

# WOMEN IN ISLAM

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**This is the tenth chapter of «Ramadan Declaration» appeared in 1987. The author ideas are more advanced in 2012, but he has no time to revise.**

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- 1) A number of factors render the question of women an important social and legal issue.

These are:

- a) Numerically women constitute approximately one-half of society, perhaps more than half in most countries.
  - b) Women, by the very nature of their role, are responsible for rearing generations and impart to them their specificities. Man is but the child of a woman and from her he draws many customs and characteristics. The more women in a given, society are enlightened and of a sound judgment, the more capable they will be of assuming this weighty responsibility.
  - c) Women are the symbol of sex. Although the question of sex by virtue of its very nature is a binary one, women, and for a number of reasons and conditioning circumstances have become the symbol of sex. It is at once a subject of interest and an object of controversy. That has been the case since the days of the prophet and the incidents related to Hadith al Ifk or the 'discourse of falsehood' (1) and continues to be relevant into our modern age. Our contemporary period brought the issue further into the forefront and made it one of the challenges confronting societies, in particular Islamic ones,
- 2) In order to outline Islam's position vis a vis women we have to look at the basic fundamentals and principles in Islam for clarification, but in going we have to exclude the statements of jurists (2). Over the ages, jurists have been influenced in their judgments by their understanding of the scriptures in the light of circumstances specific to them and to their societies, a matter which we should not burden our contemporary societies with because religion, specifically Islam, cannot be governed or conditioned by the ruling circumstances of a single place or age.
  - 3) The essential principle in Islam is that all people are equal, much like the teeth of a comb; there is no merit for an Arab over a non-Arab, a white man over neither a black man nor a male over a female. Sex, colour, lineage or prestige therefore cannot confer on their subject's superiority over others. Superiority arises only from endeavor, which is the criterion of merit and the attribution of precedence.

The Quran equated women to men addressing the believer's males and females without any distinction, and that, a thousand years ahead of the orators of our age. Despite the fact that male believers appear sequentially before female believers, there is no conceptual distinction whatsoever readable in the verses. The verses refer to both male and female believers in a manner indicating that equality between them is a precept already established and recognized:

'And (as for) the believers, both men and women - they are close unto one another: they (all) enjoin the doing of what is right and forbid the doing of what is wrong, and are constant in prayer, and render the purifying dues, and pay heed unto God and His grace: Verily, God is almighty, wise! # God has promised the believers, both men and women, gardens through which running waters flow, therein to abide, and goodly dwellings in gardens of perpetual bliss, but God's goodly acceptance is the greatest (bliss of all) - for this, this is the triumph supreme' Al Tawbah, 71 & 72.

The verses place a common and equal duty on men and women in enjoin the doing of what is right, forbidding what is wrong, discharging prayers and obeying the Prophet. They are equally recompensed in heaven and both benefit of God's assent and acceptance:

'Verily, for all men and women who have surrendered themselves unto God, and all believing men and believing women, and all truly devout men and truly devout women, and all men and women who are true to their word, and all men and women who are patient in adversity, and all men and women who humble themselves (before God), and all men and women who give in charity, and all self-denying men and self-denying women, all men and women who are mindful of their chastity, and all men and women who remember God unceasingly; for (all of) them has God readied forgiveness of sins and a mighty reward. # Now whenever God and His Apostle have decided a matter, it is not for a believing man or a believing woman to claim freedom of choice insofar as they themselves are concerned: for he who (thus) rebels against God and His Apostle, has already, most obviously, gone astray', Al Ahzab 55 & 36.

'... And had it not been for the believing men and believing women (in Mecca), whom you might have unwittingly trampled underfoot, and on whose account you might have become guilty, without knowing it...' Al Fat-h 25.

