

## **“Women and their Legal Rights in Monotheistic Religions” by Dr. Sherif Muhammad, Fountain Magazine, Issue 41 / January - March 2003**

### **Eve’s fault?**

The Qur’an places equal blame on both Adam and Eve (7:19:23) and nowhere gives even the slightest hint that Eve tempted Adam to eat from the tree or that she ate before he did. In other words, Eve is not a temptress, a seducer, or a deceiver. Moreover, she is not to be blamed for the pains of childbearing. God, according to the Qur’an, punishes no one for another’s faults. Both Adam and Eve committed a sin and then asked for and received God’s forgiveness.

One of the most important principles outlined in the Qur’an is the notion of religious, moral and spiritual, obligations being incumbent upon all individuals, regardless of gender. The Qur’an states, for example: “Those who submit to God and accept the true Faith; who are devout, sincere, patient, humble charitable, and chaste; who fast and are ever mindful of God-on these, both men and women, God will bestow forgiveness and a rich recompense.”

The Qur’an views the women in the same way as it does men: Both genders are God’s creatures whose sublime goal on Earth is to worship their Lord, do righteous deeds and avoid evil, and then be judged accordingly. The Qur’an never mentions that woman is the devil’s gateway or a deceiver by nature, or that man is God’s image, for it proclaims that all men and all women are His creatures. According to the Qur’an, a woman’s role is not limited only to childbirth, for she is required to do as many good deeds as a man is required to do. The Qur’an even gives examples of ideal and upright women of the past, such as the Virgin Mary and Pharaoh’s wife, and instructs all believers, women as well as men, to follow their example: God sets forth, as an example to those who believe, Pharaoh’s wife. Behold, she said: “O my Lord, build for me, in nearness to you, a mansion in the Garden. Save me from Pharaoh and his doings, and save me from those who do wrong.” And Mary the daughter of Imran who guarded her chastity. We breathed into her body of Our spirit, and she testified to the truth of her Lord’s words and Revelations and was one of the devout (66:11-13).

### **Shameful daughters**

Treating daughters as sources of shame led pagan Arabs, before the advent of Islam, to practice female infanticide. The Qur’an condemned this heinous practice: 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 her on contempt or bury her in the dust? Ah! What an evil they decide on? (16:58-59). This sinister crime would never have ended in Arabia were it not for the power of the scathing terms the Qur’an used to condemn it (16:59, 43:17, and 81:8-9). Moreover, the Qur’an makes no distinction between boys and girls, for it considers the birth of a girl, as well as the birth of a boy, to be a gift and a blessing from God. It even mentions the gift of a daughter’s birth first: To God belongs the dominion of the heavens and Earth. He creates what He wills. He bestows female children to whomever He wills, and bestows male children to whomever He wills (42:49).

In order to wipe out all traces of female infanticide in the nascent Muslim society, Prophet Muhammad promised those who were blessed with daughters a great reward if they would bring them up kindly: “He who is involved in bringing up daughters, and directs benevolent treatment toward them, they will be a protection for him against Hell-Fire” (Bukhari and Muslim), and: “Whoever maintains two girls till they attain maturity, he and I will come on the Resurrection Day like this; and he joined his fingers” (Muslim).

### **Female education**

One short story narrated in the Qur’an concisely sums up Islam’s view: Khawlah was a Muslim woman whose husband, Aws, exclaimed in a moment of anger: “You are to me as the back of my mother.” Pagan Arabs considered this to be a statement of divorce that freed the husband from any conjugal responsibility but did not allow the wife to leave the husband’s home or marry another man. Hearing these words, Khawlah was in a miserable situation. She went straight to the Prophet to plead her case. The Prophet thought that she should be patient, since there seemed to be no way out. Khawla kept arguing with him in the hope of saving her suspended marriage. Shortly thereafter, Revelation descended and her plea was accepted. The Divine verdict abolished this iniquitous custom. Surat al-Mujadilah (The Women Who Argues), the Qur’an’s fifty-eighth chapter, was named after this incident: God has heard the statement of the woman who pleads with you (the Prophet) concerning her husband and carries her complaint to God. He hears the arguments between both of you, for He hears and sees all things (58:1).

A woman in the Qur’anic conception has the right to argue even with the Prophet. No one has the right to tell her to be silent, and she is under no obligation to consider her husband the one and only reference in matters of law and religion.

### **Unclean and impure women**

Islam does not consider a menstruating woman to possess any contagious uncleanness. She lives her normal life with only one restriction: The couple cannot have sexual relations during her menstrual period. Any other physical contact between them is permissible. A menstruating woman also is exempted from some rituals, such as the daily prayers and fasting.

