

BIULETYN MISJOLOGICZNO-RELIGIOZNAWCZY (128)

I. Women in Islam: A Quranic Perspective

1. Introduction

Women, their status, roles and rights are among the most important issues that have been widely debated on all fronts and levels, in media and all its forms, and in all countries regardless of their religions or orientations. My objective in this article is to contribute to what has already been written on the issue of women but from a Quranic perspective, i.e., the basis of knowledge in this article is the one established in the Quran. The Quran is the ultimate criterion available within the Islamic intellectual literature, as well as its most authoritative reference point because it has a profound consensus among Muslims.

As will be evident, this article will provide a brief overview of the status of women in Arabia before Islam; it introduces the notion of *Jahiliyyah* before investigating the issues of infanticide, marriage, polygamy and divorce. The second part of the study engages in a close reading of Quranic verses to show the tendencies within Islam towards women, the different issues and concerns related to them, and the many changes brought by it to the status of women and their consideration in society.

2. The Status of Women Before Islam in Mecca and Yathrib (Medina)

2.1. General Features of the Arabian Peninsula before Islam

To understand the position of women in Islam, it is crucial to refer to their position at the time of *jahiliyyah*. The term *jahiliyyah* originated from the Arabic word *jahala*, which means ignorance; not knowing or not having knowledge. Thus, *jahiliyyah* means (Age of Ignorance). In the Quran,

the term *jahiliyyah* refers to the pre-Islamic society of the Arabian Peninsula.¹ The Arab *jahiliyyah* period spanned over 310 years, from the time after the demolition of the *Maarib Dam* in Saba, Yemen in 300 AD until 610 AD when the Revelation to Prophet Mohammed began. Arab communities that lived during that period were plagued with ignorance, lived chaotically with no legal systems, and did not follow the teachings of earlier Prophets and Messengers, such as Prophet Suleiman, Prophet Ibrahim Prophet Ismail, and others.² The residents of the Arabian Peninsula in that era were made up of various clans and tribes and divided into Bedouins and Urban dwellers. Bedouins' lives were characterized by constant movement from one place to another in search of water and greener pastures for their camels and livestock. War, tribal conflicts, raids, and retaliation were common attributes of Arab Bedouin life. Their contact with civilization and urbanism was limited.³ City inhabitants (like in Mecca; the native city of Prophet Mohammed, Medina, Tabouk and Al-Yamen), on the other hand, did not lean toward war except in cases of self-defense. For example, "Quraish," the Prophet Mohammed's tribe had a stable peaceful life in Mecca. Quraish's men were mostly merchants, traders, and moneylenders. Their caravans traveled in summer to Syria and in winter to Yemen.⁴ They were not men of war but rather political men who excelled in bargaining and negotiations. Mecca, thus, became the leading trading center.

In Medina, the tribes of Aws and Khazraj primarily worked in agriculture.⁵ These cities had no central government or civilian governor army, as is known in modern times. Therefore, the male knights in these cities were always prepared to defend them, if necessary, as well as to defend commercial convoys. Sometimes, military forces were formed by slaves, loyalists, and mercenaries for this purpose, but leadership has always been for the Knights of the tribe.

Arabian society, similar to other societies at the time, consisted of two main divisions: the free and the slaves. The Free people varied in terms of honor and money, and this disparity between them was clearer among the inhabitants of the cities than among the Bedouins. Male and female slaves were sold and bought as animals, and they formed the most depressed class in Arabian society.

¹ Quran, 5:50 and 3:154.

² R. Hoyland, *Arabia and the Arabs from the Bronze Age to the Coming of Islam* (London – New York, NY 2001), 32.

³ R. Hoyland, *Arabia and the Arabs*, 17.

⁴ Quran, 106:1–4. Surat Quraish.

⁵ R. Hoyland, *Arabia and the Arabs*, 25.

2.2. An Overview of the Status of Women in the Pre-Islamic Era

Information about that time's life and practices is recorded in classic Arabic poetry and other ancient narratives. Primarily, however, significant details about this era also exist in the Quran and Hadiths.

The Arabian Peninsula community was predominantly male-dominated. Men were the masters of the family. Women were second-class citizens deprived of many basic rights and victimized by their communities. Excluded from that fate were wealthy upper-class women who were affiliated with strong tribes, as these features raised their social status and granted them respect, many rights, and privileges.