'(And) that He might admit the believers both men and women, into gardens through which running waters flow, therein to abide, and that He might efface their (past bad) deeds: and that is, in the sight of God, indeed a triumph supreme! # And (God has willed) to imposed suffering (in the life to come) on the hypocrites, both men and women, and on those who ascribe divinity to aught beside Him, both men and women: all who entertain evil thoughts about God. Evil encompasses them from all sides, and God's condemnation rests upon them; and He has rejected them (from his grace), and has readied hell for them: and how evil a journey's end!' Al Fat-h 5 & 6.

These verses treat with perfect equality males and females in all categories, that is, believer's males and females, hypocrite's males and females, and those who ascribe divinity to aught beside God, males and females. It is observed that equality relates to the essential issues of faith, Endeavour and recompense:

'And thus does their Sustainer answer their prayer: "I shall not lose sight of the labour of any of you who labours (in my way), be it man or woman: each of you is the issue of the other..." Al Imran 195.

'Whereas anyone - be it man or woman - who does (whatever he can) of good deeds and is a believer withal, shall enter paradise, and shall not be wronged by as much as (would fill) the groove of a date stone', Al Nisaa 124.

'As for anyone - be it man or woman - who does righteous deeds, and is a believer withal - him shall We most certainly cause to live a good life; and most certainly shall We grant unto such as these their reward in accordance with the best that they ever did', Al Nahl 97.

'O men! Behold, we have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of Him...!', Al Hujjurat 13.

In all these verses, the subject matter are men and women and they are all equally addressed and referred to as having emanated from one another and as having been created in various peoples to come to know one another without discrimination or sensitivity.

- 4) Of course, global equality among people does not negate precedence or merit on the basis of Endeavour, responsibility or knowledge, an aspect the Quran highlighted in many of its verses and extended to encompass prophets as well as believers:

'Some of these apostles have We endowed more highly than others: among them were such as were spoken to be God (Himself), and some He has raised yet higher...!', Al Baqarah 253.

'Such of the believers as remain passive - other than the disabled" cannot be deemed equal to those who strive hard in God's cause with their possessions and their lives; God has exalted those who strive hard with their possessions and their lives far above those who remain passive. Although God has promised the ultimate good unto all (believers), yet has God exalted those who strive hard above those who remain passive by (promising them) a mighty reward', Al Nisaa 95.

'And this was our argument which we have vouchsafed unto Abraham against his people: (for) We do raise by degrees whom We will. Verily, thy Sustainer is wise, all-knowing'. Al Anaam 83.

'For, He it is who has made you inherit the earth, and has raised some of you by degrees above others, so that He might try you by means of what He has bestowed upon you. Verily, thy Sustainer is swift in retribution: yet, behold, He is indeed much-forgiving, a dispenser of grace'. Al Anaam 165.

'(and) God will exalt by (many) degrees those of you who have attained to faith and, (above all,) such as have been vouchsafed (true) knowledge; for God is fully aware of all what you do', Al Mujadalah 11.

'For, (in the life to come,) all shall have their degrees in accordance with whatever (good or evil) they did, and so, He will repay them in full for their doings, and none shall be wronged', Al Ahqaf 19.

- 5) For women in particular, equality is the subject of several verses of Surats Al Baqarah and Al Nisaa (3). The phrasing of the verses in both is precise and revealing:

'...but, in accordance with justice, the rights of the wives (with regard to their husbands) are equal to the (husbands') rights with regard to them, although men have precedence over them (in this respect)!' Al Baqarah 228.

'Hence, do not covet the bounties which God has bestowed more abundantly on some of you than on others. Men shall have a benefit from what they earn, and women shall have a benefit from what they earn. Ask, therefore, God (to give you) out of His bounty: behold, God has indeed full knowledge of every thing. # And unto every one have We appointed heirs to what he may leave behind: parents, and near kinsfolk, and those to whom you have pledged your troth: give them, therefore, their share. Behold, God is indeed a witness unto everything. # Men shall take full care of women with the bounties which God has bestowed more abundantly on the former than on the latter, and with what they may spend out of their possessions', Al Nisaa 32 to 34.

