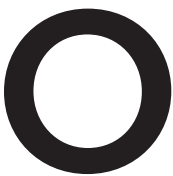


# Islam and Women<sup>1</sup>

CHRISTINE SCHIRRMACHER

## Abstract

Little can be said about all women in Islam, as they live in widely varied circumstances. Still, some guidelines apply to a vast majority of Muslim women today because civil law follows, by and large, the regulations of sharia law in most Arab countries and because the majority of Muslim women are living in traditional settings. This article surveys several of these fundamental guidelines without claiming to describe the actual living conditions of all Muslim women. It will consider the status of women, women and marriage, children, and some other laws and customs. This contribution will conclude with a brief consideration of the Islamic women's movement and a comparison of marriage in Islam with Christian marriage.



nly very little can be said in general about all women in Islam. Indeed, the differences in the circumstances of life created by the urban or rural environment are too significant; the gap between women in Afghanistan and Tunisia, between sternly religious families and secularized Muslims

---

<sup>1</sup> This article builds on the author's following contributions: Christine Schirmacher, "Women in Islam," World Evangelicals, [http://www.worldevangelicals.org/resources/pdf/Women\\_in\\_Islam.pdf](http://www.worldevangelicals.org/resources/pdf/Women_in_Islam.pdf); Christine Schirmacher, "Women in Islam," Institute of Islamic Studies of the Evangelical Alliance in Germany, Austria, Switzerland, July 13, 2005, <https://www.islaminstitut.de/en/2005/frauen-im-islam/?cn-reloaded=1>; Christine Schirmacher, *Islam and Society: Sharia Law—jihad—Women in Islam: Essays*, The WEA Global Issues Series 4 (Bonn: Verlag für Kultur und Wissenschaft, 2008), <https://epdf.pub/islam-and-society-sharia-law-jihad-women-in-islam-the-wea-global-issues-series-v.html>.

in the Western world, is too high. The question whether one particular woman obtains access to schooling changes the circumstances of her life just as decisively as does her age at marriage and one individual family's view about how traditional Islamic regulations are to be applied and how strictly. In addition, ongoing secularization and the spread of Western lifestyles are rapidly changing living conditions in the cities of the Middle East. In some countries like Iran, female students already outnumber male students. Even in Saudi Arabia, twenty percent of the seats of the Consultative Assembly, the formal advisory body of the kingdom of Saudi Arabia (Arabic: *majlis ash-shura*) are currently reserved for women. In the cities, an ever-growing number of Muslim women are earning their own money running businesses. Young couples tend to be economically more independent, and larger families do not necessarily live together in one house anymore. One thing is sure: things are changing in the Muslim world. Still, some guidelines do apply for a vast majority of Muslim women today because civil law still follows, by and large, the regulations of sharia law in all Arab countries (except Tunisia) and because the majority of Muslim women are living in traditional settings.

## **I. *The Status of Women***

### **1. *Men and Women—Equal before God?***

This article names several of these fundamental guidelines without, thereby, claiming automatically to describe the living conditions of all Muslim women. The public debate over women's role in Islam tends in the West to center around the issue of the headscarf, seen as symbolizing women's inferiority, yet not all practicing Muslim women wear the scarf, and not all of them think it is indispensable. It is Islamic marriage law that cements women's inferior legal status as divinely ordained. The relevant provisions of sharia are linked to local cultural norms and time-honored traditions with roots in tribal society that were retained with the arrival of Islam. Some of the widely accepted standards of decency are a mixture of culture, religion, and tradition.

Muslim apologists have always insisted that Islam believes in the equality of men and women and adduce as evidence that the qur'anic creation account makes no distinction between man and woman (sura 39:6). God is said to have created man and woman "from a single soul" (sura 4:1) to be mutual "friends" and "protectors" (sura 9:71) and set "love and mercy"

between them (sura 30:21).<sup>2</sup> The tradition praises the man who treats his wife “best” as the best believer. Muslim apologetics further adduces the common duty of men and women to observe the five pillars of Islam: the creed, prayers, the fast, alms, and the pilgrimage, as well as the promise to both of great rewards in the afterlife: “To whoever does right and believes, be it man or woman, we will give a good life. And we will apportion them their reward according to their best deeds” (sura 16:97).