### **Bearing witness**

The Qur’an instructs those believers who are engaged in financial transactions to get two male witnesses or one male and two female witnesses (2:282). However, in other situations the Qur’an accepts the testimony of a woman as equal to that of a man. In fact, sometimes a woman’s testimony can invalidate that of a man. For example, if a man accuses his wife of unchastity, he must solemnly swear five times as evidence of the wife’s guilt. If the wife denies and swears similarly five times, she is not considered guilty. In either case, however, the marriage is dissolved (24:6-11).

### **Vows**

In Islam, the vow of every Muslim, male or female, is binding upon him or her, and no one can repudiate another person's pledge. If a man or a woman fail to keep their solemn oath, each of them has to make the proper expiation, as outlined in the Qur'an: He [God] will call you to account for your deliberate oaths. For expiation, feed ten indigent persons on a scale of the average for the food of your families, or clothe them, or free a slave. If that is beyond your means, fast for three days. That is the expiation for the oaths you have sworn. But keep your oaths (5:89).

Male and female Companions of the Prophet would come to him independently and present their oath of allegiance to him personally. O Prophet! When believing women come to you to make a covenant with you that they will not associate in worship anything with God, nor steal, nor fornicate, nor kill their own children, nor slander anyone, nor disobey you in any just matter, then make a covenant with them and pray to God for the forgiveness of their sins. Indeed God is Forgiving and most Merciful (60:12). No man could swear the oath on his wife's or daughter's behalf, and no man could repudiate an oath made by any of his female relatives.

### **A wife's property**

From the beginning of its revelation, Islam granted married women the independent personality denied to them in the Judeo-Christian West until very recently. In Islam, the bride and her family are under no obligation to present a gift to the groom, and so a Muslim daughter is not considered a liability. A woman is so dignified by Islam that she does not need to present gifts to attract a potential husband; rather, the groom must present a marriage gift to the bride. This gift is considered her property, for the groom or her family have no share in or control over it, and she retains it even if she is later divorced. The husband has no share in his wife's property except what she offers him with her free consent.

### **Divorce**

Islam views marriage as a sanctified bond that can be broken only for compelling reasons. Couples are instructed to pursue all possible remedies to save their marriages, for divorce is the last resort. In a nutshell, Islam recognizes divorce but discourages it by all means. Let's focus on the recognition side first. Islam recognizes the right of both partners to end their marriage. Islam gives the husband the right to divorce and, allows the wife to dissolve the marriage. If the husband dissolves the marriage, the Qur'an explicitly prohibits him from taking back their marriage gifts, regardless of their value: But if you decide to take one wife in place of another, even if you had given the latter a whole treasure for dowry, take not the least bit of it back. Would you take it by slander and a manifest wrong (4:20).

If the wife ends the marriage, she may return the marriage gifts to her husband, for in this case doing so would be a fair compensation for a husband who wants to keep his wife while she chooses to leave him. The Qur'an instructs men not to take back any of the gifts they have given to their wives, unless she chooses to end the marriage: It is not lawful for you (men) to take back any of your gifts except when both parties 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. These are the limits ordained by God, so do not transgress them (2:229).

Once, a woman came to the Prophet and asked him to dissolve her marriage. She told him that she had no complaints against her husband's character or manners, but that she honestly disliked him so much that she could no longer live with him. Prophet asked her: "Would you give him his garden (the marriage gift he had given her) back?" She said: "Yes." The Prophet then instructed the man to take back his garden and accept the marriage's dissolution (Bukhari). In some cases, a wife might be willing to keep her marriage but find herself obliged to get a divorce for such compelling reasons as her husband's cruelty or inability to fulfill his conjugal duties, desertion without a reason, and so on. In these cases, the court dissolves the marriage. In short, Islam offers women the rights to end the marriage and to sue for divorce. Thus, a recalcitrant husband can never chain his wife to him.

Let's now focus our attention on how Islam discourages divorce. The Prophet told the believers that: "Among all the permitted acts, divorce is the most hateful to God" (Abu Dawud). A man should not divorce his wife just because he dislikes her. The Qur'an instructs men to be kind to their wives even in cases of lukewarm emotions or feelings of dislike: Live with them (your wives) on a footing of kindness and equity. If you dislike them it may be that you dislike something in which Allah has placed a great deal of good (4:19). Prophet Muhammad gave a similar instruction: "A believing man must not hate a believing woman. If he dislikes one of her traits, he will be pleased with another" (Muslim). He also emphasized that the best Muslims are those who are best to their wives: "The believers who show the most perfect faith are those who have the best character, and the best of you are those who are best to their wives" (Tirmidhi).