One of the discriminatory aspects of pre-Islamic societies that goes beyond rational thinking is the savage custom of infanticide (burying female infants alive). The Quran illustrates Arab fathers' distress upon the birth of a baby girl: "When the news of [the birth of] a female [child] is brought to any of them, his face becomes dark, and he is filled with inward grief. He hides himself from the people because of the evil of that whereof he has been informed. Shall he keep her with dishonor or buries her on earth? Certainly, evil is their decision."⁶

Many other verses in the Quran record the practice of infanticide of female children.⁷ As explained in the Quran, fathers buried their young daughters alive in fear of poverty. This motive is explained clearly, "Kill not your children for fear of poverty: we shall provide for them as well as you. Verily, the killing of them is a great sin."⁸ In his book *Kinship and Marriage in Early Arabia*, Robertson Smith elaborated on this issue, "the Nomads of Arabia suffered constantly from hunger during a great part of the year. The only persons who have enough to eat are great men [...]. 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."⁹

However, and more importantly, burying infant daughters alive was practiced out of concern for the pollution of the family and the tribe's honor. Da Costa describes, "in proportion to his eagerness to have a son, Arab fathers regarded the birth of a daughter as a calamity, partly because of the degraded status of women, and many fathers used to bury their daughters alive as soon as they were born."¹⁰ So, together "with the idea

⁶ Quran, 16:58–59.

⁷ Quran, 81:8–9, 6:151 and 17:31.

⁸ Quran, 17:31.

⁹ R. Smith, *Kinship & Marriage in Early Arabia* (London 1990), 294.

¹⁰ Y. Da Costa, *The honor of women in Islam* (Washington 2002), 8.

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.”¹¹ Even if an Arab did not desire to bury his daughter alive, he still had to keep this “honorable” tradition, being unable to resist social pressures.

The Quran denounces and abolishes the practice of burying alive young girls. The murder of girls was considered not only a symbol of savagery and ill judgment, as the Quran explains, but a crime against God Himself.

2.3. The Status of Women before Islam in the Institution of Marriage

Marriage in pre-Islamic communities was one way to expand the strength of the tribe by begetting more children who would become the next generation of the tribe. Marriage was also an effective way of creating alliances with other tribes. Therefore, marriage was not a private/personal issue; rather, the tribe had the right to accept or refuse any marriage, depending on how and if the tribe would benefit from it. In his book, *The Honor of Women in Islam*, Da Costa described different practices related to marriages that were persisting in pre-Islamic Arabia.

To start with, the *wali* (the father or a guardian) would give his daughter in marriage after an arrangement between himself and the would-be husband about *mahr* (the dowry), money paid to the *wali* by the suitor. In this kind of marriage, the wife is bought and became the husband’s exclusive possession. She would be under her husband’s authority and he alone had the right to divorce.

In another practice that was common during that era, a husband would send his wife to cohabit with another man until she became pregnant. In this case, the child was considered the husband’s. This procedure was followed so that the husband could have a child of a noble breed and courage.

There was also a kind of marriage called temporary marriage or “marriage of pleasure.” The purpose of this kind of marriage was not to establish a household or beget children but merely to provide a man with a wife when he was away from home on military service or for any other reason. No witness or dowry was required for the contract.¹²

In most of the marriages mentioned above, no deep emotions or feelings were expressed between the two partners, which might suggest a true conjugal life. However, if we consider the first type of marriage as the ideal

¹¹ R. Levy, *The Social Structure of Islam* (Cambridge 1957), 92.

¹² Y. Da Costa, *The honor of women in Islam*, 7.

kind of marriage, the relationship between the husband and the wife would depend on two important factors:

1. The first was the status of the wife's family; if the family was in a high position, this meant that the husband might take that into consideration and treat her well.¹³
2. If her tribe was far from her, the wife's life might have been influenced by the loss of protection of her tribe.¹⁴

The number of women a man could marry was not fixed. When the husband died, the widow became part of the inheritance. His nearest male kin, taking benefit of the privileges of the mahr paid by the dead person, "inherited" all his wives except his own mother, and he would either marry them or pass his rights over them to other relatives who could then marry her in his place.¹⁵ Da Costa elaborated on this matter: "This often occurs during the death of a man leaving widows. His son or other would immediately cast a sheet of cloth on each of the widows [except his natural mother], and this was a symbol that he had annexed them to himself; [and so] the heirs of the deceased would refuse to pay the dowry. This custom is described as the inheritance of a deceased man's widows by his heirs, who in such cases would divide them among themselves as goods."¹⁶

As illustrated above, marriage in that era was used purely as an instrument to give men pleasure and increase the number of male children who might please the father without considering the status of women as mothers and wives. Wives were also treated as part of the inheritance—objects whose destiny was in the hands of their male heirs.¹⁷

2.4. The Status of Women before Islam with Regard to Divorce

As mentioned earlier, men only had the right to divorce their wives whenever they liked, without restraints or conditions. Reasons for divorce could be as important and understandable as the absence of affection, suspicion of the wife's unchastity, seeking revenge or punishing the woman or her tribe, or as trivial as a woman giving birth to girls only or her refusal to accommodate herself to the husband's temper and disposition.¹⁸

¹³ R. Smith, *Kinship & Marriage*, 50.

¹⁴ R. Smith, *Kinship & Marriage*, 90.

¹⁵ Quran chapter 4, verses 19 and 22 talks about these *jahiliyyah* practices.

¹⁶ Y. Da Costa, *The honor of women in Islam*, 5.

