

# Man and Woman Resolution in Islamic Law

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## Abstract

**Purpose:** This paper aims to address the important principles of the legal rules of sexual relations and try to review this issue from a legal and ethical dimension from an Islamic law viewpoint.

**Design:** Considering the theosophical generalities of divine legislation and regardless of any common customary dogmas, we tried to elaborate on the issues. We based the Holy Quran as the mostly reference source to avoid different sects' debates on the subjects.

**Findings:** Regarding matters such as the humanistic equality of men and women, the rights of marriage, polygamy, divorce and death, extramarital relations, sexual harassment, rape, homosexuality, transgendered, transvestism, bisexual are examined from an Islamic law viewpoint. Moreover, the ethical issues of male and female hijab are considered. We also touch on some other related legal issues, such as inheritance and death, and their effects on the man-woman relationship.

**Research limitations:** The delicacies of Islamic law in this field are too much to be proposed in detail.

**Practical implications:** This resolution summarizes the main controversial topics in man-woman relations. Since Islamic law emanated from natural law, it offers the most consistent principles in the subject. This paper concludes that the main principle in the man-woman relationship should be based on the commitments of both man and woman to the consequences of their relationship.

**Social implications:** Complex and unwise rules touching the man-woman relations in different societies would not push the societies to the right natural way. So, a consolidated set of rules are to be adopted to save the human beings' generation. Surely those sexual relationships which do not lead to the birth of a child practically should not be donated extra rights than what exists for regular relations of the people in the society.

**Originality/value:** The subject of this paper is not new, but the approach of the paper to the subject is different from conventional controversies.

**Article Type:** Conceptual paper

**Keywords:** Couples Rights, Sexual Relations, Ethics, Islamic law, LGBT, Transgender.

**JEL:** K38, K36, J12, J16

## Introduction

The framework of the relationship between man and woman and their duties towards each other is very precise, and the deviation from the natural boundary that God has prescribed them causes discomfort to both sides and endangers their generation and family life. Imposing the law that goes far beyond human nature and the granting of rights over the nature of the man or woman, contrary to what is expected by the legislature, causes one of the parties to violate the other's natural rights. Exaggerating or defying this issue has made the foundation of the family in human societies weakened by excessive protection of the rights of men against women or the rights of women against men, often leading to divorce or separation.

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Certainly, there are exceptions to every rule, and the exceptions are set by the lawgiver. And it is certain that the rules of God created by the Creator of the human being are richer and more beneficial for humankind in comparison to the laws laid down by man himself. As His Holiness Majzoubalishah Gonabadi asserts<sup>2</sup>: The evolution of a family without a community of men and women is not possible. Therefore, one of the wisdom that God created mankind in two sexes is that for the management of human society, the existence of male and female characteristics is both necessary. That is, if there were no women or men, then evolution was not created, so human evolution is in the presence of both male and female characteristics. This means that if men or women become dominant in the society (matrilineal or patrilineal society), the human community would be disturbed. God, in the creation of mankind created by himself, knows what each one's weakness is and when both are together, how the weaknesses of each one are covered by another. To achieve better results, he has determined a set of tasks for each group, so each man or woman has the assigned tasks and duties in order to be able to be together. God himself has determined because according to the natural powers, human evolution must be through the same man and woman who were created. So we need to get to know our tasks and get to know the duties that God has taught us. This program is a summary of the road map.

In expressing the wayfarer's need for companions such as wife, children, servants, and workers, His Holiness Sultanalishah Gonabadi writes<sup>3</sup>: "It is a fact that God created human being, in the belly and body, in need of food and clothing, and like the other animals, He has not put him in a position to be dressed in by the right God-gifted clothes or uses the food of herbs and beasts without working. But, He put her bare of the clothes and needy to manufactured goods of the craftsmen in her clothes. And she cannot tolerate the absolute food of beans and herbs and plants and cannot suffice to the meats without seizing. But, her dress should be made of cotton, wool, linen, hair, and skin, and it should be made with different strange manufacturing. And her food should be from specific beans of the field and the specific meats and milk of special animals. And they must be processed to comply with her temper requirements. And the production of each of these needs too much machinery and equipment, and the tools of each need particular specialities and special craftsmen that, as we consider it correctly, the removal of the abdomen's and body's requirements, several industries and skilled workers are needed. And when he reached pubescence and fed his belly or did not do, due to the divine wisdom for reproduction and survival of the humankind, the nature detaches something of his food from what foods that had been processed in his body and stores it for the sake of the semen. And due to the fulling of the container of the sperm, the material of the spermatozoon starts to agitate and incitement to repel. And since the Almighty God has determined a particular place for its vacation on which it is the base for the survival of humankind, therefore, he needs women and home, and in order to resolve these difficulties, he needs to be socialized. By their very nature, and because each one is attracting their own avail and repulsion of the detriment against their selves, and of course, they do not know the avail and detriment, except the bestial avail and detriment, quarrel and disagreement and anarchy become incumbent, if they left as their own decision. So, they should recourse to those whom have been assigned to resolving disagreements by the prophet or king of the time, so the wayfarer, because of the need for socialization, must know these pillars of his time and act upon them so that he can easily be in the way of conduct toward the Hereafter and God. And what has come about the way of treating the companions and subordinates from the grandees of the religion about the socialization etiquette and admirable ethical practices, he has to think to do them; and what has been forbidden which Sharia encounters them as bad and other wicked moralities, he is to be in thinking to leave them; and all of his reasoning have to be in such a way that performing the order or forbidding are not just to learn them and practising them, but he needs to find the good effect of this and bad effect of that in himself, and when he finds the good and bad effects in himself, he will behave based

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<sup>2</sup> حضرت حاج دکتر نورعلی تابنده مجذوبعلیشاه، سخنرانی در ۱۴/۸/۹۶: خلقت مرد و زن و لزوم دو خصلت زنانه و مردانه برای کمال بشر.

<http://www.mazaresoltani.com/download/mp3/96/1396-08-14-Sobhe-YekShanbe-Khelghate-Zan-Va-Mard-Takamole-Bashar-128.mp3>

<sup>3</sup> حضرت حاج سلطانمحمد بیدختی گنابادی سلطانعلیشاه، ولایتنامه، انتشارات حقیقت، چاپ دوم، ۱۳۸۴.

upon research, and when he enjoys the pleasure of committing and conforming to the commandments; his passion for wayfaring will be much higher, and his journey will become greater. ..."

## Equality of Man and Woman

Concerning the equality between men and women, His Holiness Sultan Hussain Tabandeh Gonabadi wrote:<sup>4</sup> "Islam does not distinguish between men and women in terms of religion, worship, and morals that are the reason for the perfection of human beings, but has removed the issues that are opposed to the women's talents and encephalon, such as jihad from her. There are also considered the ways in which the affection of man and woman is increased, and chastity is preserved, such as the fact that a woman is not allowed to leave her home without her husband's permission. And this is not against justice because, in the face of these affairs, the trouble of earning the living sustenance has not been levied to the woman and posed the man responsible for it, and in this regard, the maintenance of the fetus, the children and women themselves have been considered too. And in other things, there is no difference between the woman and the man, and the principles of belief are the same for both, and both are ordered to worshipping the only God and being believers in the Prophet (PBUH). The obligatory and other commandments are also for both of them. Both of them are ordered to perceive science and good morals and obtain the superior characteristics and force the bad morality and bad habits away, and work for livelihoods from the *Halal* ways, but the woman, according to her ability, and the man, according to the commands that are assigned for him are to behave. And for what is said about the bad moralities of women that are more in women, Quran has addressed women, and for what is more in men or equal to man and woman, Quran addressed the men, and Quran does not differentiate between them in the rewards and degrees of the Hereafter. As it is said in the Surah of Al-Ahzab<sup>5</sup> (the parties), they have been put in one line: "For Muslim men and Muslim women and believing men and believing women, until He says: Allah has prepared them the exaltation and great rewards". And in good qualities and acquiring them and in the rewards, He put both of them equal and determined the same reward for both of them. As the Qur'an says:<sup>6</sup> "Those who are more pious are more respectful beside God". And in the narrations, the righteous black slave is praised against the vicious Seyyed Qorashi. Also, besides God and conscience, a righteous woman with dignity and chastity is preferred to the wicked man, and in humanism, she is superior to him. So the man does not have the honouring right to that woman because, what is the glory, is about the good works and good morals and virtues toward the inherent perfections and superior characters, and not upon masculinity and femininity, and in honour of the nature, each one of them performs better in their duties, are deserved to praise, and admiration and reward".

In Christianity, the female character was so lightly encountered that they might even conclude that among

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<sup>4</sup> حضرت حاج سلطانحسین تابنده گنابادی، رضاعلیشاه ثانی، تجلی حقیقت در اسرار فاجعه کربلا، انتشارات حقیقت، چاپ چهارم ۱۳۷۲.

<http://www.sufism.ir/>

<sup>5</sup> Surah Al-Ahzab, verse: 35. For Muslim men and women,- for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in Allah's praise,- for them has Allah prepared forgiveness and great reward.

إِنَّ الْمُسْلِمِينَ وَالْمُسْلِمَاتِ وَالْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ وَالْقَانِتِينَ وَالْقَانِتَاتِ وَالصَّادِقِينَ وَالصَّادِقَاتِ وَالصَّابِرِينَ وَالصَّابِرَاتِ وَالْخَاشِعِينَ وَالْخَاشِعَاتِ وَالْمُتَصَدِّقِينَ وَالْمُتَصَدِّقَاتِ وَالصَّانِعِينَ وَالصَّانِعَاتِ وَالْحَافِظِينَ وَالْحَافِظَاتِ وَالذَّاكِرِينَ اللَّهَ كَثِيرًا وَالذَّاكِرَاتِ أَعَدَّ اللَّهُ لَهُمْ مَغْفِرَةً وَأَجْرًا عَظِيمًا

<sup>6</sup> Surah Al-Hujraat, Verse 13. O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other)). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things).

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ.

Surah An-Nahl, verse 97. Whoever works righteousness, man or woman, and has Faith, verily, to him will We give a new Life, a life that is good and pure and We will bestow on such their reward according to the best of their actions.

مَنْ عَمِلَ صَالِحًا مِنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ فَلَنُحْيِيَنَّهٗ حَيَاةً طَيِّبَةً وَلَنَجْزِيَنَّهُمْ أَجْرَهُمْ بِأَحْسَنِ مَا كَانُوا يَعْمَلُونَ.

all women, only Mary (AS) had an eternal and human spirit, and the rest of the women had a state between human and animal. And the old custom of the Hindus did not know that women have a human personality. And the wife was a gift from the family of the bride that was gifted to the groom's family, so her consent was not a condition, and the woman herself had no separate personality to own properties. Under the influence of Christian law, in European legal systems, the married woman had no qualifications, and she was interdicted financially. All her properties were under the authority of her husband. Due to the permanency of marriage and no permission for divorce, she was forever expropriated, and the administration and authority of her properties were delegated to her husband.<sup>7</sup>

On this basis, and as Maryam's mother submits to the divine court, "male is not like the female"<sup>8</sup>, so their rights must be different. Accordingly, it must be stated: The following items are the most important elements of the rights of men and women in relation to each other that we are going to list without going into the details of the commandments:

- 1- The rights of men and women emanate from what the nature that God has granted them; if the law or custom of the society donates more than what nature gifted them or society reduces their rights contrary to what nature prescribed for them, it shall be an occurrence of oppression. Because oppression is defined as "*putting a thing in a place that does not belong to it*".<sup>9</sup>
- 2- Men and women are equal in human personality, though they are significantly different in their physical, emotional, and mental characteristics.<sup>10</sup>

## Marital Rights

Georges Ripert discusses marriage:<sup>11</sup> "The secularization of marriages leads to the loss of its religious value, and it primarily emphasizes that respecting this joinment must be secured just by observing ethical rules, but such a theory and ethics can never make couples in keeping the rules of ethics to go so far as to sacrifice towards each other ... The Civic laws that do not recognize the importance and influence of the religious factor will be in trouble to secure sexual morality. ... But in countries where traditional rules are shaken, the foundation of the family is at stake." In church law, "sacrament" means that the couples declare their consent to marry to the priest, and this is the priest who links them together in the name of God. The definitive declaration of intent and will alone is not sufficient for the realization of this conjunction, and this is the sacrament that is the creator of the coupling attachment that creates this immortal belonging forever, and the monogamy is also a part of it. In Islam, marriage is a contract that is distinct from other contracts and is interpreted as "infallibility", and the couples have the right to make themselves under the rules of their contracts. In concluding this contract, like all other contracts, they have authority personally; and declaring a definite and coherent intent is sufficed for its realization exclusively by "utterance of the pleading of offer and acceptance" considering the other conditions like the other contracts, and lack of registration will not affect the correctness of the marriage in any way.<sup>12</sup>

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<sup>7</sup> حضرت حاج دكتور نورعلى تابنده مجدوبعليشاه، رساله حقوق تطبيقي، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

<sup>8</sup> Surah Al-e-Imran, verse 36. And when she was delivered of her, she said: 'Lord, I have given birth to her, a female' Allah knew of what she had given birth the male is not like the female 'and I have called her Mary. Protect her and all her descendants from satan, the stoned one.