However Islam, being a practical religion, recognizes that there are circumstances in which a marriage is on the verge of collapsing. In such cases, advice to be kind or self-restrained is no longer viable. Given this, then, how can such marriages be saved? The Qur'an offers some practical advice for the spouse (husband or wife) whose partner (wife or husband) is the wrongdoer.

If the wife's bad conduct is threatening the marriage, the Qur'an gives the husband four types of advice: As to those women on whose part you fear disloyalty and ill-conduct, admonish them, refuse to share their beds, and beat them (lightly without slapping their faces). But if they return to obedience, do not seek against them means of annoyance, for God is Most High, Great. If you fear a break between them, appoint two arbiters, one from his family and the other from hers. If they wish for peace, God will cause their reconciliation (4:34-35).

The first three are to be tried first. If they fail in this effort, the help of the families concerned should be sought. In the case of beating the rebellious wife, we should recognize the fact that this is no more than a temporary measure that is to be resorted to only as third in line in cases of extreme necessity in hopes that it might remedy the wife's wrongdoing. If this measure is successful, the husband must not continue to annoy his wife. If this measure fails, the husband must resort to the final measure: family-assisted reconciliation.

Prophet Muhammad (PBUH) instructed husbands to use these measures only in extreme cases, such as a wife's open lewdness. Even in these cases the punishment should be slight and, if his wife desists, he must not irritate her: "In case they are guilty of open lewdness you may leave

them alone in their beds and inflict slight punishment. If they are obedient to you, do not seek against them any means of annoyance” (Tirmidhi). Furthermore, the Prophet condemned any unjustifiable beating. Some wives complained to him that their husbands had beaten them. Hearing that, he stated that: “Those who do so (beat their wives) are not the best among you” (Abu Dawud) and: “The best of you is he who is best to his family, and I am the best among you to my family” (Tirmidhi). He even advised Fatimah bint Qais not to marry a known wife-beater: “I went to the Prophet and said: ‘Abul Jahm and Mu’awiyah have proposed to marry me.’ The Prophet (by way of advice) said: ‘Mu’awiyah is very poor, and Abul Jahm beats women” (Muslim).

In the case of a wife who is seeking divorce, the Qur’an offers the following advice: 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 (4:128). In this case, she is advised to seek reconciliation with her husband (with or without family assistance). The Qur’an does not advise her to deny sex to her husband or to beat him. The reason for this disparity might be to protect the wife from a violent physical reaction by her already misbehaving husband, for such a reaction would only harm the wife and damage the marriage even further. Some Muslim scholars have suggested that the court can apply these measures on the wife’s behalf. In other words, the court first admonishes the rebellious husband, then forbids him his wife’s bed, and finally executes a symbolic beating.

To sum up, Islam offers married couples much viable advice to save their marriages during times of trouble and tension. If one partner jeopardizes the marriage, the Qur’an advises the other partner to do whatever possible to save this sacred bond. If all measures fail, Islam allows the partners to separate peacefully and amicably.

## **Mothers**

Islam gives motherhood unparalleled honor, respect, and esteem. The Qur’an places the importance of kindness to parents as second only to worshipping God Almighty: Your Lord has decreed that you worship none but Him, and that you be kind to parents. Whether one or both of them attain old age in your life, do not say to them a word of contempt or repel them, but address them in terms of honor. And out of kindness, lower to them the wing of humility, and say: “My Lord, bestow on them Your Mercy, for they cherished me in childhood (17:23-24).

The Qur’an also puts special emphasis on the mother’s great role in giving birth and nursing: We have enjoined upon man to be good to his parents. In travail upon travail did his mother bear him and in two years was his weaning. Show gratitude to Me and to your parents (31:14). The Prophet eloquently described the very special place of mothers: “A man asked the Prophet: ‘Whom should I honor most?’ The Prophet replied: ‘Your mother.’ ‘And who comes next?’ asked the man. The Prophet replied: ‘Your mother.’ ‘And who comes next?’ asked the man. The Prophet replied: ‘Your mother.’ ‘And who comes next?’ asked the man. The Prophet replied: ‘Your father’” (Bukhari and Muslim).

Among the few Islamic precepts that Muslims still faithfully observe is the considerate treatment of mothers. The honor that Muslim mothers receive from their sons and daughters is exemplary.