¹⁷ F. Memissi, *Muslim Women and Fundamentalism*, "Middle East Report" 1988, no. 153, 8–11.

¹⁸ R. Smith, *Kinship & Marriage*, 109.

A husband could divorce his wife as many times as he liked, and he could also take her back into the marital bond.¹⁹

Three forms of divorce were widely practiced by Arabs of that era. The first is called “*Ila’a*” (the vow of continence). In this kind of divorce, men took the vow of continence to leave their wives for an unspecified period. Men were not used to paying a divorce settlement to their divorced wives, even if the divorce was final. The second kind was known as “*al-Zihar*” (the husband literally stated that his wife is to him like the back of his mother).²⁰ The pronouncement meant that it was unlawful for a man to continue marital life with his wife; he was freed from any responsibilities; however, the wife was not allowed to remarry another man. The third form of divorce is called *al-khul* (wife-friendly divorce). In this kind, the wife could offer to pay the husband money so that he would end the marriage, and he had the right to accept or not. As Smith described, in old times, *al-khul* was an arrangement between the husband and his wife’s father, by which the latter repaid the *mahr* and had his daughter returned.²¹

Moreover, some Arabian men refused to divorce their wives and used a way called “*Al Adthal*” in which a man completely humiliated his wife either by neglecting her without divorce for a long term or by preventing her to remarry anyone else after the divorce unless she paid him money to allow her to remarry another man.

2.5. The Status of Women before Islam with Regard to Inheritance

Apart from a few exceptions, the denial of inheritance by women was another prevailing practice in pre-Islamic Arabia. It was generally agreed upon that the inheritance must be distributed among those who could ride a horse and who could use a sword, that is, male knights/fighters. As Levy commented, “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.”²² To say the least, the wife herself (as a widow) was considered part of the deceased property to be inherited by his son(s) or male kin(s), as mentioned earlier. The inheritor could marry her without *mahr* if he wanted; he could get her to marry whomever he wanted and take her *mahr* for himself or simply keep her and never allow

¹⁹ Y. Da Costa, *The honor of women in Islam*, 5.

²⁰ The translation of the statement of divorce from Arabic is “Be thou to me as the back of my mother.”

²¹ R. Smith, *Kinship & Marriage*, 113.

²² R. Levy, *The Social Structure of Islam*, 96.

her to marry again. As noted by Smith, “so far as the widow of the deceased is concerned. This is almost self-evident; she could not inherit because she was part of her husband’s estate whose freedom and land were at the disposal of the heir.”²³

To sum up, women in the *jahiliyyah* era were in dire situations. Female infanticide is a common practice. Women who survived that fate had no legal rights; in their youth, they were the commodity and chattels of the fathers; when they got married, the husband was the master, and he had the full authority to control them and get full obedience. Polygamy was common, and the number of women a man could marry was limitless. Divorce was not a right that the women controlled; it was left in the husband’s hand to decide about it.

3. The Status of Women In Islam

3.1. The Emergence of Islam and Islam’s Views of Women

The call to Islam as a religion was initially secret for three years. Secrecy at the beginning was a necessity until the Prophet could attract a mass base that would subsequently provide protection and continuity for this new religion. After three years, Prophet Mohammad publicly called for a new religion in front of Quraish and the rest of the inhabitants of the city of Mecca. The Prophet devoted the entire Meccan period (11 years) to calling on people to believe in God and abandon polytheism represented in the worship of idols. During the Meccan period, the Prophet and his followers suffered persecution and atrocities, which culminated in several murder attempts against the prophet. Therefore, in 622 AD, the prophet and his fellow Muslims migrated to the Yathrib.

The largest part of the Quran, 86 *surahs* (chapters) out of 114 was revealed in Mecca. In addition to calling on human beings to believe and worship God, verses call for honoring all human beings. They emphasize that all humans are equal before God. There is no difference between rich and poor, black and white, or Arab and non-Arab. Piety is the only basis on which they can be differentiated. As for the woman’s relationship to the Quran, the Quranic text/teachings brought about comprehensive reform and change in terms of the social relations and conditions of women. Some dominant practices were so bad that they had to be prohibited and abolished explicitly and instantly, such as unequal treatment of women, infanticide, sexual abuse of slave girls, and denial of inheritance to women.

²³ R. Smith, *Kinship & Marriage*, 117.

Some other traditions had to be adjusted, such as polygamy, conjugal violence, and unconstrained divorce.