Despite this fundamental equality, traditional Muslim theologians (who make up the vast majority of Muslim theologians) assert that the tasks God has given women differ from those he has given to men. As women bear the children and the responsibility for home and family, so men are responsible for the family’s protection and maintenance, in other words, to be the breadwinner who has dealings with society at large. Differing tasks mean different rights. So it is seen as no more than an expression of justice between the sexes that only a half-share of an inheritance falls to the woman, since she does not bear the financial responsibility for the family. The principle enunciated in the Qur’an that a man’s testimony can only be outweighed by the testimony of two women (sura 2:282) is said to take account of the fact that women’s biology predisposes them to greater emotional fluctuations and that it would be an imposition on their often insufficient capacity of recall to ask them to decide another person’s fate in a court of law.

Men and women are equal in Islam in the sense that both are promised access to paradise and expected to observe the five pillars of Islam. However, women are excluded from religious practice during menstruation and childbirth.

In Islam, women are prohibited from touching the Qur’an, entering a mosque, saying liturgical prayers, and fasting during Ramadan. Only men are required to attend Friday prayers at the mosque and to listen to the sermon, whose content is frequently of political or social importance. If women attend the mosque at all, a practice frowned upon by some theologians and prohibited by others, they are separated from the men in a small and usually bare room, sometimes in a bad state of neglect through disuse, or in a balcony or basement. Only a sixth of the 1.6 billion Muslims are native Arabic speakers, and it is difficult for most women who are unfamiliar with the language to recite the prescribed ritual prayers in Arabic correctly and in full, to read and understand the Qur’an, or to undertake the pilgrimage to Mecca.

---

<sup>2</sup> The translation of Yusuf Ali of the Qur’an is quoted in this article; see *The Holy Qur’an: English Translation of the Meanings and Commentary* (al-Madina: King Fahd Holy Qur’an Printing Complex, n.d.).

## **2. Women's Status in Family and Society**

The social separation of the sexes is regarded as a means of maintaining decorum. In traditional families, men and women live virtually in different worlds, to a certain extent, even within the family circle. This separation is apparent in the dress code, which does in a strict interpretation not permit men to see a woman to whom they are not related unveiled, but also in the fact that Islam knows no neutral ground where men and women can meet. The wider family admits of a certain level of contact, but the innocuous intermingling of the sexes outside the family circle is impossible and suggests adultery. Muslim theologians have even recommended that women should refrain from greeting relatives in public because other passers-by will not be aware that they are related.

Children in Islam are brought up very differently according to sex. Sons especially develop a close emotional attachment to the mother, while the father is primarily respected as the authority figure. After circumcision, usually between four and nine years of age, fathers increasingly initiate sons into the male world, while the mother traditionally instructs daughters in household responsibilities, training them for their future role as housewives and mothers. Except in the case of serious impediment, marriage is the norm for men and women and guarantees a woman's livelihood.

## **3. Women's Legal Status**

Islamic marriage and family law is prejudicial to women in several ways. Even if there are many loving fathers and husbands in Muslim countries, it is part of sharia law that it is a man's right to punish his wife by ignoring her or by beating her in case of discord (sura 4:34). Aside from questions of inheritance and legal testimony, women are at a disadvantage compared with men in marital law, divorce, and custody proceedings.

The Qur'an permits men up to four wives and an unspecified number of concubines (sura 4:3), even if in many countries polygamous marriages are discouraged by state authorities. The traditional divorce procedure allows a man to divorce his wife by merely pronouncing the formula "I repudiate you" without the need for giving grounds or going to court. Some Muslim countries have already introduced checks to this procedure and lay down laws that an attempt at reconciliation must be made in court, but this is usually only practiced in the bigger cities. In a rural setting, family members might try to reconcile a couple with each other in case of discord.

Women can only obtain a divorce in court and are only granted one if they can prove serious misconduct by the husband; in some countries like Saudi Arabia, it is virtually impossible for the wife to obtain a divorce. A

husband is only bound to pay alimony for a few months in case of her being pregnant, so divorce leaves a woman without means and children, for Islamic marriage law invariably grants custody to the husband once the children are out of infancy. Several Muslim countries have improved the legal status of women today, but only in areas which are not in direct conflict with sharia law. There might be impediments applied for conducting a polygamous marriage; still, in the last fifty years, no Arabic country has formulated a law forbidding it.

## **II. *Marriage***

### **1. *Marriage Contracts in Islam***

In a rural setting—that is, in the vast majority of cases—Muslim marriages are up to this day arranged by the families, and women are not always in a position to give their full and free consent. Even upper-class urban women who might have fallen in love with a young man at university will, in most cases, make their betrothal and marriage dependent on the full consent of their parents.