## **“Questions and Answers” by Hikmet Isik, Fountain Magazine, Issue 38 / April - June 2002**

### **Are there examples for the female role in Islam?**

In the social atmospheres of Muslim societies where Islam is not "contaminated" with customs or un-Islamic traditions, Muslim women are full participants in daily life. For example, during the Prophet's time, A'isha (one of the Prophet's wives) led an army. She also was a religious scholar whose views everyone respected. Women prayed in mosques together with men. An old woman could oppose the caliph in the mosque in a judicial matter.

Even in the Ottoman period during the eighteenth century, the wife of an English ambassador highly praised the women and mentioned their roles in Muslim families and society with admiration.

## **“Questions and Answers” by Hikmet Isik, Fountain Magazine, Issue 44 / October-December 2003**

### **In recent years a lot of things have been said concerning the equality of men and women. What can we say about the subject from an Islamic point of view?**

Before discussing the equality of men and women, we should first look more closely at the meaning of "equal" and "equality."

"Equal" means that there is no difference between things, that they have the same nature, quality, value and dimension. On the other hand, "equality" means that there is no discrimination between people in terms of rights.

Having established these definitions of "equal and "equality," then how are we to view women in relation to men?

#### **a) Difference in Nature**

God has created everything in the universe in pairs. It is impossible to say that one of these pairs is equal to the other in all respects. "And of everything we have created pairs that you may reflect." (Az-Zariyat, 51/49).

Just as God has created the electron in relation to the proton, the negative in relation to the positive, and the female seed in relation to the male seed, God has created women and men, and He has formed a unity between these couples. But just as positive and negative are not equal, nor are the electron and proton equal, women are not equal to men. This is an unchanging rule of the nature of creation. Moreover, other than God, Who is One, everything else is deficient and insignificant and cannot continue its existence by itself. So, men and women, who are incomplete by themselves, will come together to form a union, and it is this union that is the essence of the whole.

Therefore, women and men are not equal, but they complete each other. Prophet Muhammad (pbuh), in one of his hadith says: "Women are (the other) half of men."

The word for "other half"-*sakik*-in this hadith means a piece of a whole divided into two through the middle. This means that each piece that is forming the whole is the *sakik* of the other. Thus, according to this hadith, women and men are equal halves as human beings. But they are never the same as the other; that is, their natural, spiritual and psychological structures are different.

In addition, we cannot even claim that individuals of the same gender are equal to one another. Trying to verify this would be to attempt to change the rules of creation; such efforts are useless. Here we should mention that the difference in the creation should not lead men or women to feel superior. On the contrary, God states, "And Who made (things) according to a measure, then guided rightly" (Al-Ala 87/3). He is the One who creates women and men in the best pattern of creation and He is the One Who teaches them how to improve themselves. He is the One Who makes them complementary to one another and the protector and guardian for one another.

#### b) Differences in Duty

Just as women and men cannot be equal in their nature, nor can they be equal in duty. If you expect a woman to perform the same duties as a man, you will in fact be oppressing her. It is obvious that women are different from men physically, biologically and spiritually. It is therefore only normal that, arising from this difference in their natures, that there should be a difference in duties. For instance, men are stronger than women. In this respect, it is very difficult for a woman to do some of the work that a man does. This is not to be seen as an inadequacy of women. Women are generally more merciful, compassionate, intuitive and emotional when compared to men. Both genders are equipped according to the necessities of their duties; this is the true justice. Therefore, instead of studying men and women as if they were on equal terms, we should evaluate women and men separately and according to their own particular natures.

When we compare all the things that humans provide women with in the name of equality with those favors that God the Almighty provides, the former will be very small in comparison. Moreover, all the rights granted to women and all the effort expended on behalf of their gaining "equal rights" is as ridiculous as if we were to give a copper medal to someone whose chest was already covered in gold medals.

The tasks or duties that women do should be suited to their physical, psychological and spiritual nature. Offering a woman a job that she cannot handle, or employing her in a job that is not in her nature to accomplish, has nothing to do with equality or treating a woman as an equal; this is not a humanitarian approach. On the contrary, such behavior is little more than the forceful seizure of the majority of her rights.

A hadith of Prophet Muhammad (pbuh), expresses the subject in a beautiful and elegant manner: "They had put a cow to yoke. It turned and said to its master: I have not been created for such jobs." Rather, it is the ox that was created for such jobs.

In conclusion, everything has been created for a reason. For true justice to prevail, every creature should be employed according to its capabilities and according to the reason for its creation.