فَلَمَّا وَضَعَتْهَا قَالَتْ رَبِّ اِنِّى وَضَعْتُهَا اُنْثٰى وَاللّٰهُ اَعْلَمُ بِمَا وَضَعْتَ وَلَیْسَ الذَّكَرُ كَالْاُنْثٰى وَاِنِّی سَمَّيْتُهَا مَرْیَمَ وَاِنِّیْ اَعِیْذُهَا بِكَ وَذَرِیَّتَهَا مِنَ الشَّیْطَانِ الرَّجِیْمِ.

<sup>9</sup> Bijan Bidabad, (2018) "Philosophy of law: an Islamic Sufi approach", International Journal of Law and Management, Vol. 60 Issue: 5, pp.1179-1195, <https://doi.org/10.1108/IJLMA-06-2017-0132>

<sup>10</sup> Surah Al-Hujraat, Verse 13. Surah An-Nahl, verse 97.

<sup>11</sup> Ripert, Georges, Les forces creatrices du droit. 1880-1958. P. 293 of Persian translation.

<sup>12</sup> حضرت حاج دكتور نورعلى تابنده مجدوبعليشاه، رساله حقوق تطبيقي، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

In the expression of the marital rights, Holiness Sultanalishah Gonabadi states:<sup>13</sup> "The fact is that women have lots of rights on the part of the husbands that few of them can deliver them, and the husband has many other rights over the wife, which is seldom a woman can handle them. The woman's rights to the man are to prepare her eating, clothing, and dwelling for her, consistent with her disposition and his financial ability, and not to refrain for her what is common among the people, and if the woman makes bad, he shall overwhelm her bad doings and forgive her. He should not get moody with her, and he should not talk to her hard till except she has shown the matter of recalcitrance. And he should prepare her beautification items, such as henna, colour, etc. And he should prepare for her what of the fruits that are common in her locality by considering her dignity. And in the feasts like the other people, he should prepare too much more than the other times for her. And at all times, he should consider that, as the woman is confined and subdued under his control, he himself is enslaved and subdued by God, so he should perform for her what he expects from God; such as forgiving her misdeeds and not reprimanding her slips and beneficence on her, till God does it about him as well. It is narrated: Your best and most beloved one is the one who behaves better with the women. And it is narrated from His Holiness the Prophet (PBUH): "If a man says to his wife: "I love you", it will never go out of her heart." ...".

God refers to the relationship between a man and a woman in the matter of marriage as a "strong covenant"<sup>14</sup> or a firm commitment, and in that verse, it is explicitly mentioned that the man is committed to the woman. The followings are necessary to be cited in this regard:

- 3- What is generally considered in all legal systems and specifically in the Islamic legal system regarding male-female relations is centered around the preservation and stability of the relationship and generation and the commitment of both to protect the human rights of the other party and to accept the responsibility of each of them against the other and against the effects of the establishing the relationship between them.
- 4- The most important marriage condition is the intention and the consent of the couples. Therefore, the marriage of the demented cannot be correct because there cannot be true intent and consent.
- 5- The agreement between man and woman for joint living is a prerequisite for marital life, and they are free to perform legal marriage formalities or not. This expression of marriage, known as white marriage in social custom and it is referred to as "*Moatat*" (giving a hand to hand) marriage in jurisprudence, contains all religious law for both parties and children and dependents, although they were not entitled to the legal rights.
- 6- *Mahria* (dowry) is a reward<sup>15</sup> and gift<sup>16</sup> that the man gives to the woman during marriage and should not be postponed as a commitment to the future. The promise to pay the dowry may cause

<sup>13</sup> حضرت حاج سلطانمحمد بيدختي گنابادی سلطانعلیشاه، مجمع السعادات، انتشارات حقیقت، چاپ دوم، ۱۳۵۳.

<sup>14</sup> Surah An-Nisa, verses 21. And how could ye take it when ye have gone in unto each other, and they have taken from you a strong covenant?

وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أَفْضَىٰ بَعْضُكُمْ إِلَىٰ بَعْضٍ وَأَخَذْنَ مِنْكُمْ مِيثَاقًا غَلِيظًا

<sup>15</sup> Surah Al-Maeda, verse 5. This day are (all) things good and pure made lawful unto you and the food of the People of the Book is lawful unto you and yours is lawful unto them. (Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time,- when ye give them their due dowers, and desire chastity, not lewdness, nor secret intrigues if any one rejects faith, fruitless is his work, and in the Hereafter he will be in the ranks of those who have lost (all spiritual good).

الْيَوْمَ أَحَلَّ لَكُمْ الطَّيِّبَاتِ وَطَعَامَ الَّذِينَ أُوتُوا الْكِتَابَ حَلَّ لَكُمْ وَطَعَامِكُمْ حَلَّ لَهُنَّ وَالْمُحْصَنَاتِ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتِ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أَجُورَهُنَّ مُخْصِنِينَ غَيْرِ مُسَافِحِينَ وَلَا مَتَّخِذِي أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ وَهُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ.

<sup>16</sup> Surah An-Nisa, versr 4. And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer.

وَأْتُوا النِّسَاءَ صِدْقَاتِهِنَّ نَخْلَةً فَإِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَرِيئًا.

a lot of psychological damage to the family, and it will become a pretext for the power struggle between man and woman. In other words, *Mahria* is a gift that is presented by the man to the woman for marriage at the starting time of marriage to represent his readiness for common life, and as soon as the marriage contract is concluded, the woman owns the half of *Mahria*, and after the nuptial, she becomes the owner of all of it, and it becomes as her private properties that have no difference with her other properties.

- 7- Payment of "*Ojrat-ulmithl*" (Shadow value) for the period of marriage, provided that it should be contracted in the marriage contract together with other conditions of the marriage contract; otherwise, it is considered as "the intention of giving gratis" while it has no obligatory legitimacy.
- 8- The Couples can agree to some possible terms and conditions to be included in the contract providing that they are legitimate and are not in opposed to the imperative law, and are not against the exigency of the contract (the duty of the family administration, alimony, condescend of the woman, ... can be determined as the exigency principles of the marriage contract). Otherwise, the default edict will be based upon the wife's general subjugation. These conditions may include the following:
  - Granting irrevocable attorneyship with the right of substitution to the wife by the husband either absolutely or conditionally to obtain some circumstances (for example, if the man gets married to a second spouse), the first wife as the attorney of her husband at any time can disengage and release herself from the conjugal cogency in any way whether by getting the *Mahria* (dowry) from him or gifting it to her husband.
  - Pledge to pay the penalty to the woman in the event that the man gets marriage another woman.
  - Allow the wife to travel abroad.
  - Authorize the wife to continue studying at any level and in any required place and location.
  - Authorize the wife to select a job.
  - Couple's agreement to divide the property at the time of the divorce, whether the divorce is at the request of the man or the woman.
  - Having the right to select residential housing and to determine the city or place of residence for common living.
  - Determining the type of home.
  - Determining wages for the wife for doing some housekeeping.
  - Granting the custody of children to the wife, and no need for the father's permission to take the children out of the country.
  - Or any other authorized action.
- 9- Recalcitrance (*Noshooz*) means the refusal of one of the couples to carry out his/her obligatory legitimate duties in relation to the other party causes his/her ineligibility for marital rights.
- 10- The Qur'an has not passed the sentence of stoning an adulterer to death (*Rajm*) in any form of revealed prescript or signatory injunctions.
- 11- The indications (*Qarinah*) and presumption (*Amarah*), or in other words, the suspicion that causes the conjecture of the judge to the commitment of a sexual misdeed and even the knowledge of the judge regarding the commitment of a sexual crime, are rejected.

- 12- Management and the burden of marital life and family are imposed on men.<sup>17</sup> However, man should precede her to himself.<sup>18</sup>
- 13- The husband is responsible for the *Mahria* (dowry) and alimony and allowance of necessities (*Nafaqa*) of his wife, including food, clothes, habitation, and furniture.
- 14- Women's participation in the war is forbidden.
- 15- If the woman makes lewd guilt, the man will not be allowed to deport her out of her home.<sup>19</sup>
- 16- The form of sexual intercourse between a husband and his wife is not restricted, except for cases and times in which causes the illness at least for one of the parties, and the mentions, in this case, are moral and health recommendations and not in the form of the verdicts.<sup>20</sup>
- 17- Insemination of the sperm from a male to a female womb is legitimate by using the sperm of a *Mahram*.
- 18- The restraint of men from marriage is a violation of women's rights, and women's restraint from marriage is also a violation of the rights of men. This is the cause why masturbation has been forbidden.<sup>21</sup>
- 19- The marriage with the "*Maharam*" and the father's wives and the boy's wives and simultaneous marriage with two sisters are prohibited.<sup>22</sup> Other forms of prohibitions are breastfeeding marriage,

<sup>17</sup> Surah An-Nisa, verse 34. Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) leave them; but if they return to obedience, seek not against them Means (of annoyance): For Allah is Most High, great (above you all).

الرجال قوامون على النساء بما فضل الله بعضهم على بعضٍ وبما أنفقوا من أموالهم فالصالحات قانتات حافظات للغيب بما حفظ الله واللاتي تخافون نشوزهن فعظوهن واهجوهن في المصاحح واضربوهن فإن أطعنكم فلا تبغوا عليهن سبيلاً إن الله كان علياً كبيراً.

<sup>18</sup> Surah Al-Baqara, verse 223. Your wives are as a tilth unto you; so approach your tilth when or how ye will; but do some good act for your souls beforehand; and fear Allah. And know that ye are to meet Him (in the Hereafter), and give (these) good tidings to those who believe.

نساءكم حرث لكم فأتوا حرثكم أنى شئتم وقدموا لأنفسكم واتقوا الله واعلموا أنكم ملائقوه وبشر المؤمنين.

<sup>19</sup> Surah An-Nisa, verse 15. If any of your women are guilty of lewdness, Take the evidence of four (Reliable) witnesses from amongst you against them; and if they testify, confine them to houses until death do claim them, or Allah ordain for them some (other) way.

واللاتي يأتين الفاحشة من نساءكم فاستشهدوا عليهن أربعة منكم فإن شهدوا فأمسكوهن في البيوت حتى يتوفاهن الموت أو يجعل الله لهن سبيلاً.

<sup>20</sup> Surah Al-Baqara, verse 223.

<sup>21</sup> His Holliness Sadegh (AS) was asked why the hadd punishment is one hundred lashes in adultery and eighty lashes in wine and how did adultery get worse? He said: In order to waste the sperm and putting it in a position that God said it is not your field. And it is in the Fiqh-o-Reza that the Holy Prophet (PBUH) said that sodomy is forbidden because of what is in it from the corruption and invalidity of the rights of women that God has encouraged them. And it is clear that the theosophy in the sanctity of sodomy is the corruption of the right of women and the corruption of generation, and the loss of sperm, and therefore the masturbation is forbidden, and *Vaty* (intercourse) in *Dobor* (back) of woman is forbidden, and the *Vaty* in animal is forbidden, and they have forbidden *Mosahiqah* with women. And if man suffices to man, and woman suffices to woman then the generation and reproduction will vanish.

حضرت حاج ملا علی بی‌دختی گنابادی، ذوالفقار، در حرمت کشیدن تریاک، چاپ چهارم، انتشارات حقیقت، ۱۳۸۲، تهران، صص ۷۶-۷۵.

<sup>22</sup> Surah An-Nisa, verses 22-24. And marry not women whom your fathers married,- except what is past: It was shameful and odious,- an abominable custom indeed. Prohibited to you (For marriage) are: Your mothers, daughters, sisters; father's sisters, Mother's sisters; brother's daughters, sister's daughters; foster-mothers (Who gave you suck), foster-sisters; your wives' mothers; your step-daughters under your guardianship, born of your wives to whom ye have gone in,- no prohibition if ye have not gone in;- (Those who have been) wives of your sons proceeding from your loins; and two sisters in wedlock at one and the same time, except for what is past; for Allah is Oft-forgiving, Most Merciful. Also (prohibited are) women already married, except those whom your right hands possess: Thus hath Allah ordained (Prohibitions) against you: Except for these, all others are lawful,

the marriage of the aunts or nieces or nephews, meaning that a man cannot marry the nephew or niece of his wife unless with the permission of his wife, marriage after three repeated divorces except by *Mohalil* (the woman marry with another person than his previous husband, then divorcing from him, then she will be qualified to get married to her previous husband), marriage after nine divorces (is prohibited forever), adultery with a married woman, "*li'aan*" (if husband repeatedly accuses her wife before the judge; and wife denies his accusation repeatedly; all with specific conditions, utterances, and adjuring), marriage when they are in pilgrimage (*Hajj*), marriage with an idolater, marriage of a Muslim woman with a non-Muslim man.

