Fāṭimah received the news, she rushed to his side. 'Ā'ishah recounts: The wives of the Prophet were gathered by his side. Fāṭimah arrived, her gait so identical to her father's, and he saw her and welcomed her and said, 'Welcome, my daughter'. Then he sat her to his right or left, then confided to her (something), she cried, then he whispered to her something and he laughed. She said, "I have not seen laughter so like crying, the Prophet chose you to confide his secrets and you cry?" I said, "What did the Messenger confide to you?" She said, "I cannot break his confidence." When the Prophet died, I asked her and she said, "He said that Jibril came to me every year, confronting me with the Qur'an, this year he confronted me twice. I think my time has come. What a perfect father I am to you. Then he said, "Would it please you to be the first lady of the nation (or of the world)?" she said, "So I laughed."⁴ The story reveals a touching dimension to the father/daughter relationship.

1. Hamid, op. cit., P. 21

2. Al-Aqqād, Fāṭimah al-Zahrā', wa al-Fāṭimayyūn, P. 29

3. Q 8.28

4. al-Muḥibbal-Tabrī, op. cit., P. 18

Ibn al-Athīr, 'Uṣd al-Ghaḥāh fi Marifat al-Ṣaḥābh, Vol.7, P.223.
Ibn Sa'd, op. cit., Vol. 8, P. 17

The Prophet's illness steadily grew worse. He asked his wives to agree to let him remain in 'Ā'isha's home. Fāṭimah tended him constantly. The pain became worse until he dies. Fāṭimah was heart broken by her father's death. The historical sources recount that from the moment of her father's death, she was never seen except in tears. It is no wonder that she should mourn the loss of her father so deeply, for she had also lost her only source of warmth and demonstrative affection.

The Prophet's relationship with his fourth daughter was the prime example of the way a father should treat a daughter. The high regard in which he held her, although she was the youngest of his daughters, served to change the attitude of society towards female offspring, teaching Muslims to relate to their daughters in a similar way. Once 'Ā'isha was asked, "Who was the dearest person to the Prophet?" She said, "Fāṭimah," and she was asked, "And amongst the men?" She said, "Her husband."¹

The ultimate example of the Prophet's compassion for his daughter is when she complained every now and again, and he consoled her and he said, "How does one find you, daughter?" She said, "I am ill," and she added, "What does make me feel worse is that I have no food to eat." Peace upon Him said, "Girl are you not grateful in being the first lady of the Universe?"²

One day, he visited her while she was milling flour. She was wearing a garment made of camel fur, he wept and said, "Fāṭimah, you swallow the bitterness of this world for the comforts of the here after."³

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1. Ibn al-Athīr, op. cit., Vol. 7, P. 158
 2. See al-Aqqād, op. cit., P. 46
 3. Ibid

The Prophet's special love towards his daughter, is expressed in these words: "Whoever has pleased Fāṭimah has indeed pleased God, and whoever has caused her to be angry has indeed angered God." This is an unambiguous declaration to the value in which daughters should now be held, in marked contrast to pre-Islamic society.

Moving on from her role as daughter, one incident in Fāṭimah's life after the death of her father, clearly illustrates the freedom of women in Islamic times to seek to protect her own interests. She sent a messenger to Abū Bakr asking him for her rights in the inheritance of a village called 'Fedk' whose revenue the Prophet used to divide between its poor Muslims and the members of his family, and also of what Allah had bestowed upon her father in al-Madinah and of what remained from the fifth of Khaybar. Abū Bakr responded, "The Prophet said: We Prophets, what we leave behind is not for inheritance but for charity, and I shall deal with it the way he dealt with it and I shall leave nothing that the Prophet dealt with undealt with, for I fear if I leave something of his affairs, I would be deviating." ¹

So when Abū Bakr was adamant about preventing Fāṭimah from 'Fedk' she went to him to argue this matter. Her reputation as a skilled and eloquent debator, like her father, was known to Abū Bakr. She delivered a long speech before him explaining that she had a right to her inheritance in 'Fedk'. Umar bin al-Khaṭṭāb and Abū Bakr went to see Fāṭimah. She refused them permission to enter. When Ali came, they spoke to him and he took them to her. When they sat down,

1. Umayrah, Abd al-Rahmān, Nisā' Anzal Allah Fihinna Qurānān, P.104.

she turned her face to the wall, and would not return their greeting. Abū Bakr said, "O the Prophet's loved one. By Allah, those related to the Prophet are more dear to me than my own relations and you are more dear to me than ^Ā'iṣha, my daughter and the day your father died, I too died. Regarding your inheritance from the Prophet, I have heard him say: "What we do leave behind is not for inheritance but for charity."