To begin with, the Quran emphasizes that all species are created in pairs, and so men and women were created of the same species; as is said: “He [Allah] created you from a single being; then of the same kind made its mate.”²⁴ Another verse states, “O mankind, be mindful of your duty to your Lord, Who created you from a single soul and from it created its mate and from the two created and spread many men and women.”²⁵ As for the kind of relationship between men and women, the Quran insists that Allah “has created you [human beings] from a single soul and therefrom made its mate so that the male might incline towards the female and find comfort in her.”²⁶

The Quran, however, never annihilates the biological differences between men and women or erases the importance of functional gender dissimilarities that help societies operate steadily and achieve their needs. In fact, consistent, mutually supportive functional relationships between men and women are part of the goal of Quran-concerned societies. Nevertheless, the Quran does not present or support a singular role or a single definition of a set of roles exclusively for each gender across every culture. Despite the distinctions between men and women when the Quran discusses the creation of humankind, it proposes that there is no essential difference in the significance attributed to women and men. There are no indications whatsoever that women have more or fewer restrictions than men. The Quran does not regard women as a type of man. Men and women are two classifications of the human species that are given exact or similar consideration and granted equal potential. Neither men nor women are excluded from the main purpose of the Quran, which is to believe in certain truths. The Quran urges all believers, male and female, to observe their beliefs with actions, and promises them a great reward. Consequently, the Quran does not distinguish between men and women in individual moral responsibility, in the origin and purpose of creation, or in the reward it grants. The Quran considers a woman as an individual in the same manner as it treats a man as an individual. The only distinction is based on *taqwa* (piety). The Quran clearly states: “Whosoever acts righteously – whether a man or a woman – and embraces belief, we will surely grant him a good life and will surely grant such persons their reward according

²⁴ Quran, 39:7.

²⁵ Quran, 4:2.

²⁶ Quran, 7:189.

to the best of their deeds.”²⁷ Not to be overlooked, is a similar idea which is explained in chapter 40 verse 41: “Whoso does good, whether male or female and is a believer, these will enter the Garden; they will be provided therein without measure.”²⁸ Furthermore, the Quran declares beyond any doubt that women are completely equated with men in the sight of God in terms of their rights and responsibilities. The Quran repeatedly stresses “Men who submit themselves wholly to Allah, and women who submit themselves wholly to Him and men who believe and women who believe, and men who obey Allah and women who obey Him, and truthful men and women who are truthful, and steadfast men and women who are steadfast, and humble men and women who are humble, and men who give alms and women who give alms, and men who fast and women who fast, and men who guard their chastity and women who guard their chastity, and men who remember Allah much and women who remember Him, Allah have prepared forgiveness and a great reward.”²⁹

Additionally, “The believers, men and women, are ‘Auliya’ [helpers, supporters, friends, protectors] of one another, they enjoin [on the people] Al-Ma’ruf [i.e., Islamic Monotheism and all that Islam orders one to do], and forbid [people] from Al-Munkar [polytheism and disbelief of all kinds, and all that Islam has forbidden], they perform prayers [Iqamat-as-Salat], give the Zakat, and obey Allah and His Messenger. Allah will have Mercy on them. Surely, Allah is All-Mighty and All-Wise.”³⁰

As the above verses indicate, both sexes are religiously and morally responsible before God, which symbolizes the highest expression of the value of equality. This equality also extends to the rules and social restrictions laid down by Islam which are applied equally to men and women. In this regard, the Quran declares: “Say to the believing men that they should lower their gaze and guard their modesty, which will make for greater purity for them, And Allah is well-acquainted with all that they do. And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what [must ordinarily] appear thereof; that they should draw their veils over their bosoms and not display their beauty except to their husbands,

²⁷ Quran, 16:97.

²⁸ Verses like 3:195–196; 4:125; 9:71–72; 48:6 and many others stress the spiritual equality between men and women.

²⁹ Quran, 33:36.

³⁰ Quran, 9:71.

their fathers, their husband's fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women."³¹

Most importantly, in the Quranic account of the first sin, women are exempt from being lone sharers of that burden. The Quran states that the burden of the first sin is borne by both sexes (Adam and Eve). Chapter 7 verse 20 of the Quran explains that "Then Satan whispered to them that he might manifest unto them that which was hidden from them, and he said: Your Lord forbade you from this tree only lest you should become angels or become of the immortals." This Quranic text has completely freed the woman from the inferior conception, as she and the man held the responsibility of the first human disobedience to divine commands.

3.2. Women in Islam and the Institution of Marriage (Nikāh/Zawaj)

Islam considers the family the fundamental unit of society, which can be initiated only by marriage between one man and one woman. Without marriage, there would be no family. Within the family, each member has specific obligations and responsibilities. With the evolution and the reformation of the common practices within the institution of marriage, which existed during and before the prophethood, women are no longer the "objects" in marriage, but full, willing partners. The man no longer has an upper hand in marriage. The Quran depicts a husband and wife as garments for each other,³² that is to mean, a means of comfort, dignity and mutual protection. Within marriage, there should be harmony, mutual love and mercy: "And among His [Allah's] Signs is this: He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put affection and mercy between your [hearts]. Verily in that are Signs for those who reflect."³³ Accordingly, the Quran directs Muslims to: "live with them [your wives] in kindness and equity, if you hate them it may happen that you hate a thing wherein Allah hath placed much good."³⁴ Furthermore, through a set of directions and exhortations, the Quran elaborates on the matrimonial relationship as not only a mere carnal indulgence but also an elevated level of moral and spiritual consciousness.³⁵ More importantly,

³¹ Quran, 24:30–31.