- 20- For the encouragement of the idolaters to abandon their irrational belief about the worship of the statue as their Creator, they are forbidden to marry until they believe in God.<sup>23</sup>
- 21- It is forbidden to marry an underage (immature), though the jurists have stated some tricks on it.
- 22- The property and assets of the woman are independent and belong to her. Therefore, the husband, like a stranger, has no right to interfere in the property of his wife.<sup>24</sup>
- 23- Family expenses are a burden on the man, and the woman can claim wage for every service she serves, even for breastfeeding her own child, and the man is obligated to pay her.<sup>25</sup>

provided ye seek (them in marriage) with gifts from your property,- desiring chastity, not lust, seeing that ye derive benefit from them, give them their dowers (at least) as prescribed; but if, after a dower is prescribed, agree Mutually (to vary it), there is no blame on you, and Allah is All-knowing, All-wise. If any of you have not the means wherewith to wed free believing women, they may wed believing girls from among those whom your right hands possess: And Allah hath full knowledge about your faith. Ye are one from another: Wed them with the leave of their owners, and give them their dowers, according to what is reasonable: They should be chaste, not lustful, nor taking paramours: when they are taken in wedlock, if they fall into shame, their punishment is half that for free women. This (permission) is for those among you who fear sin; but it is better for you that ye practise self-restraint. And Allah is Oft-forgiving, Most Merciful. Allah doth wish to make clear to you and to show you the ordinances of those before you; and (He doth wish to) turn to you (In Mercy): And Allah is All-knowing, All-wise.

ولا تنكحوا ما نكح آباؤكم من النساء إلا ما قد سلف إنه كان فاحشة ومفتنا وساء سبيلا. حرمت عليكم أمهاتكم وبناتكم وأخواتكم وعماتكم وخالاتكم وبنات الأخ وبنات الأخت وأمهاتكم اللاتي أرضعنكم وأخواتكم من الرضاعة وأمهات نسائكم وربانكم اللاتي في حجوركم من نسائكم اللاتي دخلتم بهن فإن لم تكونوا دخلتم بهن فلا جناح عليكم وحلائل أبنائكم الذين من أصلابكم وأن تجمعوا بين الأختين إلا ما قد سلف إن الله كان غفورا رحيفا. والمحصنات من النساء إلا ما ملكت أيمانكم كتاب الله عليكم وأحل لكم ما وراء ذلكم أن تبتغوا بأموالكم مخلصين غير مسافحين فما استمتعتم به منهن فاتوهن أجورهن فريضة ولا جناح عليكم فيما تراضيتن به من بعد الفريضة إن الله كان عليما حكيما.

<sup>23</sup> Surah Al-Baqara, verse 221. Do not marry unbelieving women (idolaters), until they believe: A slave woman who believes is better than an unbelieving woman, even though she allures you. Nor marry (your girls) to unbelievers until they believe: A man slave who believes is better than an unbeliever, even though he allures you. Unbelievers do (but) beckon you to the Fire. But Allah beckons by His Grace to the Garden (of bliss) and forgiveness, and makes His Signs clear to mankind: That they may celebrate His praise.

ولا تنكحوا المشركات حتى يؤمنن ولأمة مؤمنة خير من مشركة ولو أعجبكم ولو أعجبكم أولئك يدعون إلى النار والله يدعو إلى الجنة والمغفرة بإذنه ويبين آياته للناس لعلهم يتذكرون.

<sup>24</sup> Surah An-Nisa, verse 32. And in no wise covet those things in which Allah Hath bestowed His gifts More freely on some of you than on others: To men is allotted what they earn, and to women what they earn: But ask Allah of His bounty. For Allah hath full knowledge of all things.

ولا تمننوا ما فضل الله به بعضكم على بعض للرجال نصيب مما اكتسبوا وللنساء نصيب مما اكتسبن واسألوا الله من فضله إن الله كان بكل شيء عليما.

<sup>25</sup> Surah At-Talaq, verse 6. Let the women live (in 'iddat) in the same style as ye live, according to your means: Annoy them not, so as to restrict them. And if they carry (life in their wombs), then spend (your substance) on them until they deliver their burden: and if they suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. And if ye find yourselves in difficulties, let another woman suckle (the child) on the (father's) behalf.

أسكنوهن من حيث سكنتم من وجدكم ولا تضاروهن لتضييقن عليهن وإن كن أولات حمل فأنفقوا عليهن حتى يرضعن حملهن فإن أرضعن لكم فاتوهن أجورهن وأتمروا بينكم بمعروف وإن تعاسرتم فسترضع له أخرى.



## Polygyny

In earlier civilizations that needed a massive increase in population, the polygyny was a commonplace and prevalent phenomenon amongst all, but wherever this need was reduced, its custom and habit of it were neglected and advented to be unfavourable, as today, in countries where this is allowed, men rarely use it, and the people do not commonly regard men with multi-wives as ordinary. But the absolute prohibition of polygyny has many disadvantages because the instinct is opposed to such a constraint, and moreover, what is meant by the term "human beings are greedy for prohibited things" causes some effects that are contrary to desired intent. According to the statistics released in France, which prohibits polygyny, 65% of married men have illegitimate relationships with others, but in the countries where polygyny is permitted, the number of polygyny men and the number of married men who exercise illegitimate relationships may not reach the 10%. Morteza Motahhari<sup>26</sup>, after referring to the recent law of the United Kingdom on excluding sodomy from the list of crimes, writes: "The claimants of the leadership of humanity who consider polygyny to be contrary to humanity, by approving this law say that if a man brings a male mate is legal, but if the mate is female, it is a crime and is against the law."<sup>27</sup>

Polygyny is an essential instrument of social management after the events that somehow the balance of the numbers of women and men becomes unequal towards the women, such as the outbreak of wars, which, in this case, if a fundamental solution such as polygyny is not adopted, then a proliferation of the illegitimate relationships would menace the foundation of families. Because many mothers stay with the derelict children, many young girls cannot find a husband to marry. Therefore, constraining polygyny limits many women from having husbands and patrons, and moreover, it is against the nature of sexual power in a man. And this is physical that a man supports his wife or his wives, and his nature obliges him to support the women, especially his wives. Hence, in Surah of Al-Nisaah, Almighty God encourages the men to do this, and He says that in order to use the properties of orphans, marry the women as two or three or four, then you are allowed to use the orphans' properties until the orphans reach the age of growth.<sup>28</sup> Despite this, His Holiness Rezaalishah Gonabadi asserts:<sup>29</sup> "In Arabs, in the ignorance era, the polygyny prevailed, but the number of wives was not determined, and Shari'a limited it to four women and conditioned it to apply justice among them and ability on *Nafaqa* (alimony) and *Kesva* (clothing),

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Surah Al-Baqara, verse 233. The mothers shall give such to their offspring for two whole years, if the father desires to complete the term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be Treated unfairly on account of her child. Nor father on account of his child, an heir shall be chargeable in the same way. If they both decide on weaning, by mutual consent, and after due consultation, there is no blame on them. If ye decide on a foster-mother for your offspring, there is no blame on you, provided ye pay (the mother) what ye offered, on equitable terms. But fear Allah and know that Allah sees well what ye do.

وَأُولَادَاتٍ يَرْضَعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنَمِّمَ الرِّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ بَوْلِدِهَا وَلَا مَوْلُودٌ لَهُ يَوْلِدُهُ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُم بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ.

<sup>26</sup> نقل از مجله زن روز و کتاب نظام حقوق زن در اسلام.

<sup>27</sup> حضرت حاج دکتر نورعلی تابنده مجدوبعلیشاه، رساله حقوق تطبیقی، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

<sup>28</sup> Surah An-Nisa, verses 2-3. To orphans restore their property (When they reach their age), nor substitute (your) worthless things for (their) good ones; and devour not their substance (by mixing it up) with your own. For this is indeed a great sin. If ye fear that ye shall not be able to deal justly with the orphans, Marry women of your choice, Two or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess, that will be more suitable, to prevent you from doing injustice.

وَأَتُوا الْيَتَامَىٰ أَمْوَالَهُمْ وَلَا تَتَبَدَّلُوا الْخَبِيثَ بِالطَّيِّبِ وَلَا تَأْكُلُوا أَمْوَالَهُمْ إِلَىٰ أَمْوَالِكُمْ إِنَّهُ كَانَ حُوبًا كَبِيرًا. وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مِثْنِي وَثَلَاثَ وَرُبَاعَ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَلِكَ آدَبٌ أَلَّا تَعْوَلُوا.

<sup>29</sup> حضرت حاج سلطانحسین تابنده گنابادی، رضاعلیشاه ثانی، تجلی حقیقت در اسرار فاجعه کربلا، انتشارات حقیقت، چاپ چهارم ۱۳۷۲.

<http://www.sufism.ir/>

which in the follow of the cited verse:<sup>30</sup> "But if ye fear that ye shall not be able to deal justly (with them), then only one", that is, in the case of impossibility to apply justice, suffice to one wife and do not marry more than one woman that causes hypocrisy and depression. But there are a few men who can truly deal justly, though no true justice might be found. So this verse was later revealed:<sup>31</sup> "Ye are never able to be fair and just as among the women, even if it is your ardent desire", which means hearty amity or true justice in all aspects. The outward meaning of the verse is this: Of course, you cannot be fair among women, although you are greedy about applying the justice among them; thus you not much fond of that which you will leave the women undecided. Do as much justice as you can, and do not deviate from it. If you leave justice altogether, you have left your wife wandering and suspended. That is, she is not single to be authorized in her work, nor has a husband who treats her with marital necessities, so He says<sup>32</sup>: " So do not lean it all the way and scatter it like a suspended". So it turns out that the opinion of the Sacred Legislator of Islam was not on the multiplicity, but the purpose of the legislation was the necessary cases that prevent distress and constriction and falling in fault. ... In some cases, multiplicity is necessary, and if it was not prescribed, it would have caused distress and constriction, including the cases such where the woman is sick or the other aspects that prevent copulation for a long time; on the other hand, the man is willing to coitus in such a way that if he does not marry another woman he might fall in fault affairs and sin. In this case, polygyny is admissible. But, as the fear of falling in fault with the ability of purveyance alimony (*Nafaqa*) and *Kesva* is the motive for the obligation of the first marriage, sometimes this motive necessitates the second marriage. Or, in the case that the woman is infertile, or whose age is not appropriate for a child, and she is not willing to divorce but is satisfied with the second marriage of her husband, in these cases, polygyny is also permissible for the man to maintain his generation. Or that a man has become sick in voyage and physicians have prescribed him to get married. In this case, sometimes it becomes obligatory. Or, in the case of war and the men have been killed, the necessity of making each of the alive men take responsibility for multiple women. In this case, if polygyny were not permitted, it would lead to corruption, especially when the parties are young. There are other cases that make polygamy appropriate. So permission and legislation of polygyny in necessary cases is in accordance with the wisdom rule, but it is not a permissible just for lechery and due to caprice."

"*Mut'aah*", or interrupted (temporary) marriage, was prescribed at the time of the Prophet (PBUH). Omar, the second caliph, argued that because the necessities of the "*Mut'aah*" legislation had been changed, he made it obsolete. Therefore, this legal institution is particular to Shia jurisprudence. After World War II, especially in Germany, many experts believed that it needed to be approved even temporarily, and the "trial marriage" and polygyny be allowed. And the American judge Benjamin Lindsey and Bertrand Russell also studied the situation of the young people, and social circumstances suggested the "trial marriage" that both man and woman would marry each other for some time as experimentation before making a definitive and lifetime marriage. And the American professor Willem Van Loon suggested that temporary marriage be allowed. Today, in most western countries, divorce is allowed due to the couple's mutual consent. In some countries like France that do not accept divorce based on mutual consent, judicial jurisprudence has been adopted in such a way that mutual consent practically causes divorce. So it should be said that when couples are allowed to divorce by mutual consent and the divorce is executed, what would be the obstacle that they have this mutual consent at the first of the marriage, that is, they state the same mutual consent at the first stage and agree on the termination of the marriage at a specific time during the conclusion of marriage contract?! However, some people believe that the temporary marriage is not limited to the number, and a man may marry as many as wives he wants, but some others believe that because the number of wives is limited to four, this number also rules over the "*Mot'aah*" (temporary marriage). That is, one man cannot have either permanent or temporary wives more than four

<sup>30</sup> Surah An-Nisa, verse 3. **وَأَنْ حَقَّتْ مِنَ الْعَدْلِ فَوَاحِدَةً.**

<sup>31</sup> Surah An-Nisa, verse 129. **وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ.**

<sup>32</sup> Surah An-Nisa, verse 129. **فَلَا تَمِيلُوا كُلَّ الْمَيْلِ فَتَعَدُّوهَا كَالْمَعْلُوقَةِ.**

in total.<sup>33</sup> In addition, the contrary subject of the issue, namely polyandry<sup>34</sup> (multiple husbands for a woman), causes a variety of disorders in women and society. Additionally, it should be added:

24- Men and women, when entering into a marriage contract, can term and condition in any contractual agreement agreed upon by the parties, including the possibility of agreeing that the man is or is not authorized to marry multiple women.

25- Polygyny for men is permissible but conditioned by dealing justly<sup>35</sup> with women.