A review of the verses reveals:

- a) That the chapeau of the verse underlines equality 'but in accordance with justice, the rights of the wives (with regard to their husband's rights) are equal to the (husband's)'. The verse also proscribes coveting 'the bounties which God has bestowed more abundantly on some of you than on others...'. So, a men for example cannot covet qualities like beauty or grace, neither could women covet qualities like might or strength because each has a share of merit and a portion of prefer ability.
- b) Beyond this stipulation of equality in the first section of the verse, there comes a reference to the edge or pre-eminence of men in the later part of the verse. The first verse indicates this as 'men having precedence over them', and we have already clarified that since the Quran uses the word precedence for degree, even in reference to prophets and believers, it is precluded that this merit be of a qualitative nature.

The verse in Surat Al Nisaa uses the Arabic word قِوَام derived from قِيَام i.e. caretaking, superintending, custodianship etc, but that does not give the sense of an absolute or abstract pre-eminence detached from commitment or responsibility, rather it ties this precedence to specific responsibilities interpreted in the rest of the verse as: spending and protection which emanate from strength.

- 6) Islam protected women's honor and their dignity by proscribing rumours and gossip. The Quran considers any reports prejudicial to a woman's honor as libel, whose initiator is most severely punished unless capable of producing four first hand independent witnesses to substantiate his accusation. Furthermore, Islam preserved for women their maiden names and their civil and legal identity. Islam recognized women's right to ownership of assets and money as well as their right to dispose of their belongings at will. A woman's parents and brothers do

not have the right to dispose of her belongings. Not all of these rights have been accorded to women in many modern societies.

- 7) It might also be interesting to note that the Quran does not uphold the famous Old Testament account blaming the responsibility of Adam's descent from paradise on Eve, for having seduced him into disobedience. In fact, this old accusation accounts for much of the prejudice and discrimination against women over the ages in the history of Judeo-Christianity because of the link between Eve and temptation on the one hand, and Satan and the serpent on the other. That vision and the notions of the guilt of women brought forth with it, have been rejected by the Quran which exonerated women by placing the responsibility of the error of disobedience leading to the descent from paradise equally on both Adam and Eve, without distinction. Furthermore, the Quran sets forth four examples for faith and association (4) in which female protagonists figure, testifying there by to women's elevated place in matters of creed and faith:

'For those who are bent on denying the truth, God has propounded a parable in (the stories of) Noah's wife and Lot's wife: they were wedded to two of Our righteous servants, and each one betrayed her husband; and neither of the two (husbands) will be of any avail to these two women when they are told (on Judgment Day) "Enter the fire with all those (other sinners) who enter it" # And for those who have attained to faith, God has propounded a parable in (the story of) Pharaoh's wife as she prayed, "O my Sustainer! Build Thou for me a mansion in the paradise (that is) with Thee, and save me from Pharaoh and his doings and save me from all evildoing folk!" # and (we have propounded yet another parable of God-consciousness in the story of) Mary, the daughter of Imran, who guarded her chastity, whereupon we breathed of our spirit unto that (which was in her womb), and who accepted the truth of her Sustainer's words and (thus,) of His revelations-and was one of the truly devout', Al Tahrim 10 to 12.

- 8) The Prophet's statements and deeds have always been the source of illustration and clarification of Quranic precepts. Towards women, the Prophet had the most chivalrous regard, surpassing by far many principles of gallantry of the middle Ages and the etiquette of our modern one. Peace be upon him, the Prophet used to bend his knee as a support to his wives to help them mount on their camels. He raced with Aishah, the youngest of his spouses, whose love he always declared. He stood with her to watch Ethiopian dancers until her herself tired of watching. He always stood up to greet his daughter Fatimah when she visited him, and in some accounts often kissed her hand. Centuries before Sir Walter Raleigh spread his cape for Queen Elizabeth I, Mohamed did the same in welcoming his nurse during childhood, to offer her a seat. He often said of women "Only a generous man would honour them and only a mean one would despise them". His respect of women's wishes was best illustrated when he mediated to reconcile a young woman to her husband whom she had been divorced from. He was not angered when she refused to accept his mediation.

