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# WOMEN AND EQUALITY IN ISLAM

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Monotheistic religions concern themselves with the rights of women and the role they play within society, the same as they do with the counterpart roles played by men. The Holy books of Jews, Christians and Muslims contain basic principles, laws and moral judgments on a woman's life and the conduct expected of her. Each generation of women has had to cope with these fundamentals and tried to adapt them to the particulars of life during their specific era. With the passage of time each generation has also had to contend with the way previous eras have interpreted these very fundamentals. Thus, in the twentieth century, women have become bound not only by laws ordained by Scripture but also by laws accumulated over the centuries that in fact reflect the experiences of past societies that lived in different historical circumstances, with economic structures, division of labor, political systems as well as international relations, different from those of today. Every society faced

distinct obstacles during different eras, and yet perhaps because each generation has seen its own practices as emanating from Scripture, and since the leaders of past generations are generally seen as holy men and thus as guiding spirits, it has become customary to accept these interpretations of God's laws as being the actual meaning of such laws. Possibly it is the lack of contemporary leadership of equal standard of knowledge and piety that makes people look to the past for guidance, or maybe it is simple nostalgia for a past world that is easier to understand now that it has gone by.

In this modern age, Muslim women have undergone great changes, have seen their societies modernize, industrialize, and interact within an increasingly smaller world in which no nation or society could stand isolated from the rest. They have been trying to come to grips with their changing role, while holding on to the fundamental laws presented by the Quran, they have had to deal with a more public life, an active existence in which they share in the burden of supporting the family and the nation. Islamic countries as a whole have had to deal with the modern age, the rise of nation states, capitalist or socialist transformations, change in family structure and new methods and forms of education. These have effected the male members of the community no less than the female, but as in most social transformations involving male-dominated traditional societies, it is the changes in rights and duties of women that has proven to be more controversial.

Earlier in this century Muslim women have experienced phases in which society encouraged their education, their public role, and a more liberal interpretation of religious laws. These were times of prosperity and revolutionary enthusiasm when state building was still an optimistic endeavour. During the last decade the reverse proved true, with the growth of political and economic difficulties, Muslim societies, faced with the frustrations of development and economic dependency, tried to compensate with a more puritanical approach to social and religious issues. In a way this was an effort to control their communities' destiny in some fashion. One of the results of this has been a reorientation towards a stricter interpretation of the role of women and the start of undermining the rights she has already won.

The subject of Islam and women's rights has been part of an on-going dialogue regarding the interpretation of the Shari'a (Islamic Law) since the end of the nineteenth century when the impact of westernization began to bring about deep structural changes in various Muslim nations. One group of intellectuals and theologians believed that to meet the challenge of modern times their communities must become revitalized through a reopening of the door of ijtihad (interpretation) so that Islamic societies, while holding on to the fundamentals of Islam, can allow its Law to change with changing times. A second group while not disagreeing about the need for ijtihad, has used the sources of Islamic Law to apply a more conservative

interpretation which looks to the past for controls to the challenges of modernization. Rather than pursue a more liberal approach that tries to mold Islam to changing conditions, they wish to mold modern Islamic society to Islamic Law as interpreted by past generations.

This paper concerns itself with this on-going debate, which is taking an increasingly conservative direction today. While the first more liberal group was more effective in the past, with the increasing political, economic and social problems of the last two decades, the more conservative group has gained in prestige and influence. In support of the more liberal argument in this debate, I will try to show how disparate are the rights of women presented by a liberal interpretation based solely on the Holy Quran, to the more conservative one conferred on women by those who give equal importance to the interpretations of past and present clerics as they do to the Quran.

Furthermore, since the rights of women is only part of the debate regarding the Shari$^{c}$a, it is hoped that this paper will also give general support to the need to return to the fundamental laws of Islam and re-interpret them in light of changing circumstances. It is my belief that by looking to the past for answers, one of the most important characteristics of Islam is being undermined, that being its flexibility. As any cleric will tell you, Islam is a universal religion and is meant to fit all places and all times. Today the call for a return to Islam has taken upon itself a strict interpretation of the past

and sees that reform of today's community should be based on the actions of those who came before. By doing so what is being denied is that very universality that is stressed orally, for what is advocated for today is not a religion meant to fit all times and places, but a selective reading from the accumulated interpretations of past clerics to fit with the wishes of conservative individuals and groups. These can be called fundamentalists, but with caution since they do not build their interpretations on a strict reading of the Quran alone, for such reading would be counter-productive to their purposes. Rather, when it comes to controversial issues they generally prefer to support their arguments by the juristic interpretations of present and previous generations of clerics.