Arranged marriages tend traditionally to be associated with decency and respectability, while marriages “for love” often smack of immorality and Westernization. Marriage within the extended family is favored because familiarity with the cousin and his parents make it easier to assess the chances of a successful marriage than in the case of an outright stranger. It also guarantees the “compatibility” of the marriage partners with respect to social background, education, religion, and character, which Islam requires, and ensures the dowry stays within the family. It is also easier for the bride’s family to put pressure on a relative to save the marriage when it is in danger of breaking up, and it guarantees that any kind of support needed will come from within the family.

The cornerstone of the marriage contract is the husband’s responsibility to earn a livelihood and the wife’s duty to obey (sura 4:34). The duty of obedience has of late led some wives to include “escape clauses” in the marriage contract permitting them, for instance, to pursue education or career after marriage, since the husband in principle has the right to determine how often and for what purpose his wife may leave the house. Otherwise, should he forbid his wife to attend university after the wedding because he does not consider it compatible with decency, she should submit without demur if she cannot make her father convince her husband to change his mind.

Islamic marriage law demands submission particularly in sexual relations, for by paying the dowry the husband acquires the right over his wife’s body,

and she has no grounds to refuse him except for ritual impurity or during the fast, since according to established precedent, refusal, like infertility, gives the husband the right to repudiate her.

The traditional religious wedding ceremony is presided over by an imam, the mosque precentor or religious official; in urban areas marriages are also registered. The groom and the two obligatory witnesses sign the marriage contract. Strictly speaking, the bride does not even need to be present, the contract often being signed on her behalf by her guardian (in Arabic: *wali*) acting as her legal representative. The most important clause in the contract lays down the amount of the dowry, consisting of the “dawn gift” of clothing, furniture, jewelry, and money that the wife receives from groom’s family at the wedding, and the “evening gift,” the compensation due to the wife if they are divorced, since alimony only has to be paid for three months or until the delivery of a yet unborn child.

God’s blessing is not invoked at a Muslim wedding, a civil rather than a religious ceremony whose purpose is to seal a contract that explicitly anticipates the possibility of divorce through the specification of the “evening gift.” In the wedding ceremony, the marriage partners take no vow of mutual fidelity, nor do they make a promise of mutual care “for better or for worse.” Unlike Christian marriage vows, there is no promise of lifelong, exclusive devotion to one person, as there is in principle the possibility of taking a second wife (except in Tunisia and Turkey). If worse comes to worst, such things as an incurable illness, a prison sentence, impotence, or infertility are generally regarded in Islam as grounds for divorce for both husband and wife. The idea of lifelong spiritual fellowship before God, marriage as a partnership for service, is not central to the Muslim view of marriage; it is rather a compact setting out the rights and privileges of both sides. Nor is there any promise or vow to “love and honor” one’s partner, for the biblical commitment to mutual love is foreign to a Muslim marriage.

## 2. Up to Four Women

Polygyny (multiple wives)—possibly unlimited—probably existed in pre-Islamic Arabia. In sura 4:3, the Qur’an limits the number of a man’s wives to four and, beyond this, allows an unlimited number of concubines: “And if you fear not acting justly in regard to the orphans, then marry women as it befits you: two, three, or four. But, if you fear not acting justly, then marry only one, or whatever [female slaves] you possess. In this way, you can most easily avoid doing injustice” (sura 4:3).

A few countries, such as Tunisia, legally forbid polygamy. In other countries, however—provided that the marriage contract makes no other provision—a

woman can do nothing if her husband desires to take a second wife. In several Muslim majority countries (e.g., Egypt) today, though, she can require in the marriage contract that she be guaranteed the right to a divorce if her husband takes a second wife during her lifetime. In the other Muslim majority countries, polygamy is in no way the rule, but—presumably also for economic reasons—always the exception, and the Qur'an and Islamic tradition demand that all women be treated justly in regard to the material care and affection provided by the husband.

A few Muslim theologians have interpreted the only Qur'an verse that mentions the number of four wives (sura 4:3) in the sense that the Qur'an here actually speaks explicitly against polygamy, since the equal treatment of several wives is never really possible, as the Qur'an itself concedes: "And you will not really be able to treat your wives justly, however much you try to do so" (sura 4:129). The majority of Muslim theologians, however, has held fast to the permission, in principle, to marry up to four wives. One important argument put forward against any criticism of polygamy is the historical fact of Mohammed's multiple marriages, him being the very example for any believer after him.