On the other hand, he ruled the divorce of a young woman who was forced into marriage by her father.

Impartial readers of the verses of the Quran and the biographies of the Prophet will necessarily have to conclude that, where women were concerned, Islam went to great lengths to secure equality between them and men. It moderated this equality only at the limits of organizational exigencies; when matters require a measure of responsibility and preeminence. That was fourteen centuries ago while wives continued to be bought and sold in fifteenth century Europe.

9) Several verses have been revealed on women's attire, their charms, ornaments and adornments. With the exception of the verses addressing the Prophet's wives and reminding them that 'you are not like any of the (other) women (Al Ahzab 32), the other verses dealing with women's attire and charms admonish them only 'not to display their charms (in public) beyond what may be directly apparent thereof' (Al Nour 31). The same verse calls upon them to 'draw their head-coverings over their bosoms' and 'let them not swing their legs (in walking) so as to draw attention to their hidden charms' (Al Nour 31). The thrust of these verses and their directives ask women therefore to cover the slit of their gowns and to wear their clothes longer for better cover. Some of these verses appear in the context of a discourse on behaviour and comportment addressed to the Prophet's wives. Since they are like no other woman, then addressing the same discourse to believing women in general cannot be but for exalting perfection in their eyes. And even then, the verses recognize implicitly, even for the Prophet's wives, the right to adorn themselves, excluding in the manner of the 'old days of pagan ignorance', Al Ahzab 32.

The phrasing of these verses is subtle but gives a sense of direction, as compared to the verses on 'the discourse of falsehood' (1) and the verses on adultery. The verses do not contain a reference to the segregation of men and women, neither is there an imposition on women to 'abide quietly in your homes' except in the case of the Prophet's wives. Naturally, theirs is a special and privileged status, and it is inconceivable for the Prophet's wives to mingle in the markets, rather they are to be sought in their homes by fellow Moslems as well as by tradesmen and tradeswomen. Even then, this privileged status of the Prophet's wives did not isolate them from male society. The example of this situation is read in the reaction of the sagacious and self-possessed wife of the Prophet, Um Salamah. Her attendant one day was brushing for her-hair in her appartmer' and they both heard the Prophet's voice outside calling 'O People!'. She asked her attendant to gather her hair so that she might answer the call, and the attendant surprised said 'God have mercy on you, he said "people", and Um Salamah replied "Are we not people'.

It is further known that at the time of the Prophet, women participated in public life and in battle where they nursed and treated the wounded and even engaged in combat and defence. The Prophet apportioned for women a share in the spoils of war and when he spoke of sea-borne forces, Moslem women, Um Saleem, asked him to pray for her that she might become one of them. The Prophet did not oppose her wish



and prayed for its fulfiller Um Saleem later braved the sea with the Moslem warriors and died in combat in the battle to conquer Cyprus. Perhaps this is a unique case even if compared to the annals of the mighty British fleet. In many other instances, Moslem women gave safe-passage and protection (5) to persons known to be enimical to Islam. The Prophet recognized the protection they extended and its inviolability. Matters of this nature and portent are surely considered to be at the very heart of independent political activity.