The issue of how Islamic Law is to be interpreted is a vital one, not only for women's rights, but because the methodology decided upon by the community will be of critical importance to the future of Islam itself. Those who continue to insist on holding on to the past as a way of holding on to Islam are not only undermining the very fundamental character of Islam as a universal religion, but they are also holding back their countries from advancing and developing in a world community that is quite different than that of the medieval age in which most of the Fiqh was formulated, which can only lead to further political weakness and peripheralization of their societies. Today various countries stand at the threshold of deciding whether to use the Shari'a (Islamic law) as the main law in the state, to have a

combination of religious law and man-made law, or to stick to man-made law and not go beyond it. It my belief that if by Shari'a law is meant the type of interpretations that have been presented by conservative groups, then such laws can only have negative results on the community. But if, as the great nineteenth century Egyptian reformer Shaykh Muhammad ᶜAbdu has called for, we re-open the door of ijtihad and allow for a re-reading of the Quran in terms of present day conditions, then not only would the universality of Islam be established, but this could prove to be a bridge between holding on to the principles of Islam and at the same time allowing Islamic society to participate in the progress of world civilization.

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"I have continued to stress on people the importance of knowledge (of religion), since it (knowledge) is the light by which one should be guided. But I have found that women are in greater need of being reminded of this than men because of their aloofness from knowledge, and their natural inclination for fascination by (frivolous) pleasures. Usually a young girl is brought up in her own home and is not taught the Quran and does not know ablutions...and is never told about the rights of a husband before her marriage...perhaps she has seen her mother take from the husband's funds without his permission, and practices witchcraft on him, claiming the legitimacy of this (action) as being wishing to win his love; (Furthermore) she prays while seated even though she

has the ability to stand up, and intrigues to spoliate a pregnancy (when it happens)..."[1]

Such a view of women is clearly one built on suspicion that may stem from the customary separation of the sexes in traditional society. This segregation helped build an image of women as being essentially sinful and not in control of their own emotions. It is interesting that to support his religious arguments about women, Ibn al-Jawzy uses mostly Hadith and Fiqh in preference to the Quran. A good example of this is his assertion that it is best for women not to be in the company of men, which has been used to justify the isolation of women and the restrictions put on their movements and associations. For proof he uses the following story: "As reported by Sa$^{c}$id b. al-Mussayib, (who said) that $^{c}$Ali b. Abi Talib, peace be with him, said to Fatima, pbwh (his wife and the Prophet's daughter): What is best for women? She answered: that she not see men and they not see them. Then $^{c}$Ali said: I informed the Prophet (God's prayers be with him) of this and he (the Prophet) answered: 'Fatima is but a part of me.'"[2] Based on this type of Hadith,

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[1]Abi al-Farag b. al-Jawzi, Ahkam al-Nisa' (Cairo: Maktabat al-Turath al-Islami, 1984), p. 4.

[2]Ibid., p. 39-40. In "Warning Women from Leaving their Houses", the author discusses why they should not leave the home and how they should dressed if they do. "A woman must not go out (of the home) however she is able to, for even if she (intended) no evil, the people would (still) not be safe from her. And if she is forced to go out, after taking her husband's permission, she should wear worn clothes...and makes sure that her voice is not heard, and that she walks at the side of the road and not in the middle of it." As proof of the above he uses a Hadith of the Prophet, which he is using out of context: "$^{c}$Aisha (Prophet's wife), pbwh, said: I heard the Prophet of God, pbwh, saying:

fundamentalists today have built a whole structure of morals that they expect to be followed by Muslim women. There is no indication as to whether such a Hadith does confirm what the Quran says, nor is there any explanation as to the historical context in which such a conversation may have taken place, or whether it dealt with a particular incident causing this type of emotional expression. What supports such a possibility is that often verses of the Quran itself were revealed to the Prophet which dealt with immediate problems and were not meant as general rules. Often the Quran would present ayyas which were meant to correct such impressions, and provide a general rule regarding a particular point.

The above-mentioned Hadith could have had no more than limited validity, particular since in Islam there is no concept of 'Original Sin', but puts sin in its rightful perspective. Thus when the Quran discusses a sinful woman it almost always discusses a sinful man in the same terms. Surat al-Nur, which partially concerns itself with matters relating to relations between men and women tells us:

> "Say to the believing men
> That they should lower
> Their gaze and guard
> Their modesty: that will make
> for greater purity for them:
> And God is well-acquainted
> With all that they do."

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"Any woman who removes her clothes in other than her own home will destroy all that (love) that is between her and God." What has one to do with the other is not clear, and that is often the case with such rules regarding women.