She answered, "If I look at you and speak to you of a Hadīth of the Prophet, would you recognise it and do by it?" They answered, 'Yes'. She said, "By Allah's words, have you heard the Prophet say: ^{Fā}ṭimah's pleasure is my pleasure and ^{Fā}ṭimah's discontent is my discontent, and who loves ^{Fā}ṭimah my daughter, loves me and he who makes ^{Fā}ṭimah discontented makes me discontented. And they said, "Yes, we heard this from the Prophet." She said, "I swear by Allah and his angels that you have discontented me and have not pleased me, and if the Prophet were here, I would have complained about you to him." ¹ Whatever the outcome, we have seen her facility to pursue her claim.

One public role that ^{Fā}ṭimah played was her proposal that ^Ālī, her husband, should succeed as Caliph for the Muslims, given that not only was he the Prophet's paternal cousin and therefore the lineage would remain with the family, but also that he was the first to convert to Islam, therefore the oldest adherent and follower and his bravery and wisdom were well acknowledged by Quraysh.

1. Ibid

Time passed and Fāṭimah still remained mournful and depressed by the loss of her father. She died at the age of twenty-nine, in the third of Ramadan in the year 11, Hijra, about six months after her father's death.¹

However, the short life of Fāṭimah, the resplendent one, spanned the period of her father's great mission, because she was born before his call, and she died shortly after his death. She typifies the woman whose life is spent in the service of her husband and children. She worked hard, doing her best for her family in those hard and straitened circumstances. In spite of the fact that Fāṭimah was busy with pregnancies and giving birth, bringing up children, she tried to take a positive part in affairs to help in the growth of Muslim society as far as she could. For example, before her marriage, she acted as a sort of hostess to the poor and also played a part on the battlefields.² "As soon as the Battle of 'Uḥud was over, she went with the other women to the battlefields and wept over the dead martyrs and took time to dress her father's wounds."³

On another occasion, at the Battle of the Ditch, she played a crucial role with the other women in preparing food during the long and difficult siege."⁴

Moreover, Fāṭimah al-Zahrā' tried to teach people what she learned from her noble father, "She was passionately devoted to her father and to the message he preached. What she and her husband

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1. Ibn al-Athīr, op. cit., P. 226
 2. Hamid, op. cit., P. 26
 3. Ibid
 4. Ibid

learned from him, she taught to her friends and to her children." ¹

In summary, Fatimah's life can be taken as an example of the struggling wife who lived to serve her family without this preventing her from fulfilling her duty towards her society and actively participating in public life. She was an ideal wife who stood patiently beside her husband through the most rough situations, supporting and comforting him.

At the same time, she was the ideal mother, who spent her life bringing up her children in a healthy Islamic atmosphere. On the other hand, she was the devoted daughter who suffered with her father and helped him in the most critical situations to spread his mission. Through the exploration of her life, we can learn the ideal treatment of the father towards his daughter and how Islam changed the old concept about the father-daughter relationship.

The remainder of this survey covers a limited selection of some female characters who played a vital active role in her most social fields. They showed great courage and strength on behalf of the call of Islam and the preservation of faith. The range may help show us the extent to which Islam gives women the right to participate in society.