### 3. *The Duty of Marriage*

In classical Islamic theology, voluntary unmarried existence is unthinkable, and so it is the case for the majority of Muslims in the Middle East today. The Qur'an, of course, clearly commands marriages in sura 24:32: "And give in marriage those among you who are single." The Islamic tradition declares marriage to be a good custom that is to be observed, that is, it is *sunna*: "Marriage is a part of my *sunna*, and whoever is against my *sunna* is against me," so Mohammed is reported to have said.<sup>3</sup> Unmarried, divorced, or widowed women in the Islamic world usually do not live alone; single women live with their extended families, and divorced and widowed women move in again with their extended families, which often has the goal of seeing them married again. The fundamental reason for this is the Islamic concept of marriage that assumes that, without the control of the extended family, a single woman living alone might give rise to rumors about her moral conduct.

### 4. *Early Marriages*

The Qur'an makes no concrete statements about an acceptable age for marriage. It is known of Mohammed that he married some of his wives

<sup>3</sup> Hans Bauer, *Von der Ehe: Das 12. Buch von al-Gazālī's Hauptwerk* (Halle: Max Niemeyer, 1917), 5.

while they were very young, especially his later, favorite wife Aisha, who is reported to have been nine years old at the time (although there are few reports that Aisha was sixteen or seventeen). This fact was later cited repeatedly as a justification for child marriages. Today, the law books of most Muslim majority countries contain provisions that determine a minimum age for marriage, which is frequently set at sixteen to eighteen years for girls and approximately eighteen years for boys, a regulation that in practice in rural areas due to poverty is not infrequently circumvented by the misrepresentation of birth dates. Thus, for example, Moroccan law forbids marriages for women under eighteen but allows “exceptions,” and these exceptions are reported to have doubled in the last fifteen years. In some countries and especially in poor and illiterate settings, girls not yet in puberty, at the age of eleven or twelve years, can be given in marriage. However, sometimes even nine-year-olds get married, and girls as young as ten or eleven become mothers.<sup>4</sup>

### **5. Arranged Marriages and Marriage Contracts**

Up to the present, marriages frequently occur within the network of family relations, above all between cousins. This happens because marriage is considered very much under the aspect of a bond between two families. Once young people reach marriageable age and are not yet promised to a cousin, the traditional way is the arrangement of a marriage through the mother or an older female relation of the groom. Of course, modern marriages are certainly not arranged everywhere, and the number of “love marriages”—above all in urban areas—is steadily increasing.

If the family arranges the marriage, however, the mother of the groom will make inquiries about the family of the chosen young woman and her financial circumstances, and above all about her reputation, health, and domestic abilities. One or two visits in the home of the young woman take place when the amount of the marriage portion and the festivities are discussed. If both families reach an agreement, then an official date for the wedding is set, and the couple is considered engaged. The assent on the part of the young woman plays a more important role today than in earlier times, and the family law books of Muslim majority countries often contain a paragraph explicitly forbidding forced marriages. Today, she is in a better position to reject at most one candidate, but a second or third candidate less so, since in a traditional context she then easily can be considered

---

<sup>4</sup> Fatima Mernissi, ed., *Der Harem ist nicht die Welt: Elf Berichte aus dem Leben marokkanischer Frauen* (Hamburg: Lüchtherhand, 1988).



difficult and unmarriageable and can thus bring shame upon her family.

The actual marriage ceremony is simple: the presence of the bride is not absolutely necessary from a legal point of view. She can have her father, brother, or another male relative stand in for her. Originally, the inclusion of an administrative authority in the ceremony, for the registration of the marriage, was not required, but only the presence of an imam (prayer leader in the mosque) and two witnesses. Today, marriages are also frequently registered with the state authorities, which places women in a more advantageous position. The marriage is purely a contract in civil law between the groom and the legal representative of the bride and is given no particular divine blessing.

The marriage contract regulates, above all, the financial aspect of the marriage portion (Arabic: *mahr*). The groom either pays the marriage portion completely to his bride as her property at the time of the marriage ceremony, or it is agreed upon that the first part ("morning portion") is due at the time of the wedding ceremony and the second part ("evening portion") in the case of divorce or the death of the husband, as a means of providing the wife with some financial security in these cases.

## **6. The Wedding Celebration**

At the wedding celebration, men and women by tradition celebrate separately. The high point of the festivities is the act of bringing the bride into the house of the groom. There, the marriage is consummated and, in traditional settings, as proof of the virginity of the young woman, the bed-sheets are shown to the female relatives (modern couples no longer practice this). The respectability of the bride and the honor of the whole family are thus demonstrated. If the husband discovers that his bride is no longer a virgin, she is sent back to her family in shame and dishonor. For the family of the girl and the bride herself, this is undoubtedly the greatest conceivable disgrace. Absolute abstinence before marriage, as a rule, is not expected from the husband to the same extent as from the woman—even though both sexes may discreetly disrespect these traditional rules in urban and more anonymous settings.