"And say to the believing women
That they should lower
Their gaze and guard
Their modesty, that they
Should not display their
Beauty and ornaments except
What (must ordinarily) appear
Thereof..."[3]

Unfortunately, even though the Quran recognizes both men and women as possible sinners, and in fact provides for equal punishment to both, we find that the issue of sin and shame has traditionally been put on the shoulders of women, who therefore must be secluded lest they cause evil, since "women are a <u>ᶜawra</u> (weakness, weak spot. The word also means genitals, so the meaning must have to do with a sexual weakness), when she goes out she is accompanied by the devil."[4] This sense of a woman being a walking <u>ᶜawra</u>, or a sexual abomination, cannot be reconciled with her treatment by the Quran, and must be seen as the creation of suspicious minds, rather than being based on

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[3]Most of the translations of the Quran in this paper will be taken from A. Yusuf Ali's excellent translation and commentary. <u>The Holy Quran</u>, Text, Translation and Commentary by A. Yusuf Ali (Brentwood, Maryland: Amana Corp., 1983), Surat al-Nur, XIV:30-31.

[4]ᶜAbd al-Mitᶜal M. Al-Gabri, <u>Al-Mar'a fi'l-Tassawur al-Islami</u>, 6th edition (Cairo: Maktabat Wahba, 1983), p.92-93, quotes the twelfth century Imam al-Ghazali: "A woman is closer to her God if she is in a hollow cavity in her house, her prayer in the courtyard of her home is better than her prayer in the mosque, and her prayer inside her house is better than her prayer in her (the house's) courtyard, and her prayer in her bedroom is better than her prayer in her house." In short various levels of purity are laid out, with the more secluded the better. Does that not undermine the importance of communal prayers in Islam? If women cannot pray in a mosque with men, would it not be best for them to hold their own communal prayers whose importance is emphasized by the Quran?

actual Scripture. This point is further proven by the fact that even though the Quran has admonished equal treatment for men when it comes to sinning, the possibility of man as the cause of sin, emphasized by the Quran, is only given lip-service by fundamentalist writers today, but it is the woman who is treated like a being from whom the world needs to be protected.

It is no wonder that the position of Muslim women, according to fundamentalist interpretations, seems to depend to a large extent on the separation of men and women lest there be sin. Since such an idea has no relevance in the Quran it must be seen as what it is, a male-dominated community's wish to hold on to medieval social patterns. The Quran emphasized the goodness of women and called upon Muslims not to be suspicious of or slander them, "Those who slander chaste women, Indiscreet but believing, Are cursed in this life and in the Hereafter: For them is a grievous Penalty."[5] Yet this is how women are described and called upon to undertake seclusion.

Perhaps the most central theme in Islam is its emphasis on the well-being of the community, in its immediate form rather than the Islamic community at large. The various rituals, dogmas, and moral precepts presented by the religion are all meant to assure the cohesion of the community. Praying, fasting, pilgrimage, and paying the Zakat to support the needy and the community's various projects, are all meant to bring people together, to make out of the community a cohesive whole that

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[5]Surat al-Nur, XXIV:22-26.

stands collectively, forming a unity that completes and complements its various components. Another important principle is the idea of equality, a central theme to the vision of Islam. In Sura IV:1, Surat al-Nisa', The Holy Quran tells us, "Mankind! reverence, Your Guardian-Lord, Who created you from a single Person, created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women;-Reverence God, through Whom Ye demand your mutual (rights), and (reverence) the wombs (that bore you): for God ever watches over you."[6]

Such a vision of equality has been one of the main-springs of the religion, yet while being used with pride to indicate that there is no difference between one man and the other except what is in their hearts, that therefore Islam does not differentiate between rich and poor, or between races, when it comes to equality between man and woman, such equality is given no more than lip-service, while the clear and numerous evidences of the equality between man and woman as presented by the Quran is disregarded with the man being given the role of husband and guardian over his wife.[7] The idea that "total equality" between

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[6]Surat al-Nisa', IV:1.

[7]A good explanation of this is given by Professor Fazlur Rahman, Islam: Ideology and the Way of Life (London: The Muslim Schools Trust, 1980), p.396-398. "It may, however, be pointed out that although woman, as a human being, occupies equal status with man and is treated as equal, and enjoys equal rights, privileges etc., the fact remains that there is a difference between the sexes. No amount of debating or discussion, physical exercise or hard industrial work can change hers sex. As woman, her special function in life is different from that of a man and she is naturally equipped with a different physical, physiological, biological, and even psychological structure.

men and women is "nonsense" is based on the biological differences between the two, particularly the fact that women were equipped to carry children. The question is why should man be have superior rights to women simply because God created each to fulfill a certain role, one as mother the other as protector? Certainly the emphasis can be changed to show the equal roles rather than the biological differences, as has so far been stressed, particularly at a time when a revolution in bio-medicine may cause a number of changes in regards to these very points. It is very interesting that while the Islamic community is coming to grips with the changes in science, finding nothing in Islam that forbids scientific advancement, that they have yet to consider the meaning of such advancements to the social roles played by various members of the community. The point that I am trying to make is that God did create men and women to perform particular roles, but it is man's view of this role that has decided actual rights and duties, and that the Quran allows for changes in this view in according to changing conditions. The fundamental laws do not change, but our interpretation have, can and should. It is what makes the Holy Book universal.