Persecution elicited a consistently positive response from early female converts whereas the biographies and sources all agree that all oppressed men - except Bilāl bin Rabāḥ - sometimes out of necessity, hid their conversion to Islam and pretended to be unbelievers

1. Waddy, op; cit., P. 50. Bint al-Shāṭi', op. cit., P. 160
Ibn S'ad, op. cit., Vol. 8, p. 120

just to save their lives.¹ As for the oppressed Muslim women, they refused to even pretend to be unbelievers and withstood the persecution and torture until either they rid themselves of their persecutors or were martyrs to their faith. Among such women was Sumayyah Bint Khibbā'. She was a maid to Abū Hudhayfah² and was married to Yāsir. She was the seventh person to be converted to Islam and follow the Prophet Muhammad.³ Summayyah, her husband and their son, 'Ammār, were persecuted so that they would renounce Islam and re-adopt paganism. During the midday heat Banū Makhzūm would drag the family out into the open desert and throw hot sand on them. The Prophet (to give them courage) would pass by them and say, "Forbearance (Yāsir's family), you are promised paradise."⁴

Although Summayyah was not young and her constitution was weak, yet no matter how much torture she received, she remained resilient, resolute and brave. She would not renounce Islam, even to save her life, she finally died from wounds inflicted on her by Abū Jahl, thus becoming the first woman martyr in Islamic history.⁵ However, when Abū Jahl was killed at the Battle of Badr, the Prophet said to 'Ammār, "Allah has killed the one who killed your mother."⁶

Another woman who refused to renounce her religion under persecution was 'Umm Shurayk. On conversion to Islam, she visited the women of Quraysh in secret to teach them her new beliefs. When discovered by Meccan unbelievers, she was sent by camel through the desert without food or water for three days and forced to stand in the sun while her escort took shelter and refreshment. Eventually, while they

1. See 'Afifī, op. cit., Vol. 2, P. 88

2. See Ibn Sa'd, op. cit., Vol. 8, P. 193. Ibn Hajar, op. cit., Vol. 8, P. 114

3. See Ibn Hajar, op. cit., Vol. 8, P. 114,

4. Ibid and Ibn Sa'd, op. cit., P. 193 and 'Afifī, Vol. 2, P. 88

5. Ibn Sa'd, op. cit., P. 193 and Ibn Hajar, op. cit., P. 114

6. Ibid

slept, she drank from their water carrier and poured the rest over her. When they awoke, they suspected her, but she invented another story, upon which they said, "if you are truthful, then your religion is better than ours." They found the water carrier as full as they had left it, and in accordance with their own argument, her persecutors converted to Islam.¹

Another such woman is 'Umm Kulthūm Bint 'Uqbah bin Abī Mu'ayīt whose father was one of the noblemen of Quraysh.²

Her half brother on her mother's side was 'Uthmān bin Affān. She converted to Islam in Mecca before the Hijra, the only one in her family to do so. She left her family and her home and travelled alone, unafraid, in the middle of the night across the desert and mountains all the way from Mecca to al-Madinah for the sake of her religion. As she approached al-Madinah, she found that the truce had been agreed between the Prophet and the idolators of al-Hudaybiyah. The idolators stipulated to the Prophet on the day of al-Hudaybiyah 'Who ever comes from our side and is of your religion, you return to us, and who ever comes from your side, we return to you.' So when 'Umm Kalthūm arrived, her brothers, al-Walīd and 'Ammār, sons of 'Uqbah, came to the Prophet to reclaim her, they said to him, 'Muhammad, fulfill our conditions and the pact we made.' But 'Umm Kulthūm said, 'O Prophet, I am a woman, and the status of women is weak as you know, so you would return me to pagans, so that they would undermine my religion but not tolerate."³

1. See Ibn Hajar, op. cit., Vol. 8, P. 248.

2. 'Afifi, op. cit., P. 90

3. Ibid & Ibn Sa'd, op. cit., Vol. 8, P. 167 & Ibn Hajar, op. cit., P. 274

It is said a Qur'anic verse was revealed regarding this:

"O ye who believe! When there come to you believing women refugees, examine and test them. God knows best as to their faith." 1

Consequently, the Prophet persuaded her brothers that women immigrants who have entered the faith and embraced Islam shall not be returned to their people, as the male immigrants are. This incident shows how Islam and the Prophet protect women. 'Umm Kulthūm was at this point single, but she settled in al-Madinah and married Zayed ibn Harīthah by whom she had a child. 2

She was one of the strongest and most intelligent of Muslim women of her day. These women were all inspired by the new hope held out to them by Islam to be treated as equals regardless of their social or economic status. It was largely this hope which lent them the endurance to resist all efforts to make them revert to paganism, and it was a validated hope.