## Divorce and Death

Divorce, even though God has made it lawful and permitted it, but nothing in the lawful matters is as divisive as divorce. The Prophet (PBUH) says<sup>36</sup>: "Among of what God has permitted, there is nothing worse than divorce beside me", and His Holiness Ali (AS) said<sup>37</sup>: "God is angry of those men who divorce much and are epicure". In this regard, the orders of Islam are in such a way that Almighty God, like a father regretting his child, legislated divorce, and as it is obvious in the verses of the Surah of Divorce, after high emphatic orders towards the divorcer (man) about the divorcee (woman), He warns<sup>38</sup> against the divorcer as a threat and consoles<sup>39</sup> the divorcee woman. In Christian law, marriage was considered eternal and was not dissolvable. Some Christian clerics allowed divorce due to the commitment of adultery on the part of the woman, but in the centuries before the Protestant reform, this opinion also disappeared, and its eternity became absolute. In fact, since there were cases where couples could not live together, there was a specific separation method known as physical separation; the couples lived separately and would be exempted from many paternity duties and obligations, but the legal attachment between them remained established. The Protestants, in their reforms, also accepted the divorce and even expanded its cases more than previous opinions and did not restrict it to adultery.<sup>40</sup> In this connection, the following principles are to be mentioned:

<sup>33</sup> حضرت حاج دكتور نورعلى تابنده مجذوبعليشاه، رساله حقوق تطبيقى، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

<sup>34</sup> It is said that in some tribes in ancient times, the system of polygamy was accepted, which today it can be said to have no example in the world. Will Durant has written about polygamy: "This quality is evident in the Toda tribes of some Tibetan tribes." (See The system of women's rights in Islam, Morteza Motahhari, page 333). Montesquieu writes that Abu al-Zahir al-Hassan, an Arab traveler, encountered this custom in the tribes living in the border of India and China. He mentions a tribe called Nair, in which polygamy was common, and then attributes it to the fact that because men have to take on the task of defense, this custom has been established and the interest of family, wife and children in men is weak and hinders their work. And in some tribes (including the savage tribes of the Melanesian Islands) the matriarchal system has been established and the woman has dominion and authority. This system has also been abandoned due to social and especially economic changes and may soon disappear.

حضرت حاج دكتور نورعلى تابنده مجذوبعليشاه، رساله حقوق تطبيقى، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

<sup>35</sup> Surah An-Nisa, verse 129. Ye are never able to be fair and just as between women, even if it is your ardent desire: But turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, and practise self-restraint, Allah is Oft-forgiving, Most Merciful.

وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمِيلِ فَتَدْرُوهَا كَالْمَعْلُوقَةِ وَإِنْ تَصْلَحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا.

Surah An-Nisa, verse 3.

<sup>36</sup> Narration from the Prophet (PBH): «ما أحل الله شيئاً أبغض إليه من الطلاق»

<sup>37</sup> Narration from His Holiness Ali (AS): «إن الله يبغض كلَّ مطلق ذؤاق»

<sup>38</sup> Surah At-Talaq, verse 5. That is the Command of Allah, which He has sent down to you: and if any one fears Allah, He will remove his ills, from him, and will enlarge his reward. ذَلِكَ أَمْرُ اللَّهِ أَنْزَلَهُ إِلَيْكُمْ وَمَنْ يَتَّقِ اللَّهَ يَكْفُرْ عَنْهُ سَيِّئَاتِهِ وَيُعْظِمْ لَهُ أَجْرًا.

<sup>39</sup> Surah At-Talaq, verse 3. And He provides for him from (sources) he never could imagine. And if any one puts his trust in Allah, sufficient is (Allah) for him. For Allah will surely accomplish his purpose: verily, for all things has Allah appointed a due proportion. وَيَرْزُقْهُ مِنْ حَيْثُ لَا يَحْتَسِبُ وَمَنْ يَتَوَكَّلْ عَلَى اللَّهِ فَهُوَ حَسْبُهُ إِنَّ اللَّهَ بَالِغُ أَمْرِهِ قَدْ جَعَلَ اللَّهُ لِكُلِّ شَيْءٍ قَدْرًا.

<sup>40</sup> حضرت حاج دكتور نورعلى تابنده مجذوبعليشاه، رساله حقوق تطبيقى، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

- 26- The general emphasis is on not-separation<sup>41</sup> and reconciliation between the husband and wife and the absence of recalcitrance (*Noshooz*) between the parties,<sup>42</sup> although in the absence of reconciliation, there is no prohibition for divorce.<sup>43</sup>
- 27- In order to resolve the dispute between husband and wife, the order is to resolve the dispute through two arbitrators from the two families of the husband and wife who are interested in their reconciliation.<sup>44</sup>
- 28- The authority of divorce has been granted to the man due to his higher relative spiritual stability and his lower relative emotions.
- 29- For the establishment of family stability, the divorce decision is given to the man because the woman is more fast-indignant than the man and might divorce her husband due to a small irksome. In certain cases, such as when the absent man is missing-effect, or the husband refuses to give alimony (*Nafaqa*) or not being able to pay, or refuses to perform other duties of coupling, social misconduct, and the husband's involvement in a serious illness, the woman is allowed to divorce herself.
- 30- If a woman is divorced before coition, in the case of the absence of a predetermined *Mahria* (dowry), the man must bestow her a suitable gift according to his means.<sup>45</sup> And if the *Mahria* has been determined, he will be obliged to pay half of it unless the woman or the one who has the right to let the girl marry forgives him.<sup>46</sup>

<sup>41</sup> Surah Al-Baqara, verse 102.

They followed what the evil ones gave out (falsely) against the power of Solomon: the blasphemers Were, not Solomon, but the evil ones, teaching men Magic, and such things as came down at babylon to the angels Harut and Marut. But neither of these taught anyone (Such things) without saying: "We are only for trial; so do not blaspheme." They learned from them the means to sow discord between man and wife. But they could not thus harm anyone except by Allah's permission. And they learned what harmed them, not what profited them. And they knew that the buyers of (magic) would have no share in the happiness of the Hereafter. And vile was the price for which they did sell their souls, if they but knew!

وَاتَّبَعُوا مَا تَتْلُو الشَّيَاطِينُ عَلَىٰ مَلِكٍ سَلِيمٍ وَمَا كَفَرَ سَلِيمًا وَلَكِنَّ الشَّيَاطِينَ كَفَرُوا يُعَلِّمُونَ النَّاسَ السِّحْرَ وَمَا أُنزِلَ عَلَى الْمَلَكَيْنِ بِبَابِلَ هَارُوتَ وَمَارُوتَ وَمَا يُعَلِّمَانِ مِنْ أَحَدٍ حَتَّىٰ يَقُولَا إِنَّمَا نَحْنُ فِتْنَةٌ فَلَا تَكْفُرْ فَيَتَعَلَّمُونَ مِنْهُمَا مَا يُفَرِّقُونَ بِهِ بَيْنَ الْمَوءِ وَزَوْجِهِ وَمَا هُمْ بِضَارِبِينَ بِهِ مِنْ أَحَدٍ إِلَّا يَأْذَنُ اللَّهُ وَيَتَعَلَّمُونَ مَا يَضُرُّهُمْ وَلَا يَنْفَعُهُمْ وَلَقَدْ عَلِمُوا لَمَنِ اشْتَرَاهُ مَا لَهُ فِي الْآخِرَةِ مِنْ خَلَاقٍ وَلِيُسِّمَا مَا شَرُوا بِهِ أَنْفُسَهُمْ أُو كَانُوا يَعْلَمُونَ.

<sup>42</sup> Surah An-Nisa, verse 128. 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 by greed. But if ye do good and practise self-restraint, Allah is well-acquainted with all that ye do.

وَإِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُورًا أَوْ إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُحْضِرَتِ الْأَنْفُسُ الشُّحَّ وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا.

<sup>43</sup> Surah An-Nisa, verse 130. But if they disagree (and must part), Allah will provide abundance for all from His all-reaching bounty: for Allah is He that careth for all and is Wise. وَإِنْ يَتَفَرَّقَا يَغْنِ اللَّهُ كُلًّا مِنْ سَعَتِهِ وَكَانَ اللَّهُ وَاسِعًا حَكِيمًا.

<sup>44</sup> Surah An-Nisa, verse 35. If ye fear a breach between them twain, appoint (two) arbiters, one from his family, and the other from hers; if they wish for peace, Allah will cause their reconciliation: For Allah hath full knowledge, and is acquainted with all things. وَإِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكِيمًا مِنْ أَهْلِهِ وَحَكِيمًا مِنْ أَهْلِهَا إِنْ يريدا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا.

<sup>45</sup> Surah Al-Baqara, verse 236. There is no blame on you if ye divorce women before consummation or the fixation of their dower; but bestow on them (A suitable gift), the wealthy according to his means, and the poor according to his means;- A gift of a reasonable amount is due from those who wish to do the right thing.

لَا جُنَاحَ عَلَيْكُمْ إِنْ طَلَّقْتُمُ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ أَوْ تَفَرَّضُوا لَهُنَّ فَرِيضَةً وَمَتَّعُوهُنَّ عَلَى الْمَوْسَعِ قَدْرَهُ وَعَلَى الْمَقْتَرِ قَدْرَهُ مَتَاعًا بِالْمَعْرُوفِ حَقًّا عَلَى الْمُحْسِنِينَ.

<sup>46</sup> Surah Al-Baqara, verse 237. And if ye divorce them before consummation, but after the fixation of a dower for them, then the half of the dower (Is due to them), unless they remit it or (the man's half) is remitted by him in whose hands is the marriage tie; and the remission (of the man's half) is the nearest to righteousness. And do not forget Liberality between yourselves. For Allah sees well all that ye do.

- 31- If a man wants to divorce his wife and marry another woman, he is not allowed to take back the property given to his first wife.<sup>47</sup>
- 32- If a man swiftly swears five times throwing<sup>48</sup> his wife, the marriage relationship between them is cut, and the woman will not be qualified to be punished.<sup>49</sup>
- 33- The man's regret of his *Zihar* (saying to his wives: "you are the same as my mother's back") then his desire to refer to his wife is acceptable only by imposing a compensation by the man through the atonement (*Kaffarah*).<sup>50</sup>
- 34- If the man left bedfellowship with his wife and swore about it (*Ilaa*), there is no problem if he does return to his wife.<sup>51</sup>

وَأَنْ تَأْتِيَهُمْ مِنْ قَبْلِ أَنْ تَمْسُوهُمْ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً مِثْلَ فَرِيضَةِ فَرَضْتُمْ إِلَّا أَنْ يَعْفُونَ أَوْ يَعْفُوَ الَّذِي بِيَدِهِ عَقْدَةُ الزَّكَاحِ وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَى وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ إِنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ.

<sup>47</sup> Surah An-Nisa, verses 20-21. But if ye decide to take one wife in place of another, even if ye had given the latter a whole treasure for dower, Take not the least bit of it back: Would ye take it by slander and manifest wrong? And how could ye take it when ye have gone in unto each other, and they have taken from you a strong covenant?

وَأَنْ أَرَدْتُمْ اسْتِبْدَالَ زَوْجٍ مَكَانَ زَوْجٍ وَأَتَيْتُمْ إِحْدَاهُنَّ قَنْطَارًا فَلَا تَأْخُذُوا مِنْهُ شَيْئًا أَتَأْخُذُونَهُ بِهَيْبَاتِنَا وَإِنَّمَا مِيسِنَا. وَكَيْفَ تَأْخُذُونَهُ وَقَدْ أَفْضَى بَعْضُكُمْ إِلَى بَعْضٍ وَأَخَذْتُمْ مِنْكُمْ مِيثَاقًا غَلِيظًا

<sup>48</sup> Surah Al-Noor, verses 23-25. Those who slander chaste women, indiscreet but believing, are cursed in this life and in the Hereafter: for them is a grievous Penalty,- (On the Day when their tongues, their hands, and their feet will bear witness against them as to their actions. On that Day Allah will pay them back (all) their just dues, and they will realise that Allah is the (very) Truth, that makes all things manifest.

وَإِنَّ الَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ الْغَافِلَاتِ الْمُؤْمِنَاتِ لَعُنُوا فِي الدُّنْيَا وَالْآخِرَةِ وَلَهُمْ عَذَابٌ عَظِيمٌ يَوْمَ تُشْهِدُ عَلَيْهِمْ أَلْسِنَتُهُمْ وَأَيْدِيهِمْ وَأَرْجُلُهُمْ بِمَا كَانُوا يَعْمَلُونَ. يَوْمَذْ يَبْقِيهِمُ اللَّهُ دِينَهُمُ الْحَقَّ وَيَعْلَمُونَ أَنَّ اللَّهَ هُوَ الْحَقُّ الْمُبِينُ.

<sup>49</sup> Surah Al-Noor, verses 6-10. And for those who launch a charge against their spouses, and have (in support) no evidence but their own,- their solitary evidence (can be received) if they bear witness four times (with an oath) by Allah that they are solemnly telling the truth; And the fifth (oath) (should be) that they solemnly invoke the curse of Allah on themselves if they tell a lie. But it would avert the punishment from the wife, if she bears witness four times (with an oath) By Allah, that (her husband) is telling a lie; And the fifth (oath) should be that she solemnly invokes the wrath of Allah on herself if (her accuser) is telling the truth. If it were not for Allah's grace and mercy on you, and that Allah is Oft-Returning, full of Wisdom,- (Ye would be ruined indeed).

وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُنْ لَهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ. وَالْخَامِسَةُ أَنَّ لَعْنَتَ اللَّهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ. وَيَذَرُ عَنْهَا الْعَذَابَ أَنْ تَشْهَدَ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ. وَالْخَامِسَةَ أَنَّ غَضَبَ اللَّهِ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ. وَلَوْلَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ وَأَنَّ اللَّهَ تَوَّابٌ حَكِيمٌ.