³² Quran, 2:187.

³³ Quran, 30:21.

³⁴ Quran, 4:19.

³⁵ Quran, 2:223–224.

the Quran supports the equal status of husband and wife by stating that “women have rights over men, similar to those of men over women.”³⁶

After positioning marriage as the loftiest and finest form of union between two human beings, male and female, Islam elaborated on prohibitions in marriage, the conditions of marriage, and the duties and obligations of husbands and wives.

Islam has banned men from marrying certain groups of women. These women are called “*Al-Muharamat*,” the Quran clearly set out, “Forbidden unto you are your mothers, your daughters, your sisters, your father’s sisters, your mother’s sisters, your brother’s daughters, your sister’s daughters, your foster mothers, your foster sisters, your mothers-in-law, and your step-daughters who are under your protection [born] of your women to whom you have gone in – but if you have not gone in unto them, then it is no sin for you [to marry their daughters] – and the wives of your sons who [spring] from your own loins. And [it is forbidden unto you] that you should have two sisters together.”³⁷

Islam also prohibits an abominable custom that was prevalent during the pre-Islamic era, which is the practice of “marriage by inheritance” (the son or the male kin inherited and could marry the deceased’s wife): “And do not marry those [women] whom your fathers married, except what has already occurred. Indeed, it was shameful and odious.”³⁸

Regarding the conditions of marriage, it is known that there can be no marriage without consent. Abu Hurayrah reported that the Prophet said: “A woman without a husband (or divorced or a widow) must not be married until she is consulted, and a virgin must not be married until her permission is sought.”³⁹ Unlike in *jahiliyyah*, in Islam, if a woman is married without her consent, then the marriage is null and void. Two witnesses are required for the validity of the marriage contract.

Another condition of marriage is dowry (*mahr*). *Mahr* is a custom existing among pre-Islamic Arabs that was approved by Islam⁴⁰ however, here occurs one of the Islam major changes in women’s situation.

³⁶ Quran, 2:228.

³⁷ Quran, 4:23.

³⁸ Quran, 4:22.

³⁹ M. Al-Hajjaj, *Sahih Muslim*, Book 8, Chapter 9, Hadith Number 3303. *Sahih Muslim* as well as *Sahih Al-Bukhari* are the most highly believed collections of hadiths in the Sunni tradition.

⁴⁰ “And give the women (on marriage) their dower as a free gift; but if they give up willingly to you anything of it, take it and enjoy it with right good cheer”; Quran, 4:4.

The difference is that Islam insists that dowry is the wife's right, not for her father or guardian (as was the custom); she can use it in any way she likes; she can return or leave it: "[This is] the decree of Allah upon you. Lawful to you are [all others] beyond the [ones mentioned in Al-Muharamat verse], provided you seek [them in marriage] with Mahr [bridal money given by the husband to his wife at the time of marriage] from your property, desiring chastity, not committing illegal sexual intercourse, so with those of whom you have enjoyed sexual relations, give them their Mahr as prescribed; however, if after a Mahr is prescribed, you agree mutually [to give more], there is no sin on you. Surely, Allah is Ever All-Knowing, All-Wise."⁴¹

Dowry is not a bride price, as some claim, but it is paid as a token of the husband's seriousness and sincerity and his capability to look after and provide for the woman and be responsible for her and the children as well. The dowry can be given entirely before or after marriage. There is also a certain arrangement where some of the doweries can be provided before and the rest after marriage. The husband is not permitted to force the woman to give him her dowry,⁴² under the threat of divorce, it also is forbidden for him to oppress her so that she gives up her dowry to him: "And it is not lawful for you [men] to take back [from your wives] any of the Mahr which you have given them."⁴³

3.3. The Status of Women in Islam with Regard to Divorce (Talaq)

Given the importance that Islam gives to marriage, divorce is considered the worst of all lawful things, although it is permitted. Marriage cannot be terminated willy or nilly at any instance of the husband and/or wife. In the event of disputes between the husband and wife, divorce must not be considered the first panacea, but a final resort. Therefore, the Quran teaches preliminary steps aimed at harmonious reconciliation and to ensure that divorce is not resorted to light-heartedly or in a fit of passion or resentment. First, the Quran recommends that married couples sort out their problems. "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; even though men's souls are swayed

⁴¹ Quran, 4:24.

⁴² "Do not treat them with harshness, that you may take away part of the Mahr you have given them"; Quran, 4:19.