The participation of women was not confined only to the struggle on behalf of the call of Islam but extended into most other fields. Muslim women contributed to medicine and nursing during the early days of Islam. One such woman who was a leading figure in the medical field was Rufaydah al-Ansāriyyah, who was an excellent nurse. The Prophet commissioned her to care for the sick and tend the wounded. 3 She had a tent set up which was well known to all who needed medical treatment. 4 Therefore, fourteen centuries ago, at the time of the Prophet, women in Islamic society worked as doctors. Far from objecting

1. Q. 60.10

2. Ibn al-Athīr, op. cit., Vol. 7, P. 386 & Ibn Sa'd, op. cit., P. 168

3. Ibn al-Athīr, op. cit., Vol. 7, P. 110 & Ibn Hajar, op. cit., Vol. 8, p. 80

4. Ibid

the Prophet encouraged them to enter this profession. It is said that when Sa'd, one of the companions was wounded by an arrow at the Battle of al-Khandaq, the Prophet said, "Carry him to Rufaydah's tent." ¹ The Prophet would pass by him and say, "How did you sleep, and how did you awaken?" ² which demonstrates both his concern for the sick and his interest in Rufaydah's role as a nurse.

Another healer was al-Rabi' bin Mu'awidh al-Ansariyyah. Al-Rabi' used to accompany the Prophet in battles, tend to the wounded and generally serve the fighters. Al-Rabi' recounts, "we would carry out the military campaign with the Prophet and give the force to drink and serve them and return the killed and wounded to al-Madinah." ³

Layla al-Ghifariyyah was another woman who went out with the Prophet in Jihad. She recounts: "I went out in battle with the Prophet and I would treat and serve the sick." ⁴

Ku'aybah bint Sa'd al-Aslamiyyah, was a nurse as well as one of Islam's mounted warriors. She witnessed battles and travelled great distances. She was at Khaybar with the Prophet and was rewarded as much as male warriors. ⁵ She participated with men in the defence of Islam. She also treated the wounded and the sick.

However, women's role in war was not confined only to nursing and medical treatment, but they were also engaged in actual combat. The most famous amongst such women was Nasibah bint K'ab al-Maziniyyah, who was married to Zayd bin Asim. She had originally found the Prophet on the battlefield at Uhud as a nurse. ⁶

1. Ibid

2. Ibid

3. Ibid

4. Ibn Hajar, op. cit., Vol. 8, P. 183

5. Ibn al-Athir, op. cit., Vol. 7, P.252 & Ibn Hajar, op. cit., Vol.8,P.176

6. Ibn al-Athir, op. cit., Vol.7, P.280

At the beginning of the battles, the Muslims were victorious, but they suffered a reverse in which many were killed by Quraysh and many others fled, thus leaving but a few to continue fighting in the battle and to guard the Prophet. Nasībah, seeing that the Prophet was isolated, took her sword and started to fight her way to him. The Prophet later said, "Whether I look to my right or left, there I saw her fighting on for me." ¹ Her son, 'Ammār was badly wounded in his hand during the battle, so the Prophet said to him, "Bandage your wounded," His mother bandaged him up and offered him to continue fighting. The Prophet was greatly impressed by her courage and strength and said to her, "What you are able to bear, nobody can bear it." ² Then the man who wounded her son was presented to her. The Prophet said, "It is the man who struck your son." Nasībah confronted the man, and struck him so that he fell to the ground. The Prophet smiled and said, "Oh, 'Umm 'Ammār, you have shown your wrath." ³ She fought not only in the Battle of 'Uhud, but also in other battles. Her son, Ḥabīb, fought alongside her with Khālīd Ibn al-Walīd in the battle against Musaylamah in which he was killed, so Nasībah decided to fight on in his stead, until either she or Musaylamah was killed. She was present at Yamāmah and took part in the battle in which Musaylamah was in fact killed and during that battle, she lost a hand. ⁴ The Nasībah story and the Prophet's reaction to her participation in actual combat without his disapproval, indicates that the woman can under certain circumstances, participate fully in defending her faith and her life even if this meant actual fighting. This shows that the woman in Islam is treated as an active member of the Society.