<sup>50</sup> Surah Al-Mujadila, verses 1-4. Allah has indeed heard (and accepted) the statement of the woman who pleads with thee concerning her husband and carries her complaint (in prayer) to Allah: and Allah (always) hears the arguments between both sides among you: for Allah hears and sees (all things). If any men among you divorce their wives by *Zihar* (calling them mothers), they cannot be their mothers: None can be their mothers except those who gave them birth. And in fact they use words (both) iniquitous and false: but truly Allah is one that blots out (sins), and forgives (again and again). But those who divorce their wives by *Zihar*, then wish to go back on the words they uttered,- (It is ordained that such a one) should free a slave before they touch each other: Thus are ye admonished to perform: and Allah is well-acquainted with (all) that ye do. And if any has not (the wherewithal), he should fast for two months consecutively before they touch each other. But if any is unable to do so, he should feed sixty indigent ones, this, that ye may show your faith in Allah and His Messenger. Those are limits (set by) Allah. For those who reject (Him), there is a grievous Penalty.

قَدْ سَمِعَ اللَّهُ قَوْلَ الَّتِي تُجَادِلُكَ فِي زَوْجِهَا وَتَشْتَكِي إِلَى اللَّهِ وَاللَّهُ يَسْمَعُ تَحَاوُرِكُمَا إِنْ اللَّهُ سَمِيعٌ بَصِيرٌ. الَّذِينَ يَظَاهَرُونَ مِنْكُمْ مِنْ نِسَائِهِمْ مَا هُنَّ أُمَّهَاتُهُمْ إِنْ أُمَّهَاتُهُمْ إِلَّا اللَّائِي وَلَدْتَهُمْ وَإِنَّهُمْ لَيَقُولُونَ مُنْكَرًا مِنَ الْقَوْلِ وَزُورًا وَإِنَّ اللَّهَ لَعَفُوفٌ غَفُورٌ. وَالَّذِينَ يَظَاهَرُونَ مِنْ نِسَائِهِمْ ثُمَّ يَعُودُونَ لِمَا قَالُوا فَتَحْرِيرُ رَقَبَةٍ مِنْ قَبْلِ أَنْ يَتَمَاسًا ذَلِكَ نَوْعُظُونَ بِهِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ. فَمَنْ لَمْ يَجِدْ فَصِيَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ مِنْ قَبْلِ أَنْ يَتَمَاسًا فَمَنْ لَمْ يَسْتَطِعْ فِإِطْعَامَ سِتِينَ مَسْكِينًا ذَلِكَ لَتُؤْمِنُوا بِاللَّهِ وَرَسُولِهِ وَتَلْكَ حُدُودَ اللَّهِ وَلِلْكَافِرِينَ عَذَابٌ أَلِيمٌ.

<sup>51</sup> Surah Al-Baqara, verses 226-227. For those who take an oath for abstention from their wives, a waiting for four months is

- 35- Divorce will be possible<sup>52</sup> after the waiting time (*Iddah*),<sup>53</sup> and until the end of the *Iddah*,<sup>54</sup> he must resident the woman in his/her residential place, and the man must not take hard on her<sup>55</sup> and must provide her livelihood.<sup>56</sup>
- 36- If there are twice divorces and returns, then after the third divorce, a return is not possible for the man unless after marrying another man with his (previous) woman and divorcing her.<sup>57</sup>
- 37- After divorce, the man is not allowed to persecute the woman or violate her rights<sup>58</sup> or prohibit

ordained; if then they return, Allah is Oft-forgiving, Most Merciful. But if their intention is firm for divorce, Allah heareth and knoweth all things. *لِلَّذِينَ يُؤَلُّونَ مِنْ نَسَائِهِمْ تَرِيصٌ أَرْبَعَةٌ أَشْهُرٌ فَإِنْ فَاءُوا فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ. وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ.*

<sup>52</sup> Surah Al-Baqara, verse 228. Divorced women shall wait concerning themselves for three monthly periods. Nor is it lawful for them to hide what Allah Hath created in their wombs, if they have faith in Allah and the Last Day. And their husbands have the better right to take them back in that period, if they wish for reconciliation. And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree (of advantage) over them. And Allah is Exalted in Power, Wise.

*وَالْمَطْلُقاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ شُهورٍ وَلَا يُحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَيَعْلَمْنَ أَنَّ اللَّهَ بِهِمْ عَلِيمٌ. وَإِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ.*

<sup>53</sup> Surah At-Talaq, verse 4. Such of your women as have passed the age of monthly courses, for them the prescribed period, if ye have any doubts, is three months, and for those who have no courses (it is the same): for those who carry (life within their wombs), their period is until they deliver their burdens: and for those who fear Allah, He will make their path easy.

*وَاللَّاتِي يَمْسُونَ مِنَ الْمَحِيضِ مِنْ نَسَائِكُمْ إِنْ ارْتَبْتُمْ فَعَدَّتْهُنَّ ثَلَاثَةُ أَشْهُرٍ وَاللَّاتِي لَمْ يَحْضُنَّ وَأُولَاتِ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مِنْ أَمْرِهِ يُسْرًا.*

<sup>54</sup> Surah At-Talaq, verses 1-2. O Prophet! When ye do divorce women, divorce them at their prescribed periods, and count (accurately), their prescribed periods: And fear Allah your Lord: and turn them not out of their houses, nor shall they (themselves) leave, except in case they are guilty of some open lewdness, those are limits set by Allah: and any who transgresses the limits of Allah, does verily wrong his (own) soul: thou knowest not if perchance Allah will bring about thereafter some new situation. Thus when they fulfil their term appointed, either take them back on equitable terms or part with them on equitable terms; and take for witness two persons from among you, endued with justice, and establish the evidence (as) before Allah. Such is the admonition given to him who believes in Allah and the Last Day. And for those who fear Allah, He (ever) prepares a way out.

*يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بَيْوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِقَاحِشَةٍ مَبِينَةٍ وَتَلْكَ حُدُودَ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا. فَإِذَا بَلَغَ الْأَجَلُ مِنْهَا فَاعْسُكُوهُنَّ بِمَعْرُوفٍ أَوْ فَارِقُوهُنَّ بِمَعْرُوفٍ وَأَشْهِدُوا ذَوِي عَدْلٍ مِنْكُمْ وَأَقِيمُوا الشَّهَادَةَ لِلَّهِ ذَلِكَ يُوَعِّظُ بِهِ مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مَخْرَجًا.*

<sup>55</sup> Surah At-Talaq, verse 6.

<sup>56</sup> Surah At-Talaq, verse 7. Let the man of means spend according to his means: and the man whose resources are restricted, let him spend according to what Allah has given him. Allah puts no burden on any person beyond what He has given him. After a difficulty, Allah will soon grant relief.

*لِيُنْفِقَ ذُو سَعَةٍ مِنْ سَعَتِهِ وَمَنْ قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يَكْلَفُ اللَّهُ تَفْسًا إِلَّا مَا آتَاهَا سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا.*

<sup>57</sup> Surah Al-Baqara, verses 229-230. A divorce is only permissible twice: after that, the parties should either hold Together on equitable terms, or separate with kindness. It is not lawful for you, (Men), to take back any of your gifts (from your wives), except when both parties fear that they would be unable to keep the limits ordained by Allah. If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she give something for her freedom. These are the limits ordained by Allah; so do not transgress them if any do transgress the limits ordained by Allah, such persons wrong (Themselves as well as others). So if a husband divorces his wife (irrevocably), He cannot, after that, re-marry her until after she has married another husband and He has divorced her. In that case there is no blame on either of them if they re-unite, provided they feel that they can keep the limits ordained by Allah. Such are the limits ordained by Allah, which He makes plain to those who understand.

<sup>58</sup> Surah Al-Baqara, verse 231. When ye divorce women, and they fulfil the term of their (*Iddat*), either take them back on equitable terms or set them free on equitable terms; but do not take them back to injure them, (or) to take undue advantage; if any one does that; He wrongs his own soul. Do not treat Allah's Signs as a jest, but solemnly rehearse Allah's favours on you, and the fact that He sent down to you the Book and Wisdom, for your instruction. And fear Allah, and know that Allah is well acquainted with all things.

the woman from remarriage.<sup>59</sup>

38- In the case of the death of the man, the woman is allowed to remarriage after finishing the waiting time (*Iddah*).<sup>60</sup> The men are not allowed to matchmake her during the *Iddah* of death.<sup>61</sup>

39- Before the death, the man is obliged to make a will for his wives to be benefited from goods for one year, and the others have no right to expel her from the deceased husband's house.<sup>62</sup> Even the man is obliged to consider and make will a suitable good for his previously divorced women.<sup>63</sup>

## Out-of-Marriage Relationships

The prohibition of polygyny and the lack of a legal institution in the West have exacerbated out-of-marriage relationships, and perhaps its number is even more than marriage; more importantly, the public view of the society and the people are also increasingly neglecting such relationships and do not denounce so much the woman and the man who has not married but living together as friends or coexistences, and even partially recognize it. This identification even sometimes permeates the recognition of an illegitimate parentage in the legal system.<sup>64</sup> Free sex implies that men and women and especially men have no commitment and responsibility toward the consequences of this kind of relationship, and this is the main difference between this kind of relationship with marriage. This means that if the parties do accept the consequences of their relationship in accordance with the rules of *Sharia*, their relationship will

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وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سِرِّهِنَّ بِمَعْرُوفٍ وَلَا تُنكِسُوهُنَّ لِضُرَارَاتٍ لَعَنَدُوا وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ وَلَا تَتَّخِذُوا آيَاتِ اللَّهِ هُزُوعًا وَادْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ وَمَا أَنْزَلَ عَلَيْكُمْ مِنَ الْكِتَابِ وَالْحِكْمَةِ يَعِظُكُمْ بِهِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ يَكُلُّ شَيْءًا عَلَيْهِمْ.

<sup>59</sup> Surah Al-Baqara, verse 232. When ye divorce women, and they fulfil the term of their (*Iddat*), do not prevent them from marrying their (former) 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 know not.

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوفِ ذَلِكَ يُوعِظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَمْ أَرْزُقُوا لَكُمْ وَأَطَّهَرُوا وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ.

<sup>60</sup> Surah Al-Baqara, verse 234. If any of you die and leave widows behind, they shall wait concerning themselves four months and ten days: When they have fulfilled their term, there is no blame on you if they dispose of themselves in a just and reasonable manner. And Allah is well acquainted with what ye do.

وَالَّذِينَ يَتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرْتَضِينَ بَأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ.

<sup>61</sup> Surah Al-Baqara, verse 235. There is no blame on you if ye make an offer of betrothal or hold it in your hearts. Allah knows that ye cherish them in your hearts: But do not make a secret contract with them except in terms Honourable, nor resolve on the tie of marriage till the term prescribed is fulfilled. And know that Allah Knoweth what is in your hearts, and take heed of Him; and know that Allah is Oft-forgiving, Most Forbearing.

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْتُمْتُمْ فِي أَنْفُسِكُمْ عِلْمَ اللَّهِ أَنْتُمْ سَتَدْكُرُوهُنَّ وَلَكِنْ لَا تُنَوِّدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْرَبُوا عَهْدَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابَ أَجَلَهُ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ.

<sup>62</sup> Surah Al-Baqara, verse 240. Those of you who die and leave widows should bequeath for their widows a year's maintenance and residence; but if they leave (The residence), there is no blame on you for what they do with themselves, provided it is reasonable. And Allah is Exalted in Power, Wise.

وَالَّذِينَ يَتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا وَصِيَّةً لِأَزْوَاجِهِمْ مَتَاعًا إِلَى الْاِحْوَالِ غَيْرِ إِخْرَاجٍ فَإِنْ خَرَجْنَ فَلَا جُنَاحَ عَلَيْكُمْ فِي مَا فَعَلْنَ فِي أَنْفُسِهِنَّ مِنَ الْمَعْرُوفِ وَاللَّهُ عَزِيزٌ حَكِيمٌ.

<sup>63</sup> Surah Al-Baqara, verse 241. For divorced women Maintenance (should be provided) on a reasonable (scale). This is a duty on the righteous.

وَالْمُطَلَّقاتُ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ.

<sup>64</sup> حضرت حاج دکنر نور علی تابنده مجذوبعلیشاه، رسالہ حقوق تطبیقی، انتشارات سلسلہ الرضا، ۱۳۹۰، مشہد.

be of the kind of *Moaatat* marriage (white marriage), and this marriage is not even obscene but admirable. Of course, this is apart from the relationship with *Iyami* (widows) or *Mohsen* (a man having a wife) or *Mohsenah* (a woman having a husband), which results in punishment; because the "*Boz'i*" (pudendum) of the wife is a property of her husband.