- 10) Islam calls for a partnership between man and women in public Endeavour and in worship, for the Prophet said 'Do not deny God's female servants access to his mosques'. The Prophet himself led women to the mosque during the feast prayers and on other occasions which grouped them in the same place with men. That in itself corroborates women's equal station to that of men in the eyes of God and his Apostle.
- 11) There are some Hadiths (6) which address the details of attire and adornments as well as the voice of women, the touching of a woman's hand, her freedom to circulate outside the house and her unchaperoned presence in the company of a man to whom she is a stranger (7). Without doubt, the contenix of these Hadiths is sound and logical and parallels do exist in Freudean books on psychology as well as in masterpieces of the world's literature Many of these parallels have won people's admiration for their precision and validity and because they tackled a profound and abstruse aspect of human nature and of society. But this validity does not necessarily entail generalizations, much the same as is the case with traffic accidents and airplane crashes or with the transmission of microbes by water, air and green groceries. These accounts, despite their pertinence to reality, do not prevent people from using means of transport or from eating, with the associated risks of accidents and poisoning, which are neither impossible nor improbable. Therefore, accounts and Hadiths on temptation in this sense are more precautionary in their purpose, much more than being a dictum to be strictly followed. When we invert the logic of "discount selling" into one of interdiction, we fall within the realm of obsessions (8) which is against the nature of things and which strains the human soul in excess of what it could easily tolerate.
- 12) In general, therefore, this question, that of women's attire and the extent of socialization they are allowed, has taken on more importance than it deserves and thus became a controversial question. The issue has been used as an accusation, a source of temptation and a tool for defamation against many a man and a woman, while in effect; it does not fall within the core of tenet and creed. Rather, it is a point, which relates to comportment and behavior. The question is not the covering of the neck and the head or the wearing of longer robes much as it is one of forsaking dissoluteness which prejudices women's humanity by placing the sexual aspect of their identity above their human essence and by making women objects of pleasure, temptation and exploitation instead of entities for their own sake, a situation which thereafter brings a lot of damage to society. The crux therefore in the whole of this debate is the psychological

element more than the authority of the government and that of tradition; one of ijihad (9) more than of a penal code. If uncovering the hair and displaying charms in a manner no way akin to that of 'flaunting charms' runs contrary to the handed down tradition, the Quran and the Sunnah (6) themselves have allowed licence in case of necessity and made of 'intention' the point of reference by-passing stumbles and trifles known as اللمم (10) in which exegetes have also included the kiss and the embrace; uncovering the hair is for less weighty than either of these. Exegetes have further identified remedy which is "... verily, good deeds drive away evil deeds..." (Hud 114). The Quran as well as the Sunnah (6) have presupposed that women will take a share of adornment and the Prophet used to hate for men, let alone for women, to neglect combing their hair and scenting their clothes and deplored slovenliness in women. Only unchaperoned socialization and the flaunting of charms as in pagan ignorance were proscribed. Anything below these in magnitude does not enter into the domaine of explicit proscription. A woman's just soundness and discreteness therefore are only affected by those two possibilities or if her conduct is characterized by dissoluteness. It is then up to every generation to define appropriateness and excess according to its circumstances and understanding without betraying either the explicit teachings of religion or their collective conscience in interpreting them.

If this path is considered by some as a deviation, let them ask themselves who among them does indeed follow to the letter the ethical code of behavior in visiting family and friends and have they ever turned back their visitors, and who among the Moslem visitors would accept that turning back with grace despite the Quranic directives in this respect (Al Nour 27 to 29), Who, furthermore, strictly emulates the Prophet in attire, adornment, food and drink.

13) We have repeatedly read of the dangers of mixing between the sexes, and its evils, and we of course recognize the dangers when mixing is without control. But decent mixing between groups of men and women for study or for social occasions dissipates reasons for criticism. At any rate, we read nothing about the dangers and perils of segregation and its negative effects which leave youths torn and lost in the quagmires of ignorance, furtiveness and deprivation with their associated dangers of abberations, delinquency and perturbation. All these are grave consequences of segregation, which we cannot afford to ignore since they are rampant in segregated societies. It is easy to exhort sublime behavior of a society but one has to bear in mind that one cannot commit everybody to that since instincts have a much stronger hold on human beings. Neither is it possible, nor required, of young people to get married as early as puberty because marriage today constitutes a heavy responsibility. The adolescent, In effect. Will have to complete his studies or follow some vocational training before becoming capable of supporting himself and his family. Between puberty and the stage of financial independence there will be a period of no less than ten years, that is the period of adolescence and early adulthood.