⁴³ Quran, 2:229.

by greed. However, if you do well and practice self-restraint, Allah is well acquainted with all that you do.”⁴⁴

If, then the discord between a couple reaches a stage where it jeopardizes marital life, and the couple can no longer cope with the situation. It would be better to seek arbitration. The wife chooses a person from her own people and the husband chooses someone from his own people to arbitrate between them to sort out their conflicts and revive harmony between the couple. The Quran demonstrates that “If you fear a breach between them twain, appoint [two] arbiters, one from his family, and the other from hers; if they desire agreement, Allah will cause their reconciliation: For Allah hath full knowledge, and is acquainted with all things.”⁴⁵ In the event of failure of all the efforts of arbiters towards reconciliation and both husband and wife insist on separating,⁴⁶ then divorce is pursued but it must be carried out within the rules and regulations laid down by Islam.

Once the divorce is undertaken, there follows a temporary period of waiting (*iddah*) and beds apart, as a characteristic of that waiting. The waiting period is three menstrual periods (in the case of menstruating women with no pregnancy); if the divorcee is pregnant, she must wait until childbirth. If there is no menstruation because the woman is old, or if the courses are in doubt, then *iddah* will be three calendar months.⁴⁷ The husband is compelled to support his divorcee during the legally, prescribed *iddah* according to his financial capabilities. She is also granted the right to reside in his house until the end of this period. As the Quran explains, “When you [men] divorce women, divorce them at their *iddah* and count [accurately] their *iddah*. And fear Allah your Lord [O Muslims] and turn them not out of their [husband’s] homes, nor shall they [themselves] leave.”⁴⁸

This waiting period is designed to let the door open for any possibility of reconciliation and to allow noticing any signs of pregnancy if there are any because, in Islam, the child takes paternity from the man, whoever he might be married to the mother at the time of its birth. Thus, *iddah* preserves the child’s claim to paternity from being confused, as the Quran

⁴⁴ Quran, 4:128.

⁴⁵ Quran, 4:35.

⁴⁶ “But if their intention is firm for divorce, Allah hear and know all things”; Quran, 2:227.

⁴⁷ And those who no longer expect menstruation among your women – if you doubt, then their *iddah* is three months. And for those who are pregnant, their term is until they give birth; Quran, 65:4.

⁴⁸ Quran, 64:1.

makes clear: “Women who are divorced shall wait, keep themselves apart, and have three [monthly] courses. And it is not lawful for them that they conceal that which Allah has created in their wombs if they believe in Allah and the Last Day. And their husbands would do better to take them back in that case if they desire a reconciliation. And [the rights] due to the women are similar to [the rights] against them, [or responsibilities they owe].”⁴⁹

Islam ensures that the divorced woman obtains her alimony. The Quran demands: “For divorced women, maintenance should be provided according to what is acceptable [This is a duty of the righteous].”⁵⁰

The divorcee also has the right to be paid for nursing her own infant. Islam has also imposed the support of an infant on the father, including the provision of a foster mother if the mother is unwilling to breastfeed or in case of health problems. “If they carry [life in their wombs], then spend [your substance] on them until they deliver, and if they suckle your [offspring], give them their recompense and consult together in kindness, 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.”⁵¹

The same issue is elaborated on in chapter 2, verse 223 of the Quran: “Mothers may breastfeed their children for two complete years for whoever wishes to complete the nursing [period]. Upon the father are the mother’s provisions and clothing according to what is acceptable. No one shall be burdened beyond their capacity. No mother should be harmed through her child and no father through his child. And if they both desire to wean through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payments according to what is acceptable. And fear Allah, and know that Allah is Seeing what you do.”

At the end of the legally prescribed waiting period, women have the full freedom to remarry whenever and to whomever they choose. Verse 232 in chapter 2 states that, “When you divorce your wives and they reach the end of their waiting period, and the divorce becomes irrevocable, do not hinder them from marrying their chosen husbands, if they mutually agree on equitable terms. This instruction is for all amongst you, who believe in Allah and the Last Day. That is [the course making for] most virtue and purity amongst you and Allah knows, and ye knows not.”

⁴⁹ Quran, 2:228.

⁵⁰ Quran, 2:241.

⁵¹ Quran, 65:6.

3.4. The Status of Women in Islam with Regard to Inheritance (Al-Mirath)

In Islam, the law of inheritance constitutes a quantum leap in women's situations. As shown earlier women, in pre-Islamic societies, did not inherit except in very rare cases. Rather, women were sometimes inherited as belongings. Tellingly, the Quran abolished this grievous custom: "O you who believe! You are forbidden to inherit women. Nor should you treat them with harshness, that you may Take away part of they have been given to them."⁵² Furthermore, the men of the family were used to seizing the money of orphans, especially orphan girls. This continued in the early years of Islam until decisive rulings were revealed, forbidding the expropriation of orphans' money. As verse 2 in chapter 4 points out, "Give the orphans their properties and do not substitute the defective [of your own] for the good [of theirs]. And do not consume their properties into your own. Indeed, that is ever a great sin. In the same chapter, verse 10, the Quran threatens those who take over orphans' money or properties with severe punishment: "Indeed, those who devour the property of orphans unjustly are only consuming fire into their bellies. And they will be burned in blazing Fire."