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1. Ibid
 2. Ibid
 3. Ibid
 4. Ibid

However, women in Islam not only participated in war as nurses or as combatants, but they also contributed to the decisionmaking, whether regarding everyday affairs or weighty matters. They expressed their opinions and were consulted for their advice. An example of this is that the Prophet sometimes turned to his wives for advice in important matters. Khadijah was the one who stood by right at the beginning of the call of Islam, and sustained him by her faith and great support as was mentioned before. The sources also recount the wise role played by the Mother of Believers, 'Umm Salamah during the al-Hudayybiyah truce. The Prophet was unable to command co-operation from those who dissented from conditions of the truce, amongst them 'umar Ib al-Khaṭṭāb, who all believed that given that they were the victors, they should not forfeit any of their rights. But the Prophet said, "I am the servant of Allah, and I shall not disobey his order, and He shall not forsake me."

However, when the prophet ordered his companions to slaughter their offerings and then move forward, not a single man stood up. He repeated his request three times, but not one responded. At a loss, he went to his wife, 'Umm Salamah, and related what happened. Her advice was to go out and to slaughter a sheep (as a religious duty). Without speaking to any of them, the Prophet did as advised and when his companions saw this, they got up, slaughtered sheep and shaved their heads. The Muslims from then on realised the wisdom behind the conditions of the truce.¹ 'Umm Salamah's courage and wisdom were further demonstrated when she rode out with the Prophet during the conquest of Mecca and of Ṭā'if and in the battles of Hawāzan and Ṭhaqīf.

1. Ibid

There were many occasions when Muslim women's intelligence, wisdom and decisiveness of action were put to the test. Safiyya Bint Abdal-Muṭalib, the Prophet's paternal aunt and mother of al-Zubayr ib. al-ʿAwwām was given an opportunity, when Quraysh, with all the clans, rode against the Prophet and marched on al-Madinah to massacre the Muslims. The Prophet gathered the women and children in the fortress of Banī Hārith away from danger. While Safiyya was standing guard, she noticed one of the enemy's cavalry men close to the fortress. Afraid that he might climb the walls or alert the rest of his battalion, to their whereabouts, she asked Ḥassān bin Thābit to kill the man, but he said to her, "Allah forgive you, daughter of Abd al-Muṭtalib. By Allah, do you know that I am not the person to do so." ¹

Undaunted, she took a post and went down to the man, and despite his being armed, killed him. This shows her courage and quick thinking.

Periods of peace as well as war enabled women to play a significant role in the early Islam period. Islam gives women the right to give asylum and protection. 'Umm Ḥanī Bint Abū Ṭalib, Ali's sister, and therefore the Prophet's cousin, had given asylum to two men related to her by marriage. 'Ali bin Abī Ṭalib wanted to kill them, so she locked them in and went to the Prophet to inform him. The Prophet approved her action and said, "We have protected whom you have protected and trusted those whom you have trusted. So he must not kill them." ² In addition to offering asylum, a woman could also redeem a captive. The sources also recount that Zaynab, the Prophet's eldest daughter had dissolved her marriage to Abī Al-ʿAās because he was an idolator. But when he was captured in the Battle of Badr, she redeemed him and the

1. See 'Afīfī, op. cit., Vol. 2, P. 117

Prophet accepted him. But once he converted to Islam, the couple returned to one another. ¹

Reporting the Hadith of the Prophet was another important area in which women made a significant contribution in early Islam. It was stated by Ibn Sa'd in the section which he devoted to the women - Hadith reporters that there were 700 women who reported Hadiths they heard either from the Prophet himself or from his associates. For example, Fatimah al-Zahra's reported 387 Hadith, 'Asma' Bint Abi Bakr reported 58, Zaynab Bint Jahsh reported 111 Hadiths, Maymunah Bint al-Harith al Hilaliyyah reported 76 Hadith. Their contribution was not limited to merely reporting Hadith during and after the Prophet's time, but also some women were considered to be experts in religious instruction. Among such women were 'A'isha (the Prophet's wife) and 'Umm al-Darda'. ²

The Muslim women moreover, made a contribution in the field of literature. Among such women was Khawla Bint Tha'alab, who was particularly known because of her famous problem about which she consulted the Prophet, and this was the immediate reason behind revealing the Qur'anic verses that prohibited Zihar, as mentioned earlier.