- 40- Establishing marital relations between the two different sexes is acceptable only if the parties have agreed to accept the obligations arising from the establishment of the marital relationship within the framework of permanent or interim<sup>65</sup> marriages. In this regard, the man is obliged to perform marital obligations such as women's *Mahria* and women's and children's *Nafaqa*, including food, clothing, and housing, and instead, the woman condescends (deference) toward the husband and donates her "*Boz'i*" (pudendum) possession to the man. The provisions of the contract and the conditions accepted by the parties during the marriage contract for permanent marriage are obligatory for the parties while the marriage is ongoing or until the end of the term of *Iddah* (waiting period) after the divorce, and for the interim marriage until the end of the term of the contract and until the end of the *Iddah*.
- 41- The distinctive aspect of an adultery sexual relationship from marriage for an unmarried couple is its dissimulation.
- 42- Taking a girlfriend or boyfriend<sup>66</sup> for intercourse affairs is prohibited because of the non-commitment of the parties to the marital affairs and its consequences. The exception is when the parties are committed to accepting the effects of the establishment of the relationship in accordance with the rules of the Sharia and to abiding by the established Sharia rules for themselves.
- 43- The "*Tasheea Fahsha*" (publicization of debauchery)<sup>67</sup> in the sense of declaring a hidden marital relationship of the others and in the legal words of non-documented testimony to the observance, and the asynchronous testimony of the four righteous men on adultery, sodomy, "*tafkhez*" (intercourse with no ingress), and "*Mosahiqa*" (woman-woman intercourse)<sup>68</sup>, or lack of proof of the justice of the witnesses, are exemplified as "publicization of debauchery" and requisites the "*Hadd*" (punishment by lash)<sup>69</sup> of the witnesses (and not the perpetrators).

<sup>65</sup> Surah An-Nisa, verse 24. Also (prohibited are) women already married, except those whom your right hands possess: Thus hath Allah ordained (Prohibitions) against you: Except for these, all others are lawful, provided ye seek (them in marriage) with gifts from your property,- desiring chastity, not lust, seeing that ye derive benefit from them, give them their dowers (at least) as prescribed; but if, after a dower is prescribed, agree Mutually (to vary it), there is no blame on you, and Allah is All-knowing, All-wise.

والمحصنات من النساء إلا ما ملكت أيما نكح كتاب الله عليكم وأحل لكم ما وراء ذلكم أن تبتغوا بأموالكم مخلصين غير مسافحين فما استمتعتم به منهن فأتوهن أجورهن فريضة ولا جناح عليكم فيما تراضيتن به من بعد الفريضة إن الله كان عليماً حكيماً.

<sup>66</sup> Surah Al-Maeda, verse 5.

<sup>67</sup> Surah Al-Noor, verse 19. Those who love (to see) scandal published broadcast among the Believers, will have a grievous Penalty in this life and in the Hereafter: Allah knows, and ye know not.

إن الذين يحبون أن تشيع الفاحشة في الذين آمنوا لهم عذاب أليم في الدنيا والآخرة والله يعلم وأنتم لا تعلمون.

<sup>68</sup> Surah An-Nisa, verse 15. If any of your women are guilty of lewdness, Take the evidence of four (Reliable) witnesses from amongst you against them; and if they testify, confine them to houses until death do claim them, or Allah ordain for them some (other) way.

واللاتي يأتين الفاحشة من نسائكم فاستشهدوا عليهن أربعة منكم فإن شهدوا فأمسكوهن في البيوت حتى يتوفاهن الموت أو يجعل الله لهن سبيلاً.

<sup>69</sup> Surah Al-Noor, verses 4-5. And those who launch a charge against chaste women, and produce not four witnesses (to support their allegations),- flog them with eighty stripes; and reject their evidence ever after: for such men are wicked transgressors;- Unless they repent thereafter and mend (their conduct); for Allah is Oft-Forgiving, Most Merciful.

والذين يرمون المحصنات ثم لم يأتوا بأربعة شهداء فاجلدوهم ثمانين جلدة ولا تقبلوا لهم شهادة أبداً وأولئك هم الفاسقون. إلا الذين تابوا من بعد ذلك وأصلحوا



- 44- Relations outside the framework of the marriage agreement will deprive men and women of their religious rights toward each other.
- 45- If the adulterer and adulteress do not repent and do not ameliorate or do not marry, they deserve "Hadd",<sup>70</sup> and if they did, they should be discarded.<sup>71</sup>
- 46- There is no effect on illegitimate relations legally.
- 47- The "Hadd" is abandoned by entering suspicion ("Dar'i" rule)<sup>72</sup>.
- 48- Establishing and managing offices or websites for matchmaking or similar cases are not exemplified cases of the procurer.

## Sexual Harassment and Rape

The issue of sexual harassment has also gone to extravagance, and some have brought on the subject that has encountered a particular man's looking at a woman as sexual abuse and harassment; and its extravagance is obvious, causing some people (women) to force the others (men) and even treat and blackmail. In the law of Islam, there is no physical punishment for intention until it reveals the apparent manifestation of the violation of the rights of the others. In this regard, the following issues are mentioned:

- 49- The criterion of sexual harassment of a woman by a man is first due to the dissatisfaction or final non-acceptance of the woman regarding the corresponding harassment, and secondly, the applied harassment must be a well-defined legal crime with the acquired legal status of the crime. For example, looking at a woman badly and continuously or repeatedly by a man, although it is against the Qur'an command<sup>73</sup>, is not an example of sexual harassment of a woman. In special cases, such as the "Iddah" (waiting period for women) for the death of her husband, the men have been warned not to propose in private and to make secret promises to a woman whose husband

فَإِنَّ اللَّهَ عَظِيمٌ رَحِيمٌ.

<sup>70</sup> Surah Al-Noor, verse 2. The woman and the man guilty of adultery or fornication,- flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if ye believe in Allah and the Last Day: and let a party of the Believers witness their punishment.

الرَّائِيَةُ وَالرَّائِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلْيَشْهَدْ عَذَابَهُمَا طَائِفَةٌ مِنَ الْمُؤْمِنِينَ.

<sup>71</sup> Surah An-Nisa, verse 16. If two men among you are guilty of lewdness, punish them both. If they repent and amend, Leave them alone; for Allah is Oft-returning, Most Merciful. وَاللَّذَانِ يَأْتِيَانَا مِنْكُمْ فَأَذَوْهُمَا فَإِنْ تَابَا وَأَصْلَحَا فَأَعْرِضُوا عَنْهُمَا إِنَّ اللَّهَ كَانَ تَوَّابًا رَحِيمًا.

<sup>72</sup> Surah Al-Noor, verse 8. But it would avert the punishment from the wife, if she bears witness four times (with an oath) By Allah, that (her husband) is telling a lie; وَيَذَرُ عَنْهَا الْعَذَابَ أَنْ تَشْهَدَ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ.

<sup>73</sup> Surah Al-Noor, verses 30-31.

Say to the believing men that they should lower their gaze and guard their modesty: that 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, their fathers, their husband's fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex; and that they should not strike their feet in order to draw attention to their hidden ornaments. And O ye Believers! turn ye all together towards Allah, that ye may attain Bliss.

قُلْ لِلْمُؤْمِنِينَ يَغُضُّوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَكُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَى جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ آبَاءِ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوْ التَّابِعِينَ غَيْرِ أُولِي الْإِرْمَةِ مِنَ الرِّجَالِ أَوْ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَى عَوْرَاتِ النِّسَاءِ وَلَا يُضْرَبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا إِنَّهُ السَّمِيعُ الْعَلِيمُ.

has died<sup>74</sup>.

- 50- Also, simple josh (waggery), although it is against the polite and social etiquette and contrary to the order of the Qur'an<sup>75</sup>, is not considered a crime that is subject to an apparent punishment, provided that the josh is not subject to the conditions of "*Qazf*". But frotteurism<sup>76</sup> or toucherism<sup>77</sup> that has the conditions of "*tafkhez*"<sup>78</sup> or "*sahq*" (lesbian sexual crushing) is considered as an example of crime.
- 51- Rape that one party is not satisfied with is a clear example of sexual harassment.
- 52- If a woman agrees to have sexual intercourse in response to an offer to receive a privilege, whether it is a job or material privilege, etc., sexual harassment will not be realized, but if she is threatened to have sexual intercourse, provided that the threat is not to cut off the privileges or facilities that he has bestowed to the woman, then sexual harassment applies.
- 53- Sexual harassment is considered as a "people right" (*Haq-o-Nas*), and it will be a crime in the case of victim litigation.
- 54- The victim's consent instantly abolishes her right. However, if sexual intercourse takes place with the consent of the woman, but it causes "*Ifza*" (injury due to intercourse) or physical harm to the woman, it causes a "guarantee" and is subject to the payment of "*Diya*" (atonement) to the woman.
- 55- Removal of virginity through sexual intercourse and without the consent of the woman causes the "guarantee" for the "*Mihr-ulmithl*" (proverb dowry), and in the removal of virginity through sexual intercourse and with consent, nothing is fixed.

## Transvestism, Transsexuality and Homosexuality

The most important instincts in all animals, including human beings, are the instinct for self-preservation

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<sup>74</sup> Surah Al-Baqara, verses 234-235. If any of you die and leave widows behind, they shall wait concerning themselves four months and ten days: When they have fulfilled their term, there is no blame on you if they dispose of themselves in a just and reasonable manner. And Allah is well acquainted with what ye do. There is no blame on you if ye make an offer of betrothal or hold it in your hearts. Allah knows that ye cherish them in your hearts: But do not make a secret contract with them except in terms Honourable, nor resolve on the tie of marriage till the term prescribed is fulfilled. And know that Allah Knoweth what is in your hearts, and take heed of Him; and know that Allah is Oft-forgiving, Most Forbearing.

وَالَّذِينَ يَتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرْتَضْنَ بَأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِي مَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ. وَلَا جُنَاحَ عَلَيْكُمْ فِي مَا عَرَضْتُمْ بِهِ مِنْ خُطْبَةِ النِّسَاءِ أَوْ أَكْتُمْتُمْ فِي أَنْفُسِكُمْ عِلْمَ اللَّهِ أَنْكُمْ سَتَدَكَّرُونَهُنَّ وَلَكِنْ لَا تُؤَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْرَمُوا عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِتَابَ أَجَلَهُ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ وَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ حَلِيمٌ.

<sup>75</sup> Surah Al-Hujraat, verse 11. O ye who believe! Let not some men among you laugh at others: It may be that the (latter) are better than the (former): Nor let some women laugh at others: It may be that the (latter) are better than the (former): Nor defame nor be sarcastic to each other, nor call each other by (offensive) nicknames: Ill-seeming is a name connoting wickedness, (to be used of one) after he has believed: And those who do not desist are (indeed) doing wrong.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَسْخَرُوا قَوْمًا مِنْ قَوْمٍ عَسَى أَنْ يَكُونُوا خَيْرًا مِنْهُمْ وَلَا نِسَاءٌ مِنْ نِسَاءٍ عَسَى أَنْ يَكُنَّ خَيْرًا مِنْهُنَّ وَلَا تَلْمِزُوا أَنْفُسَكُمْ وَلَا تَنَابَرُوا بِالْأَلْقَابِ بِئْسَ الْأَسْمَاءُ الْمُسُوءَاتُ بَعْدَ الْإِيمَانِ وَمَنْ لَمْ يَتُبْ فَأُولَئِكَ هُمُ الظَّالِمُونَ.

Surah Al-Humaza, verse 1. Woe to every (kind of) scandal-monger and-backbiter. وَيَلْ لِكُلِّ هُمَزَةٍ لُمَزَةٍ.

<sup>76</sup> Frotteurism is a paraphilic interest in rubbing, usually one's pelvic area or erect penis, against a non-consenting person for sexual pleasure. It may involve touching any part of the body, including the genital area. A person who practices frotteuristic acts is known as a frotteur.

<sup>77</sup> Toucherism is sexual arousal based on grabbing or rubbing one's hands against an unexpecting (and non-consenting) person. It usually involves touching breasts, buttocks or genital areas, often while quickly walking across the victim's path.

<sup>78</sup> Tafkhez: is used to describe the act of a male partner thrusting his penis to orgasm between his partner's thighs, breasts, butt cheeks, or other body parts as a simulation of intercourse.

and the instinct for survival of the species. In the superiority of each of the two approaches over the other, the opinions are different. Some people consider the instinct of self-preservation as the strongest intrinsic and consider the instinct of getting pleasure which is a part of this instinct, as ruling over the human being's life, and say that if an animal generates offspring, it is in the sense that it is interested in continuing its life and considers the child as a follower of its existence; and with its survival, it feels alive. Another group considers the instinct of preserving the survival of the species as the strongest law of nature, and if the fauna is interested in their existence and preserve it, it is because nature has instructed them to preserve and survive the species, and self-preservation is a component of the instinct of survival of the species. Schopenhauer believes that nature to force living things to preserve offspring and tolerate its derivatives has conspired a plot, meaning that it has made sexual intercourse between male and female animals as a personal pleasure, so they get closer to each other with the intention of satisfying their sexual needs, and thus nature imposes its law. Humankind is not inseparable from other animals in terms of instinct, and he restrains his instinct only by the power of intellect and uses it in a rational way; otherwise, it is against the interest of life to destroy instinct and fight against it or unjustly restrict its actions.<sup>79</sup> Therefore, it must be said that any regulation that is contrary to the generation of offspring and the preservation of the species and formation of a consolidated family, which is part of human nature and instinct or weakens it, is against nature.