Without doubt, any society which totally isolates men from women is one operating against innate nature known in Islam as fitrah الفطرة (11), and Islam identified itself with what it's natural. Segregation is a form of celibacy which Islam discourages, and insistence on segregation is but a reflection of inherited social norms and not of Islam. A segregated society is a weak one carrying the elements of instability; it will impose on its next generations psychological humiliation by maintaining males and females in a state of clandestine ignorance leaving them prey to all sorts of black-market emotions. The appropriate happy medium, therefore, recognizes decent mixing between groups of men and women in work, for study and for social activities.

14) Polygamy and divorce are two aspects of a necessity very much relevant to the life of communities. Proscribing polygamy on the basis of the interaction between the two verses:

'...but if you have reason to fear that you might not be able to treat them with equal fairness, then (only) one - or (from among) those whom you rightfully possess...' Al Nisaa 3.

'And it will not be within your power to treat your wives with equal fairness, however much you may desire it...' Al Nisaa 129.

...Would constitute neither a logical contradiction nor a deviation from the explicit text of the verses. But the prohibition would not serve the best interests of the community. Polygamy does have its place in society as an occasional necessity yet not as a norm. If polygamy is barred and the necessity for it emerges, the situation would lead to concubinage aside to one legally recognized wife. Sexual relations therefore develop clandestinely instead of licitly and all the perils of illicit relations erupt in society.

Divorce also is a necessity in some cases being the least desirable of what is lawful (12). But in the end, and in cases of necessity, it is the last resort. Although divorce, for the most, is like a sword perched on women's necks, it is also the means of liberating them from unjust husbands instead of leaving them prisoners of a single, and perhaps unfortunate, opportunity in life. Divorce has for long been one of the claims of Catholic women in particular. In Italy, women founded an association demanding the right to divorce on the basis of a slogan equating divorce to dignity for women.

Islamic divorce is as yet not fully understood by most Moslem husbands and wives, more so by non Moslems who understand by it no more than the term 'divorce, a criticized and deplorable deed. This is attributed to the inability of our sages to translate jurisprudential terms into simple language. Islamic divorce, in the first instance, is the physical separation of the husband and the wife for a period of approximately three months (13), during which the husband could reinstate his wife, with her knowledge and consent, to the marriage framework. Divorce is not considered final except at the end of three months when no conciliation takes place. This process could be repeated another second time, since the third will be irrevocable. In case of conciliation after the period of three months, the process is that

of a re-marriage. Irrevocable divorce is the one which takes place for the third time in the life of a couple, and in case of irrevocable divorce, there could be no re-marriage for the couple until, and only until, the wife had been married to and divorced from another man. The logic and wisdom are clear for they follow the course of human nature and human emotions making reunification attractive but stopping short of taking it for granted. The right of the wife to a second marriage opens the way for her to another chance which might constitute a harsh experience but which is, nonetheless, another opportunity. If she finds happiness with her second husband then be it, or else, she might come to see the merits of her first husband if and when another chance is accorded to them. If in the meantime the husband has remarried, then she and he pay non-but the price of their choices. Further more, courts have decreed the invalidity of an act known as 'conditioned oaths of divorce' (14) which are sometimes used to force a wife into something under the threat of divorce, because such is not what has been set as the purpose of divorce.

15) Islam has given women too, and not only men, the right to divorce. In Islamic jurisprudence, this is called الخلع (15), best translated as (cession). The wife then would be required to restitute to the husband the dowery, which he offered her in marriage. The Prophet permitted a woman cession from her husband though she had no complaint as to his faith, his character or to the way, he treated her, but because she said she could not stand him anymore.

It is neither equitable nor honest to dissimulate this right from women or to undermine its application in a manner to obstruct having recourse to it when the necessity arises.