The Quran contains about thirty-five verses guiding the rules and regulations for the distribution of inheritance, known as *Ayatu-Al-Mawaariith* (inheritance verses). These verses start by emphasizing that in no way are females, including distant ones, to be deprived of inheritance, as can be inferred from the following verse, "for men is a share of what the parents and close relatives leave, and for women is a share of what the parents and close relatives leave, whether the property is small or large – an obligatory share."⁵³ With this principle, women, who were previously considered chattels, become co-sharers with men as they could inherit from all their relatives; males or females. Thus, they not only restore their dignity but also protect their social and economic rights.

For the majority of Arab/Muslim men at that time, it was difficult to accept that a woman or a minor should be allowed to inherit a share of the family property. Some of them went to the Prophet arguing: "O Messenger of God, how should we give women part of what her father left, while they don't ride horses, fight or collect the booty, and how young boys

⁵² Quran, 4:19.

⁵³ Quran, 4:7.

may be given the inheritance while they are good for nothing?"⁵⁴ It is actually stated that men hoped this new idea should be ignored or forgotten.⁵⁵

After establishing the general principle of giving women a share of the inheritance, the Quran goes on to explain the general principle in detail. The woman's portion varies according to her relationship with the dead person, whose property is being divided according to the number of people who are to share the inheritance. The guidelines for distribution are provided in Chapter 4, verses 11 and 12 as follows: "Allah [thus] directs you as regards your children's [Inheritance]: to the male, a portion equal to that of two females: if only daughters, two or more, their state is two-thirds of the inheritance; if only one, her share is half, for parents a sixth share of the inheritance to each, if the deceased left children; if no children and the parents are the [only] heirs, the mother has a third; if the deceased left brothers [or sisters], the mother has a sixth; [the distribution in all cases is] after the payment of legacies and debts. You know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by Allah; and Allah is All-knowing, All-wise. In what your wives leave, your share is half, if they leave no child; but if they leave a child; you get a fourth after payment of legacies and debts. In what ye leave, their share is a fourth, if ye leave; but if ye leave a child they get an eighth; after payment of legacies and debts. If the man or woman whose inheritance is in question has left neither ascendants nor descendants but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third; after payment of legacies and debts; so that no loss is caused [to anyone] thus it is ordained by Allah."

Given the strong opposition to women's right to inheritance, many scholars throughout Islamic history, have taken the principle of "to the male like the share of the two females" out of its textual and historical contexts as a partial ruling in inheritance and generalized it to every relationship or comparison between male and female. Therefore, the male becomes the share of the two females in all aspects/areas of life and that turned into a general ruling in many Arabic/Islamic societies, through which many try to reinforce men's superiority. This goes completely against all the teachings of the Quran, which refer to both men and women in an equitable degree.⁵⁶

⁵⁴ M. Al-Tabari, *Tafsir Al-Tabari* (vol. 4, Egypt 1983), 176.

⁵⁵ M. Al-Tabari, *Tafsir Al-Tabari*, 176.

⁵⁶ See Quran, 3:195; 4:32; 74:38; 16:97; 33:35–36 and 9:71, to mention just a few.

Nevertheless, going back to the issue of unequal access to the property in the case of the female heirs inheriting only half of the share of the male inheritors, and through a comprehensive look at this same verse (4:11–12), one can see a variety of symmetrical divisions between men and women. These varieties indicate that the proportion of females of one-half the proportion of males is not the exclusive method of property distribution, but one of several balanced arrangements. In fact, if there is one female child, her share is half that of inheritance. Furthermore, there are cases where women inherit equally to men. This is in the case when parents inherit their son or daughter, according to the abovementioned verse 4:11 “for parents a sixth share of the inheritance to each, if the deceased left children.” In some other cases, women inherit more than men.⁵⁷

The rationale why men take double the share of women of inheritance (in that one case mentioned earlier) is attributed to financial/economic obligations and responsibilities that Islam imposes on them. According to Islamic law, a man is obliged to provide for his wife and children. Even if she has a job or is rich, a woman has no financial obligations whatsoever except for her very few personal expenses and the highly luxurious things that she might want to have, other than that she is financially secured and provided for. This involves all her statuses; as a wife, her husband is the provider;⁵⁸ as a mother, it is the son; when she is a daughter, her father is the provider; and where she is a sister, the brother must provide for her.

4. Some Controversial Issues

4.1. Polygamy (Taeatud Alzawjat)

Long before Islam, polygamy was widely practiced by many nations and was accepted in pre-Islamic Arabia without any limitations on the number of wives. Islam did not authorize polygamy as an absolute right, as was the case in pre-Islamic societies and it imposes some regulations by which to organize this custom.