## **7. The Provision for the Family**

The husband is obligated to provide for the family. The wife, for her part, cannot be legally forced to contribute to the livelihood of the family due to sharia law. The wife has the obligation to care for the household and the children. Joint ownership of property such as we know it does not exist, since neither husband nor wife acquires the right to the property of the

other through the marriage. The dowry in the case of divorce is considered the property of the wife and cannot be used in meeting the costs of living.

Once married, the man, according to the Qur'an, has an unlimited right to marital intercourse whenever he wishes: "Your women are a fertile field for you. Go to your field whenever you wish" (sura 2:223). Refusal by the woman is always grounds for divorce, and some traditions pronounce a curse on the wife for her refusal. The wife, too, can sue for divorce in this regard, but only after a long period of continuous sexual neglect.

### III. *Children*

#### 1. *Sons and Daughters*

An Islamic marriage never will voluntarily remain childless. Childlessness is considered to be a disgrace, and the wife is almost always given the blame for it. Infertility is a common ground for divorce. Often the "evil eye" of a third party is seen as the cause of childlessness, and many infertile women visit the graves of holy figures or consult conjurors in order to attain fulfillment of their desire for children by use of magical practices, sacrifices, and occult ceremonies.

A birth is always a joyful event, especially the birth of a boy. The wife is awarded full recognition only through the birth of a child, for she now has fulfilled the most important expectation of her parents and in-laws. To have given birth to a son is such a tremendous event that many mothers afterward are no longer called by their own names, but rather only as the "mother of Aziz" (in Arabic: *umm Aziz*) or "mother of Isma'il" (*umm Isma'il*). The tradition says that "Paradise lies at the feet of mothers," and the Qur'an demands esteem for and the respectful treatment of parents, especially in their old age: "And we have commanded the people to be good to their parents" (sura 46:15). Only when the parents keep their child from the faith is the child theoretically allowed to be disobedient.<sup>5</sup>

At the birth of a child, the prayer call is whispered in its left ear and the confession of faith ("There is no God but Allah, and Mohammed is his Prophet") in its right ear. Special care is taken to ensure that the "evil eye" might not possibly strike the child, for the high rate of infant mortality in the Islamic world was and may still today be attributed to the effects of the "evil eye," that is, to the adverse magical practices of a third party. For this reason, attempts are made to protect the child from this influence by using various protective magical practices, such as blue beads sewn to the

---

<sup>5</sup> Jacques Jomier, *How to Understand Islam* (London: SCM, 1989), 75.

clothing of the child. Annemarie Schimmel mentions the custom of asking forty men named Mohammed for money and then buying clothing for the child from the money received.<sup>6</sup> Sometimes, among other practices, a boy will be dressed in girl's clothes so that the demons are led astray from thinking that they have a boy before them.

## **2. Circumcision for Boys and Girls**

Circumcision, which the Qur'an nowhere explicitly demands, is obligatory for boys in the entire Islamic world and is celebrated with a family festival, usually when the boy is between four and ten years of age. Afterward, the boy belongs to masculine society and is gradually made acquainted with the duties of his religion.

Despite its official state prohibition in most Muslim majority countries, the circumcision of girls is practiced to a greater or lesser extent in several states, primarily in southern Egypt, Somalia, and Sudan, as well as by the Bedouins of North Africa. The Qur'an provides no basis at all for this custom, which has survived in only a few Muslim majority countries, where traditional groups defend it stubbornly as a means of preserving the chastity of unmarried women. Some Muslim states condemn the circumcision of girls as reprehensible, but cannot effectively prevent its practice in certain places or levels of society. This custom may have its origins in African religions. In Egypt, the circumcision of girls was already being carried out during the time of the Pharaohs<sup>7</sup> and was implemented in Islamic culture after the conquest of Islam. Thus, the circumcision of girls should not be considered as specifically Islamic, although Islamic tradition does contain a few positive statements about the advantages of the "mild form of circumcision" that makes a blatant condemnation of female circumcision unacceptable for traditional voices within Islam.

## **IV. Customs and Laws**

### **1. The Veil**

Although in all Muslim majority countries some of the women practice full or partial veiling, the command to wear the veil is not at all so easy to establish from the Qur'an, which says merely that women should cover

<sup>6</sup> Annemarie Schimmel, "Traditionelle Frömmigkeit," in Munir D. Ahmed et al., *Der Islam III: Islamische Kultur, Zeitgenössische Strömungen, Volksfrömmigkeit* (Stuttgart: Kohlhammer, 1990), 242–66, esp. 244.