If we were to divide the various laws and requirements of the Quran into the two categories of <u>ᶜIbadat</u> and <u>Muᶜamalat</u>, i.e. rituals and procedures (social intercourse), we would find that

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Islam has taken these natural differences between the sexes into account in differentiating roles and allotting functions to each sex. Therefore to talk of absolute equality between men and women is complete nonsense."

both women and men are required to follow the same moral code, the Articles of the Faith are the same for both, and so are the various rituals, prayer, fasting, pilgrimage, Zakat and Shahada, all required of women the same as men.

> "For muslim men and women,-
> For believing men and women,
> For devout men and women,
> For true men and women who are
> Patient and constant, for men
> And women who humble themselves,
> For men and women who give
> In charity, for men and women
> Who fast (and deny themselves),
> For men and women who Guard their chastity, and
> For men and women who Engage much in God's praise,-
> For them has God prepared
> Forgiveness and great reward."[8]

In the area of Muᶜamalat we can see that there is the same basic equality which requires of every individual to rate the well-being of the family and community as paramount in his or her mind. Because of the differences in the physical nature of men and women, as well as the needs of the society, special roles were assigned to each. The role assigned may have been different but each was given equal in importance, with exact punishments and rewards assigned to each in case the duties are not fulfilled in accordance with the Quran. Notwithstanding such evidence, the fact that different roles were assigned to men and women has unfortunately been used as a basis to perpetuate a male-dominant society, in which the very basic equality of the two sexes has been forgotten. Therefore to assign a position of total dependence and guardianship over women, as is enjoyed by men in

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[8]Surat al-Ahzab, XXXiii:33-35.

the Muslim community today, is not in accordance with the very foundation of the religion or its most important source of law, the God-given Quran. Islam has given women certain specific roles, but allowed her to play an equal role within the community. As a wife she is expected to be mother and housekeeper, as well as consort to her husband. But she does play a role outside of the marriage, and Islam has kept this role intact for her, a fact unfortunately forgotten with emphasis only on her role as wife. I shall begin by discussing her role as wife first and then proceed to her wider role in the community.

Perhaps one of the most controversial ayyas in the Quran is Surat al-Nisa', 4:34, which begins with "Al-Rijal Qawwamun ᶜAla al-Nisa'", or "Men are the protectors and maintainers of women," a line which has been understood to mean different things to different people. In one translation of the Quran this line is said to mean: "The men are placed in charge of women", because God has endowed them with the necessary qualities.[9] Being placed in charge makes the men the guardians of women, watching over their actions and being the final arbiters of their fate. Other interpretations are much more strict making men liable to punishment for their wive's sins, thereby giving them the right to enforce their own view of morality over the women they marry or to whom they act as guardians. Such interpretations have explained this line as being : "Men are pre-eminent over women," which gives them absolute power over them.

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[9]Rashad Khalifa translation.

Among fundamentalists this ayya is said to mean that men have full power of women and is based on Fiqh, the science by which the clergy have interpreted the Quran in according to their own understanding. It must be remembered that in any interpretation the background of the person undertaking the interpretation plays an important role in his point-of-view. Thus we see that Bukhari explained this ayya as meaning "The man is the ruler over his wife and children, and is answerable to God for the conduct of their affairs." This is a normal view of the place of women in the medieval period during which he lived, when, particularly in the urban centers, they practically had no role outside of the home and were totally dependent on the male. It is not clear how such an interpretation can be reconciled with the belief in Mi$^{c}$ad, or a Day of Judgement, when each individual would be judged according to their own deeds and thoughts. Arguments of fundamentalists who support this interpretation, that this gives the man the right to prohibit his wife from acting in any way he sees unfit least he pay the price for her sins, are really not substantiated by the fact that Islam gives more importance to what is in the heart of the individual than to what his actions are. Where does the responsibility of one individual for another's actions begin or end in a system where salvation depends on individual piety and faith?