It was also she who spoke to Umar ibn al-Khattab as he came out of the Mosque accompanied by al-Jarud. After mutual compliments between her and Umar, she spoke to Umar saying, "Oh Umar, I have known you when you were Umar (in the diminutive) and looking after sheep

1. Ibid

2. Ibn Sa'd, op. cit., Vol. 2, P. 374

in 'Ukaz marketplace. It was not too long ago. Now you are called 'Amīr al-Mu'mīnīn (the Commander of the Believers) so, fear Allah and look after your subjects..." Al-Jarūd turned to her saying, "Oh woman, you have been so severe to Amīr al-Mu'mīnīn. 'Umar interfered saying to al-Jarūd, "Leave her alone; do you not know her? This is Khawla whose voice was heard by Allah in the heavens. So 'Umar must listen to her." ¹

A further role which some women developed was as artisans. For example, Salamah Bint Zam'āah (the Prophet's wife and Mother of Believers) was a skilful craftswoman who used to work al-'Adīm (a kind of leather). ² Raytah Bint Mu'awiyah al-Thaqafiyah was an artisan whose husband Abal-Allah bin Masud was a jobless man and she carried out the burden of providing for her family. ³

Zaynab bint Jahsh was a hard working woman who used to work with her hands and distribute charity to the poor. ⁴ Others worked in fosterage for example, Halīmah al Sa'diyyah who had fostered Muhammad in his childhood. Moreover, some women reached high positions and held recognised jobs. For instance, Al-Shifā'ā' bint Abd Allah used to teach reading and writing to the Muslim women. The Prophet himself asked her to teach Hafsa (the Prophet's wife) how to read and write. And during the Caliphate, 'Umar bin al-Khattāb' she was asked by him to hold the job of supervising trading in al-Madinah market Place. ⁴

A further aspect of life in which Islam brought changes was the ritual of mourning over the dead. Islam forbade the manic expression of grief

1. Harb al-Ghazālī, Istiqlāl al-Marāah fī al-Islām (Independent Woman in Islam), P. 58
2. See Ibn al-Athīr, op. cit., Vol. 7, P. 447
3. Ibid
4. Ibid

through slapping their faces, tearing their clothes and wailing which had been customary in Jahiliyyah. Furthermore, the period of mourning was reduced from one year to three days except in the case of the death of a husband, when the period was four months ten days, as mentioned earlier. When a group of women converted to Islam, the Prophet extracted a personal pledge from them that they would observe these changes. The purpose of forbidding excessive outward displays of grief was in order to nurture greater inner patience and endurance under stress and in crisis.

One of the examples of faithful women who demonstrated great forbearance in crisis was the well-known poetess, al-Khansā'. "Her life spans a time of unrest in the history of Arabia, the years before the rise of the Prophet Muhammad and the acceptance of his message. For history has recorded the extent and depth of the grief she experienced and demonstrated at the loss of her brothers, Sakhr and Mu'awiyah as she says:

"What have we done to you, death,
That you treat us so with always another catch.
One day a warrior, the next day a head of state,
Charmed by the loyal, you chose the best." 2

She was considered talented, "Her poetry, from the time of her brother's death assumed a dark and sombre quality, but the most severe critics, past and present, attest to its magnificence. The Prophet himself is said to have been very fond of her poetry and often asked her to recite for him when she was in his company.

1. See Fernea, Elizabeth & Bezingan, Basima, op. cit., P. 39 & Ibn Hajar, op. cit., Vol. 8, P. 66
2. Ibid

However, history also recorded the patience and strength she demonstrated after her conversion. Her sons took part in the Battle of al-Qādisiyyah, and before they left, her advice to them was to be forbearing and fearless. The four sons later fell in the battle and when news reached al-Khansā,¹ she showed great courage and dignity and her only response was, "I consider it an honour that they died for the sake of Islam. I ask only that God allow me to meet them in Paradise."¹

Another woman, Umm Salīm Bint Miḥān al Ansāriyyah, who was one of the early converts to Islam in Mecca and one of the people who followed the Prophet showed endurance specifically for the sake of her faith. Her conversion was against the will of her husband, Mālik ibn al-Nadīr. However, she taught their small child everything about Islam, despite her husband's objection. Mālik would become furious and say to her, "Do not ruin my son." However, he gave up on her and left for Syria and there he met his fate. She brought Ans up on her own and when he was a young boy, Abū Talḥah Zayd ibn Sahl who was an idolator, proposed to her. She refused to marry him because he was not a Muslim, but still discussed Islam with him and tried to persuade him to convert to Islam, telling him that those idols which he worshipped were worthless, with no power either to harm or benefit anyone. Islam finally became established in his heart, and he converted, and then she married him.²