One of the reforms introduced by Islam regarding polygamy is related to the number of wives a man can marry at once. The number is limited to four. The other condition is the just treatment of wives. Polygamy cannot be practiced according to men’s whims and fancies, which might cause women’s oppression and unjust treatment. All wives must be treated

⁵⁷ See S. Soltan, *Women’s Inheritance in Islam: Discrimination or Justice* (OH 2004), 66.

⁵⁸ Quran, 4:34.

equally and fairly. As the Quranic verse reinforces: “If you fear that you will not deal justly with the orphans, then marry those who please you of [other] women, two, three, or four. *But if you fear that you will not be just, then [marry only] one...* That is more suitable that you may not incline [to injustice].”⁵⁹ Just/equal treatment must be applied to all aspects of marital life, such as food, clothes, allowances, housing, and the show of care, love, and affection. Thus, the condition of justice denies the permissibility of polygamy. In light of verse 4:129: “You [men] are never able to be just and fair as between women even if you should strive [to do so],” there is no doubt that immaterial things and feelings are difficult to equate. Therefore, monogamy is the Quran’s preferred marital structure.

4.2. The Testimony of Women (Shahadah)

One of the most controversial issues regarding the status of women in Islam is related to verse 2:282 which deals with women’s testimony. The verse is read as: “O, you believers! when you contract a debt for a specified term and write it down. Let a scribe write [it] between you, in justice. Let no scribe refuse to write, as Allah taught him. Therefore, let him write and let the one who has the obligation dictate. And let him fear God, his Lord, and not leave anything out of it. But if the one who has the obligation is of limited understanding or weak or unable to dictate himself, then let his guardian dictate in justice. And bring to witness two witnesses from among your men. If there are not two men [available], then one man and two women from those whom you accept as witnesses – so that if one of the women *errs, then the other can remind her*. Let the witnesses not refuse when they are called upon. Do not be [too] weary to write it, whether it is small or large, for its [specified] term. That is more just in the sight of Allah and stronger as evidence, and more likely to prevent doubt between you, except when it is an immediate transaction that you conduct among yourselves. For [then] there is no blame upon you if you do not write it. Take witnesses when you conclude a contract. And Let no scribe be harmed or any witness.”

Like many other verses of the Quran, some scholars and commentators have adopted part of the verse namely, “If they are not two men, then a man and two women” to argue that women are not “wise enough” or “smart enough” or to give valid testimony and based on that they construct some legal opinions and rulings. Some of these have reached the point

⁵⁹ Quran, 4:3.

of considering a woman to be half a human being or an incomplete human being. It goes without saying that such opinions contradict many verses that have been discussed earlier in this text and equate women and men in statuses, obligations, rewards and punishments.⁶⁰ When the verse is regarded in its entirety and not atomistically, as well as in its historical circumstances and context, it will be clear that it does not have anything to do with the credibility or dignity of women.

First, when taken into its historical context, it is well known that before and during the time of Revelation, commercial transactions were restricted to men, except in rare cases. As a result, women were generally uninformed about commercial affairs, including debt. Wealthy women of that time who had money and traded with it used to delegate honest men to do the business for them, as was the case with Prophet and Mrs. Khadija, who entrusted him with her entire business before marrying him.

Secondly, the witnesses in this verse are limited to certain types of financial contracts, namely debts. Thus, it does not apply to other matters and is not meant to be applied as a general rule. Finally and this is of utmost importance, the verse justifies the presence of two female witnesses instead of one not because it considers women incompetent, but only “that one of them might go astray so the other one would remind her,” because matters of debt had the potential to lead to confusion thus causing injustice. This is once again because such transactions were carried out mainly outside the domain of women.

Additionally, there are some cases explained in the Quran where the testimony of a man and a woman is equated. One example is related to the cases of *zina* (illicit sexual relations). “And [as for] those who accuse their wives and have no witnesses except themselves, the evidence of one of these [should be taken] four times, bearing Allah to witness that he is most surely of the truthful ones. The fifth [time] is that the curse of Allah be on him if he is one of the liars. And it shall avert the chastisement from her if she testifies four times, bearing Allah to witness that he is most surely one of the liars. The fifth [time] is that the wrath of Allah is on her if he is one of the truthful.”⁶¹

⁶⁰ See Quran, 7:22; 4:7, 35, 124 and 130; 3:195; 9:195; 16:97; 33:36; 49:13; 24:2, 6–9, 26, 30 and 31; 40:40; 48:5.

⁶¹ Quran, 24:6.

Conclusion

Pre-Islamic traditional and well-embedded social structures and perceptions of women humiliated them and caused a big deal of discrimination against them. With the emergence of Islam, a lot of the practices of that time were challenged, reformed and/or abolished. Islam has significantly affected women's issues by promoting and advocating improvements in the status of women. When Quranic verses are taken into consideration, it is clear that in Islam women are spiritually, cosmologically, and morally full human beings equal to men and possess fully-fledged individual rights. However, if the idea of Islam is based on what Muslims do, then women and men are not equal because, in most Muslim majority or minority societies, women are not considered as important as men.

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