The rest of that Ayya may hold the key to its actual meaning, unfortunately the first line is usually used alone:

"Men are the Protectors
And maintainers of women,

Because God has given
The one more (strength)
Than the other, and because
They support them
From their means.
Therefore the righteous women
Are devoutly obedient [to God, pious][10], and guard
In (the husband's) absence
What God would have them guard."[11]

As has been shown this particular ayya can and has been interpreted in many ways. In fact it is a good example of the type of elasticity that is observable in Islam, which makes the religion malleable and able to suit various periods of time. This is important because it outlines a very basic pattern in the system of Muᶜamalat set out by Islam. What it does is to speak about shared obligations, in that way it is a balanced ayya. If we were to dissect it and try to understand it in its totality, what we get is the following, that 1) Men are responsible to protect women from bodily harm and they provide food and shelter for them. 2) Women in turn must remain faithful to their husband, physically, emotionally and materially. 3) If not, then a number of punishments are laid out.

The line, "Therefore the righteous women are devoutly obedient," of the above-quoted ayya, interpreted as being total obedience to the husband, is used over and over again as the basic proof for the requirement that women must show total

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[10]The words in parenthesis are my own, the word Qint being of great importance. Yusuf Ali translates it as meaning obedience, and that is generally accepted as being obedient to the husband, in fact it means obedience to God, submissiveness and humbleness as characteristics or piety.

[11]The Holy Quran, Yusuf Ali translation.

obedience to their husbands. "A woman must know that she is like a slave to the husband, she is not to do anything or spend of his money without his permission, must promote his good before her own or the good of her family, and must be ready to give him pleasure, and she should not flaunt her beauty to him, or mention to him any of his faults....a woman must be patient in answer to her husband's cruelty the same as the slave is patient."[12] Is what being described a wife or a slave? Perhaps the difference was not clear in the mind of those who use such quotations. Why such ideas should become common today, are published and made accessible to the Muslim public must be open to question, for certainly civil law forbids slavery, and even Islamic laws shuns it. One popular, but questionable, Hadith attributed to the Prophet that is used to support such arguments is "If I were to order anyone to prostrate themselves to anyone, then I would have ordered the woman to prostrate to her husband."[13] How could this be reconciled with the Islamic belief that prostration is only to God, and that there is no God but God, the concept of Tawhid, or unity, which is the very basis of Islam?

In ayyas 36 and 37 of the same Sura, God speaks to man (meaning mankind, which should include both men and women, for the Quran often speaks to the two separately and often jointly), admonishing them to treat those around them well:

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[12]Ibn Al-Jawzi, Ahkam al-Nisa', p. 80.

[13]Quoted in Mahmud Al-Sabbagh, Al-Sa$^{c}$ada al-Zawjiyya fi'l-Islam (Cairo: Dar al-I$^{c}$tisam, 1985), p. 134.

"Serve God, and join not
Any partners with Him;
And do good-
To parents, kinsfolk,
Orphans, those in need,
Neighbors who are near,
Neighbors who are strangers,
The Companion by your side,
The way-fairer (ye encounter),
And what your right hands possess:
For God loveth not
The arrogant, the vainglorious."[14]

The line "what your right hands possess" is popularly used to mean women, which is indicative of the general acceptance that men have the power over women they marry or who are captives. However, the Quran is usually very explicit about which particular person it talks about as this paragraph makes clear, therefore if women were meant then they would have been mentioned explicitly, as it is in other ayyas. Furthermore, the meaning of "what your right hands possess" has to do with ownership of property, and it is a mistake to view the position of women as being a possession, nothing in Islam supports that. Furthermore since this ayya is addressed to both men and women this sense of responsibility towards other members of the community and towards "what your right hands possess" is in fact addressed to both men and women.[15]

If Surat al-Nisa' tells us one thing it is that the Quran

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[14]Surat Al-Nisa', IV:36.

[15]Yusuf Ali, p. 191, ft. 553. "'What your right hands possess': anything that has no civil rights. It includes captives or slaves (where they exist in any form whatever), people in your power, or dumb animals with whom you have to deal. They are all God's creatures and deserve our sympathy and our practical service."

calls for a division of labor between men and women within the sanctity of marriage. This becomes acceptable to both when they enter into a marriage contract. Man protects and provides the expenses of the family. Woman, who biologically bears children, is expected to educate them and keep the home as well as the sanctity of the marriage. She owes her husband allegiance but it is questionable if that was to mean loss of her self-identity and individuality. She is expected to make the marriage work, to try and live peacefully without problems, the same being required of the husband. Therefore marriage was meant as a contract, one entered into willingly by two equal individuals. Certain articles and agreements are stipulated in that contract, including the exchange of money and which of the parties has the right of divorce, which could be the man or the woman. If one party does not fulfil its obligation in regards to this contract, it becomes null and void, the other party having then the right to either accept the new conditions or breaking the marriage. Theoretically the system as presented by the Holy Quran is one of impartiality to either of the sexes, it was meant to assure the strength of the foundation of the marriage, and hence the community. Each party assumes certain obligations, must fulfil a role, not to be broken by one while keeping the other party binding.