With regard to her fortitude in times of trial and misfortune, her son recounts: "My half brother fell ill one day while Abū Talḥah

1. Ibid

2. Ibn Ḥajar, op. cit., Vol. 8, P. 243, & Ibn al-Athīr, op. cit., P. 245 and Ibn S'ad op cit., Vol .8, P. 311

was in the Mosque and died. 'Umm Salama prepared him and said, "Do not tell Abū Talḥah about his son's death." When Abū Talḥah returned from the Mosque, she postponed telling him of their son's death until they had passed a pleasant evening with friends. She then said, "Abū Talḥah, have you seen so and so borrow a gift enjoy it and when it was asked back of them, it was painful for them to return it?" He said, "They are not fair." She said, "It is your son ... he was a gift from Allah and He has made him die..." He said, "Unto Him ye will be brought back," and I thank Allah. And he said, "by Allah, I will not be weaker than you to make me show less fortitude."¹ Then he went to the Prophet in the morning and told him what happened and the Prophet told him, "May Allah's blessings be for you and for your nights."²

She sometimes also engaged in the Battle of Hunayn when she was pregnant. Her husband saw her carrying a dagger around her waist. He reported her to the Prophet. She said, "Oh Prophet, should one of the idolators approach, I would strike him in the stomach and I will kill the escaped men and I would strike their necks." The Prophet smiled at her attitude.³

From the above examples, it is evident that Islam does not operate any restrictions on the areas of life in which a woman can fully participate for the most part on equal terms with a man except where her physiological and psychological differences are taken into account.

1. Ibid
 2. Ibid
 3. Ibid

CONCLUSION

In conclusion, the triumph of Islam was to impose, through the Quranic laws, a cohesive system upon the disparate society within which it emerged. The status of women in pre-Islamic Arabia had fluctuated from tribe to tribe and even within the same tribe, under the influence of varying social and cultural features. Thus, some tribes accorded the woman certain rights, such as the right to fight alongside the men, the right to trade and to participate in society in other ways. Others, however, treated the woman as a second class citizen and avoided dealings with her or even mention of her. The most extreme practised burial alive on their daughters. Some restrictions on women were common to all, in such areas as inheritance and dowry. The contradictory elements within pre-Islamic Arabia may be attributed to the absence of any general systems of laws or even of legally accepted customs to safeguard women and their rights. It would be inadmissible, therefore, to generalise that the status of women was always a degrading and humiliating one.

The effects of the transition from Jahiliyah to Islam were felt on society as a whole. Within this total reshaping, the woman's status was accordingly affected. The existing positive aspects received approval and were adopted more widely, while the negative aspects were abolished. Therefore, in general, the woman's rights increased under Islam, qua wife, qua mother, qua daughter and qua member of society. In Islam, women are regarded as men's equals insofar as they are all Muslims following the Islamic law. Any restrictions which were laid on the women by Islam were, as has been shown, for her own protection.

Turning to the question which was posed in the introduction about a possible way for Muslim women between total suppression and western excess, it is concluded that modern Islamic societies are at variance with the original because subsequently different interpretations and cultural backgrounds have intervened. Some societies have therefore literally put women behind closed doors while others have imported foreign customs as a means of liberation. Neither of these corresponds to the original conception of Islam as discussed above.

It is clear from the examples studied that within the framework of Islam exists the opportunity for women to penetrate every field in society in a fully participatory role, provided that it is not incompatible with her physiology and with preservation of her dignity. Therefore the breadth of opportunities to her in an Islamic society which is founded upon the original values, and not the later restrictive interpretations, does not stand in need of the influence of foreign ideas of freedom, but offers in its own right a life of equality and fulfillment to every woman.

In the turbulent sea of ideologies, both Muslims and non-Muslims would benefit from a knowledge of the values of the first Islamic society, particularly concerning the vital question of the status of women. It is hoped that the present study has made a modest contribution to this field.

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