Some have promoted this type of relationship by proposing legal sex for homosexuals because this type of relationship is far from the nature of reproduction in human beings and does not lead to the birth of a child, fundamentally no new rights, apart from the same simple, friendly relations among the same sex, are deserved to be granted to homosexuals, and this deviation from the nature should not be propagated by such acts to cause the human race to deviate from the issue of reproduction. Therefore, Islam does not grant any rights to this group and does not deal with the perpetrator until such actions are practised apparently in the society, and Islam forbids him/her individually through moral precepts.

In other words, the definition of any relationship between men and women is based on the needs that nature has set for the survival of the two and the humankind race, and the rights arising from the relationship between the two derive from the effects and consequences of their relationship in society and generation. If this relationship does not lead to an effect on society, the adoption of rights in excess of the rights that individuals have in relation to each other in society is not an example of justice because justice means "putting the object in its position". For example, the rights of classmates can be defined within the framework of the relevant legislated laws without the need to legislate new rules in this regard. How can new rights be defined for classmates who have sexual relations (whether heterosexual or homosexual)? If their relationship is of the heterosexual type, which can have an effect on the generation and consequently the various consequences during their lifetime and after their death, the statute law has dealt with it before. Moreover, homosexual intercourse does not have an effect on the generation and consequently does not have an effect on their rights during life and after death to enact new laws and rights for them.

The transgender phenomenon, which is highly prevalent in contemporary societies, has been known to be due to the overuse of the electrical industry and electromagnetic waves<sup>80</sup>, which cause changes in endocrine gland secretions and certain changes in the animal and human genomes and weaken males and excite females of the animal, as well as "transgenic" industrial feed and crops, as well as a variety of chemical pesticides (pesticides, fungicides, insecticides, herbicides) and chemical fertilizers and micronutrients. These can cause a variety of Transvestism, Transsexual, homosexual, and bisexual

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<sup>79</sup> حضرت حاج دکتر نورعلی تابنده مجذوبعلیشاه، رساله حقوق تطبیقی، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

<sup>80</sup> بیژن بیدآباد، عوارض امواج الکترومغناطیس بر بهره‌وری و شیوه‌های ایمن‌سازی. مجله توسعه تأسیسات و تجهیزات نشریه انجمن صنفی شرکت‌های پیمانکار تأسیسات و تجهیزات صنعتی ایران، قسمت اول در شماره بهار ۱۳۹۰ دوره جدید شماره ۲۸ شماره مسلسل ۸۱، صفحات ۷۹-۶۴. قسمت دوم در شماره تابستان ۱۳۹۰ دوره جدید شماره ۲۹ شماره مسلسل ۸۲، صفحات ۵۷-۵۴.

<http://www.bidabad.ir/doc/electromagnetic-bahrevari.pdf>

disorders.

In this regard, the following items are emphasized:

- 56- Transvestism is not a crime in Islam and is not prohibited,<sup>81</sup> but it is reprehensible, and granting marital rights to them in excess of their human rights is not in line with their creation and nature.
- 57- Just as the normal friendship and association of two boys with each other or the friendship and association of two girls with each other does not lead to new rights for either party, so the movement of two homosexuals and the establishment of "vaty" (intercourse) or "tafkhez" or "sahq" does not entitle the society to grant them new rights.
- 58- Transvestism of a man or woman is not condemned in Islam, and transgender marriage with the opposite transgender person includes all marital rights for both, but according to their physical gender rights.
- 59- Although a person is free to have surgery on himself or herself and change his or her gender, though changing the creation of God is disagreeable,<sup>82</sup> his or her actions do not deprive him/her of his/her physical gender rights and do not grant him/her the rights of the opposite sex.
- 60- "Tanaboz" (calling people bad names), mockery, and ridicule are generally prohibited<sup>83</sup>, and this prohibition is also applied to all those who hold different sexual orientations or interests.
- 61- "Mosahiqah" (lesbian sexual crushing), "lawat" (sodomy of man with man), and "vaty" (sodomy with animals) are forbidden because they destroy the generation. These manners also cause waste the other gender's rights.
- 62- Proving sexual intercourse between two homosexuals, except by obvious public pretence, is one of the cases that cannot be proved according to the rules of jurisprudential proof for this type of crime.
- 63- Sexual relation between two homosexuals is contrary to the purpose of nature and is a kind of perversion. This type of relationship does not create any right for either party and will not be a crime and will not deserve punishment until the immorality is publicized.

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<sup>81</sup> It is attributed to the Messenger of God (PBUH) who said: Four groups whom God has cursed them from the above of His throne, and His angels entrusted to him, 1- The one who restrains himself so that he does not marry or does not buy maidservant be born child for him, 2- He is a man who resembles women and pretends to be women while God has made him male. 3- 3- She is a woman who pretends to be a man while God has created her female. 4- He is the one who misleads and deceives people, says to the poor and needy: Come and I will give you something, when the poor comes, he says I have nothing with me, and he says to the blind man: Beware of the animal while there is nothing in front of it, and someone asks him for the address and he answers him wrong and misleads him.

اربع لعنهم الله من فوق عرشه وامت عليه ملائكته الذي يحصر نفسه فلا يتزوج ولا يتسرى لئلا يولد له، والرجل يتشبه بالنساء وقد خلقه الله ذكراً، او المرأة تتشبه بالرجال وقد خلقها الله انثى، ومضلّل الناس يقول للمسكين: هلم اعطك فاذا جاء يقول ليس معي شيء، ويقول للمكفوف: اتق الذابة وليس بين يديه شيء، والرجل يسأل عن دار القوم فيضلّله.

حضرت حاج ملاسلطان محمد بيدختى گنابادی، بیان السعادة فی مقامات العبادة، چاپ دوم، در چهار مجلد رقعی به زبان عربی، ۱۳۴۴ هجری شمسی، چاپخانه دانشگاه تهران. جلد دهم ترجمه، ذیل آیه ۳۳ سورة نور.

<sup>82</sup> Surah An-Nisa, verse 119. "I will mislead them, and I will create in them false desires; I will order them to slit the ears of cattle, and to deface the (fair) nature created by Allah." Whoever, forsaking Allah, takes satan for a friend, hath of a surety suffered a loss that is manifest.

وَأَضَلَّهُمْ وَلَأْمَنَهُمْ وَأَمْرُهُمْ فُتِنَتْكُمْ أَدَانُ الْأَنْعَامِ وَلَا مَرْتَبَهُمْ فَلْيَغْيِرَنَّ خَلْقَ اللَّهِ وَمَنْ يَتَّخِذِ الشَّيْطَانَ وَلِيًّا مِنْ دُونِ اللَّهِ فَقَدْ خَسِرَ خُسْرَانًا مَبِينًا.

<sup>83</sup> Surah Al-Hujraat, verse 11. Surah Al-Humaza, verse 1.

## Moral Items

In no society men and women have been completely free to come together according to their own will or to separate by any motive, but human society has always been in charge of its formation, administration, and dissolution and has specific ruling rules that it has not been allowed for individuals to violate it. These rules were originally based on custom and moral habits. Gradually, some ethical rules became legal provisions and received executive guarantee socially. The realm of good morals varies according to time and place, and it is possible that something that is allowed at a certain time or place but is contrary to good morals at another time or place. For example, the marriage of an uncle, aunt, or nephew to an aunt, uncle, or niece to a niece is free under French law, but in the law of Islamic countries, it is absolutely contrary to good morals. In general, the recognition of good morality is determined by the definite public custom of the nation, and custom is, in fact, like a bridge that imposes certain moral rules on the science of law and may gradually codify it legally. The primary source of good morality and its bases is, in fact, the religious rule, where the recognition of this origin in sexual matters is quite clear.<sup>84</sup>

Establishing human relations based on morality is one of the most important emphases of Islam, and the Messenger of God (PBUH) says that I was sent to complete the virtues of morality.<sup>85</sup> In the virtue of serving the family and being kind to the subordinates, His Holiness Soltanalishah Gonabadi has written:<sup>86</sup> "In terms of the animal soul, the human being necessitates to be arrogant over his subordinates, and according to the status of human intellect and humanistic gentility, which is a divine gentility, he necessitates to have mercy and kindness with subordinates and the weak and helpless. And according to this position, they had said: "The master of the folk is the servant of the poor"<sup>87</sup>, so whoever misbehaves with the weak and subordinate arrogantly and deals with the small and poor in vanity then has dismissed the intellect that is the manifestation of Ali (AS) and Al-Rahman and has appointed others to the throne of His caliphate, and in fact, he prepares the hellfire of Hell and puts himself in the midst of the painful torment, and the one who is kind to his subordinates and serves them eagerly, he appoints Ali (AS) to the position of the caliphate and starts to make an effort as like as Salman and dismisses the animal soul which is the manifestation of Satan and takes the position of "Salman is a member of my family"<sup>88</sup>. And that is why there are lots of narrations regarding the serving the wife and kindness to the subordinates, weak, orphan and the poor, where is not possible to collect all of them in one book ..."

Also, in expressing the etiquette of associating with women, children, and others, His Holiness Soltanalishah Gonabadi has written: "The wayfarer should be friendly in associating with all of them. That is, he should not force any one of them to do hard deeds and should not expect too much than their strength and patience, and he should command and forbid them gently when ordering and forbidding, and he should meet them with an open face and a spacious heart and smiling lips, and orders and forbids in sweet language and by expressing love. And sometimes he should joke and play with his wife and accompanies and play with the children, like them, so that when the wife and child become happy to meet the wayfarer and be disappointed in his absence. It is one of the words of the grandeurs: "who joke and play with them at home like children and on the outside is, as the dignified men". And it is said:<sup>89</sup> "They are *lobats* (Lovelies, Beautiful, Beloved, Sanam) so fun with them." Because when the wayfarer is playing with them for an hour, the excitement faculty is empowered, and if this hour is paired with carnal pleasures, in the second hour, the heat of enthusiasm will increase, and more attention will be paid to the

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<sup>84</sup> حضرت حاج دکتر نورعلی تابنده مجذوبعلیشاه، رساله حقوق تطبیقی، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

<sup>85</sup> إِنَّمَا بُعِثْتُ لِأَتَمِّمَ مَكَارِمَ الْأَخْلَاقِ.

<sup>86</sup> حضرت حاج سلطانمحمد بیدختی گنابادی سلطانعلیشاه، مجمع السعادات، انتشارات حقیقت، چاپ دوم، ۱۳۵۳.

<sup>87</sup> سید القوم خادم الفقراء.

<sup>88</sup> سلمان منا اهل البيت

<sup>89</sup> هُنَّ لَعِبَاتٌ فَالْعَبُوا بِهِنَّ.

Unseen. And that is why His Holiness (PBUH) said I took three things from your world: pleasant scent because the pleasant scent also excites the heat and excites the excitement faculty, and women, which also excites the excitement faculty, and the light of my eyes is in prayer<sup>90</sup>, which is from the world, that is, the first two things help me to pay full attention to the prayers for the Honorable Omniscient. And in what he has from comfortable means, he puts his wife and child before himself; in this affair, he should learn the generosity from the rooster, that what he finds offers it to its mate, and then it himself eats, and zeal should also be learned from the rooster that put itself in case of risk so that the stranger not to go near its mate. And if the dust of boredom outside settles on his mind, when he comes home, he should forget it by compassionate to his wife and children, and not grieve them by acerbity, and when he enters the home, he overtakes to greet, and this makes his wife happy. As the Quran says:<sup>91</sup> That is when you enter the house, submit your greetings to people of the house, whether it is your home or your non-household house so that the family of the home return greeting to you. And in the housekeeping, take it easy on the wife as much as possible. And if he has servant or housemaid, he should take easy to them as well, but he should endure some services himself.

It has been narrated in Jame-ul-Akhbar that Hazrat Amir (AS) said that the Messenger of God (PBUH) entered us, and Fatima was sitting in the front of the cauldron, and I was cleaning the lentils. His Holiness said: "O Abul-Hasan, listen to me, and I do not say that unless of the order of my Lord that there is no man who helps his wife in the house of that woman, unless for him, as much as any hair on his body, God will give him a year of worship, fasting its days and praying its nights, and will reward him as he has bestowed to the Patients like David, Jacob, and Jesus. O Ali, whoever serves his wife in her house and does not disdain, God will register his name in the Court of Martyrs and will write for him the reward of a thousand martyrs for each day and night and will write the reward of Hajj and Omrah at every step, and he will grant for every vessel in his body a city in Paradise. O Ali, one hour serving in the house is better than worshipping for a thousand years and for a thousand Hajjs and a thousand Omrahs, and it is better than freeing a thousand slaves and a thousand *Qazwabs* (The wars that Prophet (PBUH) participated personally) and visiting a thousand sick people, and a thousand Fridays, and a thousand funerals, and feeding a thousand hungry people, and dressing a thousand naked people and sending a thousand horses to *jihad* in the way of God, and it is better for him than a thousand dinars that give to the poor, and not to leave the world except he sees his place in the Heaven. O Ali, whoever does not disdain from the service to the family, it will expiate the *Kabaer* (Great sins), and it will extinguish the wrath of God, and it will be the dowries of Hoor-ul-Ain, and it will increase the goodness and his degrees. O Ali, no one serves his family except the truthful or the martyr or the one whom God wants the good of this world and the Hereafter for him. And when he sees acerbity of wife will forgive her and neglect it, as He the Almighty has said that O the group of believers! Really, some of your spouses and children are your enemies, so beware of them,<sup>92</sup> so do not lose your religion about them. And if you were not in the position of punishing them and do not hold a grudge against them and forgive their evil, then you will see the forgiveness and mercy from God because God is Forgiving and Merciful. And He said:<sup>93</sup> "And live with them kindly." That is, associate with them, even though they are grumpy and ribald or ugly. And if you are not happy with them due to grumpy and ribald, it is possible that you dislike a thing which God has put goods in it for you.<sup>94</sup> And it is narrated that whoever has patience for his wife's misbehaviour, then

<sup>90</sup> حب الي من دنياكم ثلاث: الطيب, النساء وقره عيني الصلاة.