This interpretation is supported by other details from the Quran such as the requirement that a woman must agree to the particular husband chosen for her and that she could not be

coerced in a marriage any more than a man. This was not questioned before the modern period since customarily marriages in traditional societies were the prerogative of the family which arranged the choice of a mate for either son or daughter, who usually accepted such decisions. Such a practice is easily changeable to suit modern times since there is nothing in the Quran that says that either party could not chose their own mate but has to wait for a suggestion by the family. What the Quran says is that the two parties in any marriage must consent, and that it is best for the female to marry within the same social and economic class to which her own family belongs. Therefore in today's more open society, when women play a larger economic, political and social role, new interpretations can be applied to make the actual selection of a mate by either son or daughter as religiously acceptable as the election by family which is then approved by the daughter concerned.[16]

Another very important line in the Quran, which indicates the importance of understanding of marriage as a contract based

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[16] I am reminded here of a letter I read some time ago which was sent to one of the clerics writing for the Newspaper Al-liwa' al-Islami in which a young lady asks him for guidance regarding her choice of a husband. She herself had chosen one young man who fit all the requirements of piety, who would be a good provider and who is a neighbor and therefore of the same economic background. Her parents did not object to this man but her father wished for her to marry a cousin whom he felt would be the better choice. She wished to do what is right by her family, but had no wish to marry her cousin and was emotionally attached to the first man. The answer of the shaykh was that she ought to follow her family's wishes for they know best, and that feelings of attraction and love should come after the marriage and not before when they are no more than the work of the devil.

on equality between the various parties, talks about who holds the *ᶜisma*, or the bond of marriage, i.e. matrimonial authority. Such a decision is made at the time the marriage contract is signed and could be given to either the man or the woman. Such decisions are dependent on the particular value of each member in the marriage contract, and it could be decided on the basis of class, wealth or power. In a long discourse about marriage and divorce, which seems to be directed towards the men, even though, as indicated before, when the Quran talks to men it is often addressing the community at large, the Quran at one point in Surat al-Baqara, tells us: "And if ye divorce them before consummation, but after the fixation of a dower for them, then the half of the dower (is due to them), unless they remit it, or it is remitted by the one in whose hands is the marriage tie, and the remission is the nearest to righteousness. And do not forget reasonableness between yourselves, for God sees well all that ye do."[17] It is interesting that certain schools of Islam, e.g. the Hanafi School sees that the one in whose hands is the marriage tie is necessarily the husband, even though the Quran does not say so and the traditions have allowed women to hold such a right if the two parties so accept.

As for the basis of divorce, which include incompatibility, they should be seen as applying equally to both husband and wife and should give the wife as much right for divorce as they do to the husband. In fact, the laws regarding marriage and divorce

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[17]Surat al-Baqara, II:237.

should be seen as meaning to assure the well-being and rights of women, who were and continue to be the weaker sex in physical and economic terms. As this situation of weakness is changing today then so should the interpretation of the relationship between male and female be changed as well.

This is supportable by certain verses of the Quran that show that divorce is the act of least love to God, but when necessary it should be undertaken with mutual respect, giving the woman similar rights to those of men, even while giving the male a certain edge which is explained by his economic and protective responsibilities towards the family. "And women shall have rights similar to the rights against them, according to what is equitable. But men have a degree over them. And God is Exalted in Power, Wise". Thus man is reminded that God has the final word, and his Law was to be obeyed. "A divorce is only permissable twice: after that, the parties should either hold together on equitable terms, or separate with kindness."[18]

The whole question of divorce in Islam is open to interpretation. Generally speaking divorce has been made the right of men, who unless the right of divorce is given to women at the time of marriage, have full prerogative to implement divorce procedures. The general explanation for this is given as being the different temperament of women who are more likely to become angry and act in haste, after which they regret their actions, while men tend to be more restrained. That of course is

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[18]Surat al-Baqara, II:228, 229.

questionable and shows a male-centric view in regards to relations between the sexes. The important thing is that it is not supported by the Quran, because there, when it comes to divorce, there is the same principle of equality that is meant to guide actions. Surat al-Nisa', indicates that if a wife fears that her husband may desert her, or perhaps shows hostility towards her, then that is cause for alarm. The Quran does call for trying to bring the two parties together but continues with a clear statement that that may not be possible: "But if they disagree (and must part), God will provide abundance for all from His All-reaching bounty: for God is He that careth for all and is Wise."[19] Therefore there is a realization that not-withstanding who holds the marriage contract, that women do have the basis for a divorce. Most Islamic countries have yet to consider allowing women the right to demand a divorce.