<sup>7</sup> Frank Bliss, *Frau und Gesellschaft in Nordafrika: Islamische Theorie und gesellschaftliche Wirklichkeit* (Bad Honnef: Deutsche Stiftung für Internationale Entwicklung, 1986), 118.

themselves in a virtuous way for their own protection:

Oh, Prophet! Speak to your wives and daughters and to the women of the believers that they should draw their garments down low over themselves. Thus it is most readily ensured that they are recognized and not molested. God is, however, compassionate and ready to forgive. (sura 33:59)

For some of these instructions, it is not easy to decide from the context which form of “garments” are meant. Of course, one could assume inhabitants of the desert covered their heads in the extreme heat of the day.

The veil, or the headscarf, should according to traditional theology be worn from about the age of puberty. The woman then can show herself unveiled only before the men of her extended family. The Qur’an gives no clear instruction about whether the “veil” means merely a headscarf worn over the usual clothing, as is frequently usual in Turkey, or a full-length veil that leaves the face free or provides only slits for the eyes, as is currently usual in Afghanistan.

## ***2. Punishing the Wife for Her “Rebellion”***

Most Muslim theologians agree that the Qur’an concedes to the man the right in certain situations as the last step to punish his wife (or wives) in case of her disobedience:

The men take precedence over the women because God has honored them more than the others and because they give (to their wives) from their property. ... And if you fear that the wives rebel (against you), then remove yourselves from them in the marriage bed and beat them. If they then obey you, then undertake nothing further against them! (sura 4:34)

The husband, as it seems, is given the right to resort to means of corporal punishment if he fears that his wife could rebel against him. He can use such punishment to compel her to obedience if admonishment and the refusal of marital intercourse have not moved her to relent. Whoever examines the exact wording of the Qur’an verse could even say that the man not only has the right but even the duty to punish, for sura 4:34 is formulated as a command to husbands: “Beat them!”

This is not to say that in every Muslim family the husband beats his wife and in any non-Muslim family he does not! Many Muslims today, some Muslim theologians, and also some female feminists are opposed to the idea that the Qur’an allows the husband to beat his wife by arguing that the traditional application of sura 4:34 is simply wrong, claiming that Mohammed had never supported the idea of wife-beating. However, up to

today these critical voices do not seem to be influential enough to shake the arguments of mainstream Muslim theologians who have not moved away from the traditional interpretation of sura 4:34. This is also the case because not only the Qur'an but also the texts of Islamic tradition underline the husband's right to discipline his wife in case of discord, and as there is still no officially recognized historical-critical hermeneutics applied to the texts of the Qur'an and tradition today, it is still difficult to argue on principle for the inapplicability of sura 4:34.

So there is also just as little justification for claiming that men in the Islamic world would not avail themselves of this right. Nada Tomiche mentions, for example, that the right of punishment is legally established in Egypt. There are said to be courts there that concern themselves with the permissible length of the stick with which the woman can be beaten.<sup>8</sup> "Moderate" punishment by the husband will hardly be a cause for legal action against him, since the wife is culturally assumed to be fundamentally responsible for the success of the marriage and, in the case of punishment, the assumption is of abnormal behavior on her part.

In the tradition, it is reported of Mohammed himself that he confirmed the right of punishment for the case that a wife received as a guest in her home someone whom the husband is not able to abide:

But, she should not allow anyone to sit in your private quarters who you do not like. If she, however, does this anyway, then you are permitted to punish her, but not too hard. Her rights in regard to you are that you provide her in an appropriate form with food and clothing.<sup>9</sup>

The famous theologian Abu Hamid al-Ghazali (died 1111) demands that the "malice" of the wife be treated with "discipline and severity,"<sup>10</sup> and, in the case of "disobedience on the part of the wife," he advocates "forcibly returning [her] to obedience."<sup>11</sup> If her husband punishes her and, as a last resort, beats her, then

he should beat her without causing her injury ..., that is, he should cause her pain, but not so that one of her bones is broken or she bleeds. He also is not permitted to strike her in the face; that is forbidden.<sup>12</sup>

<sup>8</sup> Nada Tomiche, "Mar'a," in *Encyclopedia of Islam* (Leiden: Brill, 1991), 6:466–72, esp. 471; Bliss, *Frau und Gesellschaft in Nordafrika*, 69.

<sup>9</sup> Talib Y. Fehhaber's translation is cited in Ahmad von Denffer, *Wallfahrt nach Mekka: Das Wichtigste über umra und hadsch*, Schriftenreihe des Islamischen Zentrums München 15 (Munich: Islamisches Zentrum, 1987), 84, unfortunately with no source reference.

<sup>10</sup> Bauer, *Von der Ehe*, 78.