16) The many cases of misunderstandings, misapplications and abuse of the right to polygamy must not be blamed on Islam but on those who failed to understand Islam and exploited it for serving their own ends. On this score, some jurists have pronounced ignominious judgments of which they ought to be ashamed, for their rulings show the extent of their error and misconceptions. If polygamy is a right, then like all other rights, it is governed by proper usage. Proper usage and the exclusion of abuse form the fundamental rule deeply rooted in the very nature of Islam, and have been reasserted by many an unambiguous verse. Proper usage therefore entails the arbitration stipulated by the Quran before a divorce is ruled. Furthermore, the Quran insisted on the notion of witnesses to a divorce. Islam made witnessing a must in contracts (to avert the possibility of future disputes), and divorce is a contract no less ominous than any other civil contract. The Quran explicitly states:

'And so, when they are about to reach the end of their waiting-term, either retain them in a fair manner or part with them in a fair manner. And let two persons of (known) probity from among your own community witness (what you have decided); and do yourselves bear true witness before God: thus are admonished all who believe in God and the Last Day. And unto everyone who is conscious of God, He (always) grants a way out (of unhappiness)', Al Talaq 2.

This categoric clarity of the verse, however, has not prevented some exegetes and jurists from seeking some quite flimsy pretexts to obstruct its application.

Some measures could be identified for putting an end to the abuse of the right to divorce like, for example, compensating women for damage they incur if either polygamy or divorce occur without an obvious and plausible justification. The compensation could be made commensurate with the damage the women are subjected to.

Such guarantees cannot be considered an infringement on the Shariah, the Islamic canon, because they are only intended to protect rights and interests. In effect, such guarantees would surely help the implementation of the spirit and the purposes of the canon, without having any bearing on the inviolable essence of faith. Let those advocates of unfounded impositions, therefore, consult, their consciences to ensure that what war they wage is indeed to protect God's law and not their self-arrogated liberties with its application.

17) Marriage cannot take place without the consent of the bride neither against her wishes; she herself has to be an active party at the drawing up of the marriage contract. The notion of representing the bride by proxy and interpreting a young woman's silence as consent was an idea brought about in societies in which inexperienced girls and virgins were overcome by prudence and modesty, something which no longer is a norm today. It would be more worthy to apply the Islamic principle of "no pudency in justness", and what justness is more paramount than the one implied in the engagement marriage represents. Marriage must take place on a foundation of mutual emotional responsiveness as well as on a measure of social and psychological compatibility. Both the wife and the husband must, in their own interest, have the desire to make their own marriage work beyond simply uniting as a father and a mother. Islam's conception of marriage is one of emotional. And practical partnership, and when jurists insist on notions other than these in marriage and in divorce, they, in effect, would be privileging certain schools of thought over the explicit teachings of the Quran and the Sunnah. They would be modifying the very logic of Islamic legislation.

Many a Moslem home is an unhappy household, far removed from Islam's vision of marriage, that is: solace, comfort, love and understanding. If walls were to speak, they would tell of tragedies of dissent, repulsion, antagonism and misery, the natural result of Moslems' ignorance of the spirit of their religion, their rejection of its directives and their insistence on inherited traditions as God refers to in the verse:

'For when they are told, "Come unto that which God has bestowed from on high and unto the Apostle" - they answer, "Enough for us is that which we found our forefathers believing in doing". Why, even though their forefathers knew nothing, and were devoid of all guidance' Al Maidah 104.

18) Justly, a comparison of the Quranic texts with practices of Moslems, even during the early days of Islam, reveals that many Moslems were unable to accept Islam's "progressiveness" in matters related to women. As things stand, we see

that despite explicit Hadiths (6) to the effect that women should not be barred from frequenting- the mosques if they so wished, some member of the household of a great Sahabi (16), said on hearing the Hadith, "By God, I shall bar them!". This affront of an answer to the Prophets instruction was the reason this Moslem found himself boycotted by his father Omar Ibn Al Khattab (17). Omar himself, despite his jealous attitude when his wife was concerned, did not prevent her from visiting the mosque. He begged her to refrain, and when she tied refraining to a clear order from him, he was unable to prevent her. When he was stabbed in the mosque later on, his wife was present.