What is even more interesting about IV:128 is the choice of the word Nashaz in regards to men: "If a wife fears Nushuzan or desertion on her husband's part." The word Nushuzan in Islamic Law is described as "violation of marital duties on the part of either husband or wife, recalcitrance of the woman toward her husband, and brutal treatment of the wife by the husband."[20] Therefore, what we have here is a basis of equality of reasons leading to divorce, unfortunately the word nashaz today is one

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[19] Surat al-Nisa', IV:128-130.

[20] Hans Wehr, Arabic-English Dictionary: The Hans Wehr Dictionary of Modern Written Arabic, ed. by J.M. Cowan (Ithaca, New York: Spoken Language Services, Inc., 1976), p. 968.

used to describe a woman only, you hardly ever hear of a husband who is nashaz.

As for conduct within the marriage, what is expected of man is very similar to what is expected of woman, i.e. total fidelity to the partner and to the family. The Quran is very clear about the rights of the husband, the wife and the children within the family. The woman is not seen as being evil, it is her goodness that is stressed.[21] Because she is seen as the weaker party, the men are admonished to treat women fairly, to honor them, to watch out for their economic and marital rights, which include the right to a sexually active marriage, for respect, love and affection from her mate. The man is given the right to marry one, two, three or four, but only if he is capable of treating them equally, which is given to each man as a challenge that the Quran recognizes as perhaps impossible to achieve. Since each individual is judged according to what is in his heart, more than his deeds or thoughts, it is almost impossible for one man to marry more than one woman and be totally impartial between the two, while at the same time fulfilling his obligations as husband, friend and lover to them equally.[22]

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[21]See Surat al-Nisa' IV:24-25.

[22] "If ye fear that ye shall not
Be able to deal justly
with the orphans,
Marry women of your choice,
Two, or three, or four;
But if ye fear that ye shall not
Be able to deal justly (with them),
Then only one, or (a captive)
That your right hands possess.

There is equality between men and women when it comes to punishment for adultery, "The woman and the man guilty of adultery, flog each of them with a hundred stripes....Let no man guilty of adultery or fornication marry any but a woman similarly guilty..."[23] Even when it comes to bearing witness in regards to adultery the same requirements prevail, four witnesses need to bear proof against adultery. If such proof is non-existent the husband can bear witness by "invoking the curse of God" if he is lying, but women can counter that by bearing witness four times again invoking the curse of God. Each is called upon not to bear false proof against the other, their penalty being with God.

Notwithstanding all the above-presented proof, the description given to the role of the male within the family is one of total superiority, he is the arbiter of the family's fate and the judge of his wife's actions. Since there has to be a leader in any group to stop chaos from taking place, and since man is the protector and carries the financial burden then he is

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That will be more suitable,
To prevent you
From doing injustice."

Surat al-Nisa' iv:3 has been used to allow men to marry more than one woman. In fact if read right it is actually a prohibition of marrying more than one. Absolute equality between wives was something hard even for the Prophet Muhammad to achieve and the way it is stated in this ayya it is a true challenge that can hardly be met. The way the ayya emphasizes that even slaves, or hostages taken during war, who are described here as the orphans, must be treated equally with other women, and are not to be maltreated but must be either taken as wives, and only if the man can treat them and his wife equally, or else they were to be treated with honor.

[23]Surat al-Nur, XXIV:2

chosen for that role, this means that he holds the reigns of power. What can the woman hope for in such a marriage? The answer is that the husband is expected to deal fairly with his wife, and that she must act in all ways to assure that he remains fair and faithful to her. In short the husband is the only active member, while the wife is a passive participant whose only role is to please her husband for fear of divorce, cruelty, his marriage to another, or total sexual and spiritual neglect. The husband is encouraged to listen to his wife's advice, the example of the Prophet being given, but there is no requirement that he take such advice seriously and how could he when she becomes a passive isolated member of her community. God requires man to treat his wife equitably, and again the example of the Prophet is given to show him the way, but also to affirm the fact that man had such a right and is able to be fair. The punishment for not being equitable, a term that has been interpreted variously but which always favors the male, is left to God.[24] It is interesting that the example of the Prophet is given in support of all this, but what is forgotten is that the Prophet Muhammad

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[24]"If the woman is fearful that her husband is going to leave her, and he has the right to divorce, then the Quran advises the wife to take a conciliatory attitude towards her husband, by giving him the rights that would satisfy him. She does this to win God's approval and her wish that her marriage life continue." In support of this, the author tells the story of Sawda b. Zum$^{c}$a, one of the Prophet's wives, who worried that the Prophet preferred his wife $^{c}$Aisha and was afraid that he would divorce her. Rather than face that she decided to give up her night with him to $^{c}$Aisha, in return for assurance that she would not be divorced.