<sup>11</sup> *Ibid.*, 87.

<sup>12</sup> *Ibid.*

### 3. Adultery

Adultery in general is considered in Islam to be a serious offense; the Qur'an requires 100 lashes for the man and the woman (sura 24:2) and warns explicitly against leniency and compassion. In Islamic law, however, death penalty by stoning has come to be accepted for married adulterers, since the tradition mentions this punishment and it is assumed that earlier the Qur'an also once contained this "stoning verse."

However, four witnesses are required to provide proof of adultery, a circumstance that is likely to be extremely rare. If this condition cannot be fulfilled, then the charge is interpreted as a false accusation, which, according to Islamic law, likewise is punishable. A wife can ward off the accusation of adultery made by her husband that cannot be proved by the evidence of four witnesses, by calling upon God four times as her witness that her husband is lying and the fifth time swearing to God that she is innocent and imploring God that he otherwise might punish her with his curse (suras 24:6–9).

So these are the legal provisions that offer only a few possibilities for legal proceedings. It is quite another question how adultery, or the suspicion of it, is punished in practice. One can certainly assume that women are not very frequently charged with adultery in courts of law; rather, much more frequently the family of a woman who has fallen into "disrepute" takes on itself the responsibility of punishment and metes it out quite severely.

It appears that, in practice, the proven case of adultery is not always required for the punishment of a woman, but rather that only minor deviations from socially accepted behavior are sufficient. For an unmarried woman, this immoral behavior would exist, for example, in a conversation with an unrelated man. The woman then gains a bad reputation and thus has fewer chances for marriage. A girl who once has exchanged a few words with a young man in a public place can be shut up completely at home and constantly monitored until she is married.

Jürgen Frembgen reports from his experiences gathered during several lengthy stays in Pakistan:

Among the Pakhtun and Baluch, the forbidden glance of a woman in the direction of a strange man, or a short conversation, already can be interpreted as unchaste behavior and adultery, which makes further life together with her husband impossible and often enough means the killing of the wife.<sup>13</sup>

---

<sup>13</sup> Jürgen Frembgen, *Alltagsverhalten in Pakistan* (Berlin: Express Edition, 1987), 32.

Further, “contacts between a man and a woman who are not married to each other can ... be interpreted as adultery and result in a vendetta.”<sup>14</sup>

#### **4. Divorce and Repudiation of the Wife**

The tradition, to be sure, records that Mohammed characterized divorce as the most reprehensible of all permitted actions. However, divorces in Islamic law were and are very simple for the man and, accordingly, in some countries quite frequent. According to sharia law, the husband can repudiate his wife at any time and without naming his grounds for it by repeating the divorce formula (e.g., “I repudiate you!”) three times. If he pronounces the formula only once or twice, then the divorce is still revocable: he takes his wife back again before the “waiting period,” the period in which a possible pregnancy would become evident, has run out and consummates marital intercourse with her, which amounts to a repeal of the divorce. If, however, the divorce formula has been spoken three times, then the man can marry this particular woman again only after she has become the wife of another man and again has been divorced from him (suras 2:228–30).

This regulation of the three-fold divorce formula is intended actually to protect the woman from impulsive divorces that are pronounced in annoyance, intoxication, or just in fun. Divorce, however, remained even in the Islamic era a comparatively uncomplicated process for the husband, since his decision alone is sufficient.

Today, however, this simple divorce has been made *de facto* more difficult in several Muslim majority countries. Often (but not everywhere), legal proceedings in a court of law are necessary. In some cases, too, the man must initiate legal action in order to obtain a divorce; sometimes, he is urged to undertake attempts at reconciliation. A particularly common ground for divorce today is still likely to be the infertility of the wife or the birth of several daughters and no son.

In most Muslim majority countries today, a wife too can obtain a divorce in some instances, but always with the help of a formal trial. Among the grounds that a wife can present before a court are several years’ absence of her husband from the home and his presence at an unknown location, the neglect of his obligation to pay support, a term in prison extending over several years, continued impotence, neglect of marital duties for at least three years, mental illness, dangerous, contagious, or repulsive diseases such as leprosy or elephantiasis, exceptional cruelties on the part of the husband, robbery of the wife’s property, hindrance of the wife in the practice of her

---

<sup>14</sup> Ibid., 74.

religious duties, verifiably unequal treatment of wives, seduction of the wife to immorality, and a permanently immoral lifestyle (individual “lapses” are not grounds for divorce<sup>15</sup>). The principle of irreconcilable differences in the marriage also is applied today under certain conditions.