This incident and jurists' arguments over the issue, testify to the fact that many of the constraints placed on women are more the work of men than they are teachings of Islam. Perhaps that is what the Prophet sensed when uttering his last, commandment to the Moslem community. He enjoined them to look after women, a recommendation Moslems unfortunately neglected, while other less pure and less, objective voices than that of Islam upheld.

19) At the end of this expose, the situation could be summarized as follows:

- a. Islam equated men with women in rights and duties, and gave men special rights as part of their function 'to take full care of women' (Al Nisaa 34), representing that function by acts like spending, protection and shouldering responsibility. These special - functions and responsibilities are the ones, which attribute to men a degree of precedence over women as indicated in the verse: Al Baqarah 228.
- b. Islam seeks the community in which ideals reign, and proscribes wantonness, dissoluteness and the provocation of instincts. Its means in doing so is on the one hand the cultivation of peoples' consciences and on the other, the placing of instincts in the right perspective, free of deprivation. Focusing the discussion, therefore, on attire, the 'flaunting of charms', and segregation is paying attention to the form and not to the essence of the question. Any exaggeration is bound to subvert itself into its opposite, including in matters relating to veiling or unveiling women.
- c. Education and learning have been imposed on women same as on men, we could even consider these of more value to women, contrary to what some might think. Education provides women with protection and immunity against pitfalls since it is the most natural way to develop their personalities and to perfect their behavior. With education, women are better equipped for forming sound judgments of things, and for better evaluating their decisions. Education enhances women's capacity to undertake the sacred mission of wife and mother.
- d. Though the greatest and most noble of women's duties is that of motherhood, a difficult and technical one as well as being a noble mission, women's participation in life as an economic venture greatly contributes to equipping them for their first task by strengthening their personalities and rectifying their concepts. Women become better informed on life and the

circumstances surrounding it. No doubt, all such experiences contributes to making marital life a success and promote the adequate upbringing of children. Similarly, women's engagement in economic activity could help them to secure their future and assist them in providing themselves with the liberty of choice when husbands are concerned. Without doubt, all these are the fruits of education.

In addition, the modesty of most Moslem women positively makes it imperative for at least some women to engage in professions, in a manner as to make life less difficult for the majority of the others. Therefore, there must be adequate numbers of female doctors, teachers, nurses, dressmakers, beauticians etc., so that other Moslem women would not, for the lack of an alternative, find themselves obliged to reveal intimate aspects of their being to alien men. There is no reason for women to be excluded from practical life, unless we take for a rule the attitude of traditionalists. It is best for women to engage in some income generating activity before marriage and motherhood. Beyond the stage of personality formation and that of economic necessity, husbands and wives could decide jointly on the merits and disadvantages of a post marital career for the wife. Given the means, most women find that the bringing up of children is one of the most gratifying endeavours and recognize it to be more to the advantage of the family and the nation than any other exploitation of their abilities.

- e. On sexual relations, Islam is more explicit, liberal and progressive than Margaret Mead, Judge Lundis, Leon Blum, Mary Stubbs (18), and Robert Owen (19). Islam makes marital sexual relations a rewardable act. In certain circumstances, Islam permitted marriages with a time limit set on them, known as 'usufruct marriages' (20). This license could be reviewed and regulated since the fact that the Prophet authorized it is a matter of common accord among jurists while its proscription by the Prophet is a subject of divergence among them. Usufruct marriages were only banned under the 2nd Khalif, Omar. Naturally, such attempts at *ijtihad* (9) on this question must receive the utmost attention and be the subject of vigilant scrutiny when drawing up the necessary safeguards. Yet, and in the final analyses, it might be the best available option in a number of particular circumstances.