Al-Jabri, Al-Mar'a, p. 152.

was a unique man, born to the Prophethood, how can any man compare himself to him and come out equal? And yet that is what those who suggest that what the Prophet has done, his sunna, which is seen rightfully as a basis for moral actions, is in fact repeatable by a common man. For example, the Prophet could deal with his wives equally, although even he had problems in that respect,[25] but the Quran is cognizant of the impossibility of such equality, yet the Sunna of the Prophet is given as the legality of marrying more than one woman.

Perhaps the problem with how women's position is interpreted has to do with the belief that the only role women are supposed to play is within the marriage. That is not supportable by the Quran, nor by the Sunna of the Prophet, whose first wife and mother of his children, Khadija, was one of the great merchants of Mecca for whom the Prophet worked before their marriage. It is furthermore not supported by Islamic history, women have and continue to play important roles in the economic life of their communities.

To begin with the marriage contract requires that the man be responsible for all household expenses, including his wife's needs. The dowry that he pays is to be given to her to use as she wills. She has the right to inherit and to own property, the control of such is to be kept in her own hands and not automatically relegated to the husband at the time of marriage. Even though such rights are sanctioned by the Quran, we find that

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[25]See ftn. 23.

today fundamentalists dispute that, preferring interpretations that favor the male in today's family in which both men and women work outside the home and provide it with financial support. Once more the Prophet is quoted, in support of this, "A woman is not allowed to donate part of her wealth if the marriage contract is held by her husband except with the permission of her husband."[26] The justification given for this is that the wife may be richer than the husband but that should not reduce his power over her. If such a Hadith is to be proven to be authentic it must first be reconciled with the Quran's admonition that a husband should be of the same economic status as his wife. Furthermore, where the Quran speaks about the husband's role in regards to his wife's wealth it is to warn him from trying to cheat or rob her. This fact is supported by some of the renowned authorities of the subject of Islam, such Prof. Fazlur Rahman, "She keeps her property acquired before marriage and has no legal obligation to spend on her family out of her personal wealth. She is also entitled to a dowry (mehr) from her husband. She may invest her property in any way she likes of thinks best. She is quite independent and even keeps her maiden name and does not merge it after marriage with her husband's, as happens in Western, African and Asian countries."[27]

There seems to be a clear guideline in the Quran that the woman is expected to be a contributing individual in her

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[26]Quoted in Al-Sabbagh, Al-Saᶜada al-Zawjiyya, p. 137.

[27]Fazlur Rahman, Islam, p. 396.

community. The wives of the Prophet, for example, were expected to do more than stay at home and play a passive role. Surat al-Ahzab, 33:28 tells us:

> "O Prophet! Say
> To thy Consorts:
> If it be that ye desire
> The life of this world,
> And its glitter,- then come!
> I will provide for your
> Enjoyment and set you free
> In a handsome manner."

It is usual to consider this as referring to the need for women to spend more time in prayer, rather than a directive for them to take an active interest in their communities. But that cannot be so when one considers the active commercial role taken by the Prophet's first wife Khadija, or that of his other wife, Zaynab b. Jahsh, who worked for the poor, "for whom she provided from the proceeds of her manual work, as she was skilful in leather work."[28]

Islam, like other religions, has had to deal with changing times. Today the Islamic world faces the challenge of a world that is being transformed at ever increasing rates. The question is whether Muslims will be able to hold on to their religion, traditions and central belief in God, while at the same time allowing their society to develop with the rest of the world.

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[28]Yusuf Ali's commentary on this ayya, Surat al-Ahzab, 33:28, supports my point: "But all the Consorts in their high position had to work and assist as Mothers of the Ummat. Theirs were not idle lives, like those of Odalisques, either for their own pleasure or the pleasure of their husband. They are told here that they had no place in the sacred Household if they merely wished for ease or worldly glitter."

The question is not an academic one, since weakness means dependency, and the weakness of the Islamic community can only lead it to a position of subservience vis-a-vis the more developing nations. The experience of the last decades should have made that very clear. Islam itself as a religion does have the instruments of flexibility and universality ingrained in it, but it is up to Muslims today to use it in the way it was meant, to make God's commandments applicable to all time, rather than to try and hold back the hands of time. The question is to whose advantage is it that the community of Islam remain backwards and weak?

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