According to Islamic law, the children from a divorced marriage always belong to the father. They can remain with the mother until they have grown out of infancy, that is, girls until ten or twelve and boys no older than seven. Afterward, the children come to their father or his family and belong to him alone. The wife then no longer has any rights in regard to her children, including visitation rights.

## **V. The Islamic Women's Movement**

The model and goal of the women's movement in the Islamic world, which is active in all countries at different levels of intensity, is not the adoption of what in the Islamic view is considered to be the decadent and morally reprehensible Western social order, nor is it liberation from the regulations of the Qur'an. The women's movement argues that neither the Qur'an nor the tradition is correctly interpreted today, that Mohammed's wives possessed a more privileged position than women today, and that women today would experience greater freedom and society more justice by a fresh interpretation of the qur'anic texts. A call for the assertion of women's rights in the framework of a suspension of Islam would have no chance of being heard on a broad scale in the Muslim majority countries. Women's rights advocates who would issue such a call would be most probably charged with being godless and Western. Thus, women in the Islamic world have repeatedly tried to sue for their rights by “correctly interpreting” the statements of the Qur'an and the tradition.

## **VI. Differences from Christian Marriage**

Islamic marriage differs from Christian marriage in many respects. Through the provision for the security of the bride with the evening portion, the Islamic marriage in a certain sense already reckons at the marriage ceremony with the possibility of a later divorce and of the man marrying additional women. A promise on the part of the marriage partners with God's help to remain faithful to each other until death does not exist. Marriage in Islam

---

<sup>15</sup> So Asaf A. A. Fyzee, *Outlines of Muhammadan Law* (London: Geoffrey Cumberlege; Oxford University Press, 1949/1955), 145–47, for at least the Indo-Pakistani sphere.



is generally a contract in civil law that determines mutual obligations and is not an eternal bond founded by God and blessed by him. The fear of a threatened divorce is quite real for many Muslim women when they do not fulfill the expectations of her husbands in the management of the household and the number of children.

The Christian marriage, in contrast, is intended as a lifelong companionship with only one partner. Precisely because marriage involves commitment, it is compared in the Bible again and again with the exclusive covenant between God and human beings for eternity. Married Christians swear an oath before God that only death should separate them. Also, in contrast to Islam, mental illness, prison, or the impossibility of finding a sufficient livelihood would not be a ground for divorce according to the Bible, for it is precisely here that it ought to be demonstrated that Christian marriages are maintained not only so long as the marriage partners “function” flawlessly, but especially in those instances when one of them most urgently needs counsel, help, and support.

The Christian marriage vow to be there for the partner in “good as well as evil days” obligates self-sacrifice on the part of each partner for the other precisely in times of need. The Bible speaks in many places of the fact that love for the neighbor or the marriage partner is not just a feeling, but there must be a decision of the will for love, and love means devotion and sacrifice (cf. Eph 5:25–31). The Bible repeatedly exhorts husbands and wives to exercise love in the marriage. It is not the codification of certain obligations in the marriage, such as provision for the family or the care of children, that forms the chief component of Christian marriage, but rather the intellectual-spiritual communion of the marriage partners in their relationship to God and the mutual completion of two, in nature, different human beings borne by love and forgiveness. The story of creation already makes this especially clear. Adam misses a partner that is like him, who does not stand under him like the animals and does not stand over him like God, his Lord. After he has given all the animals a name, he rejoices at the creation of the woman, for God says, “It is not good that the man should be alone; I will make him a helper fit for him” (Gen 2:18 ESV). Divorce was an “abomination” to God already in the Old Testament (Mal 2:11, 14–16) and was only allowed because of the “hardness of heart” of the people (Jesus in Matt 19:8 and Mark 10:5). Divorce in the biblical understanding thus is intended to be an absolute exception, not to be reckoned as part of the design from the very beginning. Based on this idea of lifelong companionship, divorce in many Western countries, too, is still a quite tedious affair that “enforces” an entire year to reconsider, even in severe cases of irreconcilable

differences. If only one marriage partner desires the divorce, then even several years can pass before the divorce is finalized.

On the other hand, the Qur'an nowhere speaks explicitly about the intellectual and spiritual communion of marriage partners and, to my knowledge, this component remains practically unconsidered among the commentators on the Qur'an and in the literature on questions concerning marriage and the family. Since Islam has no ecclesiastical structure encompassing all the faithful and the mosque offers women only a limited sphere of activity, a woman can live out her faith only in private. She is not called, however, to intellectually and spiritually shape her environment and culture with her husband as a service of God. For many Muslim women who have become Christians, the respect and love Jesus Christ has shown to women as reported in the New Testament has proven tremendously attractive to them.