<sup>91</sup> Surah Al-Noor, verse 61. فَإِذَا دَخَلْتُمْ بُيُوتًا فَسَلِّمُوا عَلَىٰ أَنفُسِكُمْ تَحِيَّةً مِّنْ عِنْدِ اللَّهِ مُبَارَكَةٌ طَيِّبَةٌ.

<sup>92</sup> Surah Al-Taghabun, verse 14. O ye who believe! Truly, among your wives and your children are (some that are) enemies to yourselves: so beware of them! But if ye forgive and overlook, and cover up (their faults), verily Allah is Oft-Forgiving, Most Merciful. يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّ مِنْ أَرْوَاجِكُمْ وَأَوْلَادِكُمْ عَدُوًّا لَّكُمْ فَاحْذَرُوهُمْ وَإِنْ تَعَفَّوْا وَتَصَنَّفَحُوا وَتَغْفِرُوا فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ.

<sup>93</sup> Surah An-Nisa, verse 19.

<sup>94</sup> Surah An-Nisa, verse 19. O ye who believe! Ye are forbidden to inherit women against their will. Nor should ye treat them with harshness, that ye may Take away part of the dower ye have given them,-except where they have been guilty of open lewdness; on the contrary live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike

God will reward him like the reward of Job (AS)... And the woman who waits for her husband's mischief will be rewarded like the reward of Pharaoh's wife. And it has been said that good manner with them is not to annoy them, but the good manner with women is to endure their inconveniences. And God Almighty said: "Let not those among you who are endowed with grace and amplitude of means resolve by oath against helping their kinsmen, those in want, and those who have left their homes in Allah's cause: let them forgive and overlook, do you not wish that Allah should forgive you? For Allah is Oft-Forgiving, Most Merciful."<sup>95</sup> And He encouraged the best way to in benevolence to the relatives and forgiveness of their sins, and the nearest physical relatives are the children and fathers, and the wife is the nearest self-relative and is the in-law relative. That is, no one of you is not innocent of the fault of negligence regarding the one who is the greatest of all of you. If you seek forgiveness and negligence of the Righteous and ask for His benevolence, treat with your subordinates kindly, but in jest and droll and suavity not try so hard to evanesce your awesome besides the woman, children and servants, but in the same order that the Almighty God has said about women behave with all of them as He has said<sup>96</sup>. ... He said that if they obey, do not exaggerate on them and do not rebuke so much, that as you have control over your subordinates, God has dominion and superiority over you and as much as you expect from God you should behave about them as well. And whenever a person treats his family according to the given order of God and his caliphs, he will make his house as Paradise for himself and will give his world the ruling of the Hereafter. As it is said: <sup>97</sup> "I have placed comfort in the afterlife, and people seek it in this world, so when will they find it?" That is, the comfort that he should have in the Hereafter will be possible for him in this world, and he will recite the blessed verse in his status tong:<sup>98</sup> "They will say: Aforetime, we were not without fear for the sake of our people. But Allah has been good to us and has delivered us from the Penalty of the Scorching Wind." That is, the flame from the Hell that reaches the servants of God in this world; we are protected from it due to good character and compassion to the family and subordinates, and the world that is a face of Hell is for us as the Hereafter that we do not see anything but bliss. And the summary is that he should always be compassionate with his subordinates and forgive and neglect their slips, and attribute their slips to his own delinquencies and faults about them and about himself, and not be excited by their misfortunes, and blame himself for his own delinquency and fault first and then in order to punish or expel them, he blames them for improper deeds and does justice - in the sense that he should blame himself as the source of their misery so that it will be easy to forgive them - and not to ask them for justice. Because when it is necessary to ask them for justice that he would know their intellects in the degree of his own intellect, and if their intellect were to that degree, they would not be subordinated, and should contemplate the word: "talk with the people according to their intellects".

In this regard, the following points should be cited:

- 64-** The creation of marriage is to calm the people down, and God has placed friendship and kindness between them.<sup>99</sup>

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a thing, and Allah brings about through it a great deal of good.

يا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحُلْ لَكُمْ أَنْ تَرْتُوا النِّسَاءَ كَرِهًا وَلَا تَعْضَلُوهُنَّ لِتَذْهَبُوا بِبَعْضِ مَا آتَيْنَ بِقَاحِشَةٍ مَبِيتَةٍ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَى أَنْ تَكْرَهُوا شَيْئًا وَيَجْعَلَ اللَّهُ فِيهِ خَيْرًا كَثِيرًا.

<sup>95</sup> Surah Al-Noor, verse 22. Let not those among you who are endowed with grace and amplitude of means resolve by oath against helping their kinsmen, those in want, and those who have left their homes in Allah's cause: let them forgive and overlook, do you not wish that Allah should forgive you? For Allah is Oft-Forgiving, Most Merciful.

وَلَا يَأْتَلِ أُولُو الْفَضْلِ مِنْكُمْ وَالسَّعَةِ أَنْ يُؤْتُوا أُولِي الْقُرْبَى وَالْمَسَاكِينَ وَالْمُهَاجِرِينَ فِي سَبِيلِ اللَّهِ وَلْيَعْفُوا وَلْيَصْفَحُوا أَلَا تُحِبُّونَ أَنْ يَغْفِرَ اللَّهُ لَكُمْ وَاللَّهُ غَفُورٌ رَحِيمٌ.

<sup>96</sup> Surah An-Nisa, verse 34.

<sup>97</sup> ابي وضعت الراحة في الآخرة و الناس يطلبونها في الدنيا فمتي يجدونها.

<sup>98</sup> Surah At-Tur, verses 26-27. انا كنا قبل في اهلنا مشفقين فمن الله علينا و وقينا عذاب السوموم

<sup>99</sup> Surah Al-Room, verse 21. And among His Signs is this, that He created for you mates from among yourselves, that ye may

- 65- A man is obliged to associate well with the women, and even if he is reluctant with his wife, he is advised to tolerate her.<sup>100</sup>
- 66- Singles should be helped<sup>101</sup> and encouraged to marry.<sup>102</sup>
- 67- Men and women have a common duty regarding the development and upbringing of children.<sup>103</sup>
- 68- Men and women are obliged to spouse-keeping each other.<sup>104</sup>

## Veil

Also, about veiling for both men and women, His Holiness Reza Alisha II states:<sup>105</sup> "In Islam, lechery has been prohibited, and marriages have also been ordered for the survival of the specie, so, in Islam, it is forbidden to gaze at a stranger, and it is in the Quran:<sup>106</sup> "O Muhammad (PBUH): Tell the believers that they refrain from looking at the non-*Mahram* because of lust, and to maintain their vulvas, which is better and purer for them, and God is aware of what they do, and tell the believing women who not look at the stranger men and to maintain their vulvas, and do not display their ornaments unless what is of course apparent." This is a spiritual veil that has been determined for both parties, and the real purpose is the chastity that is the highest veil, and all nations accept it and deem it as necessary. Unchastity and the actions opposite to chastity and decency are ugly and disgusting to everyone and to the public in all nations. And in the above-mentioned *hijab* in the Qur'an, the high chastity has been ordered, and if this command is carried out, chastity will be better preserved, and immorality will be less. To explain and complete this command, God has commanded another *hijab* in the Qur'an for women:<sup>107</sup> "O Muhammad, tell your wives and daughters and the women of the faithful and believer to bring their veils closer together so that the men do not recognize them". And he also said:<sup>108</sup> "The women should put their hangovers on their grips". From these two verses, it is understood that the *hijab* of Arab women at the beginning of Islam was composed of "*Jilbab*" (Chador, veil) and "*Khemar*" (Hangover, Scarf), and in some books, in addition to these two "*Burqa*" (Mask) is also mentioned, but these two verses are used

dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect. ومن آياته أن خلق لكم من أنفسكم أزواجا لتسكنوا إليها وجعل بينكم مودةً ورحمةً إن في ذلك لآيات لقوم يفتكرون.

<sup>100</sup> Surah An-Nisa, verse 19.

<sup>101</sup> Surah Al-Noor, verse 32. Marry those among you who are single, or the virtuous ones among yourselves, male or female: if they are in poverty, Allah will give them means out of His grace: for Allah encompasseth all, and he knoweth all things.

وَأَنْكَحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُغْنِهِم اللَّهُ مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ.

<sup>102</sup> Surah An-Nisa, verse 25. If any of you have not the means wherewith to wed free believing women, they may wed believing girls from among those whom your right hands possess: And Allah hath full knowledge about your faith. Ye are one from another: Wed them with the leave of their owners, and give them their dowers, according to what is reasonable: They should be chaste, not lustful, nor taking paramours: when they are taken in wedlock, if they fall into shame, their punishment is half that for free women. This (permission) is for those among you who fear sin; but it is better for you that ye practise self-restraint. And Allah is Oft-forgiving, Most Merciful.

وَمَنْ لَمْ يَسْتَطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكَحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمَنْ مَّا مَلَكَتْ أَيْمَانُكُمْ مِنَ فِتْيَانِكُمُ الْمُؤْمِنَاتِ وَاللَّهُ أَعْلَمُ بِإِيمَانِكُمْ بَعْضُكُمْ مِنْ بَعْضٍ فَانْكَحُوهُنَّ بِإِذْنِ أَهْلِهِنَّ وَأَتُوهُنَّ أَجُورَهُنَّ بِالْمَعْرُوفِ مُحْصَنَاتٍ غَيْرِ مُسَافِحَاتٍ وَلَا مُتَّخِذَاتِ أَحْدَانٍ فَإِذَا أَحْصَيْتُمْ فَإِنَّ أَيْمَانَ بَقَا حَشَاةً فَعَلَيْهِنَّ نِصْفٌ مَّا عَلَى الْمُحْصَنَاتِ مِنَ الْعَذَابِ ذَلِكَ لِمَنْ خَشِيَ الْعَنَتَ مِنْكُمْ وَأَنْ تَصْفِرُوا خَيْرٌ لَكُمْ وَاللَّهُ غَفُورٌ رَحِيمٌ.

<sup>103</sup> Surah At-Talaq, verse 6. Surah Al-Baqara, verse 233.

<sup>104</sup> Surah Al-Baqara, verse 187. They are your garments and ye are their garments. هُنَّ لِبَاسٌ لَكُمْ وَأَنْتُمْ لِبَاسٌ لَهُنَّ.

<sup>105</sup> حضرت حاج سلطانحسین تابنده گنابادی، رضاعلیشاه ثانی، تجلی حقیقت در اسرار فاجعه کربلا، انتشارات حقیقت، چاپ چهارم ۱۳۷۲.  
<http://www.sufism.ir/>

<sup>106</sup> Surah Al-Noor, verses 30-31.

<sup>107</sup> سورة احزاب آیه ۵۹. یاایها النبی قل لازوجک و بناتک و نساء المؤمنین یدنین علیهن من جلا بیهن ذلك ادنی ان يعرفن.

<sup>108</sup> Surah Al-Noor, verse 31. ولیضرنن بحمرهن علی جیوهن.



only the first two ... . But coverage o the face is not understood from the Qur'an...."

69- It is an order for men and women to turn down their eyes to non-*Mahrams*.<sup>109</sup>

## Testimony

Regarding the testimony of women, His Holiness Reza Alisha II writes:<sup>110</sup> "Another Islamic rule that some may think it is an insult to women and makes her be looked smaller is the issue of testimony, that in Islam the testimony of two women is equal to one man and in some cases, their testimony is not acceptable at all. But if one pays attention, it is also tacted here for women, especially in judicial matters, of which testimony is a part. And we mentioned that women have thin hearts and a great sense of emotion, and with a little begging, they may feel sorry and be deceived and testify against the right, or give up the correct testimony, and it may be oppressive for them. And this, although it exists in men, it is less than in women. And the Legislator of Islam in the matter of testimony, because it looks at proving the truth or "*Hadd*" (Punishment), justice and avoidance of falsehood have been stipulated in order not to give unjust testimony, and in women, their testimony is not acceptable in important matters such as proving "*Hadd*" and others due to the same state of tendresse, to perform rightful judgment and not to give the unjust verdict."

70- In the majority of cases, the testimony of two women is acceptable instead of one man.

## Heritage

Gustave le Bon, a Frenchman, gives a detailed account of the inheritance of women in Islam in his book: *Civilization of the Arabs*. In this regard that it has been objected that the female share is set at half of the male share at each degree; he writes: "Although not all the subdivisions that the jurists have extracted in this context are included in these verses, but its generality has clearly been mentioned, and especially I compared these rules with the British and French inheritance regulations in the margins of the book. By studying that regarding married women, it is said that the religion of Islam has not treated them fairly, and it turns out that there is no basis for their objection, but it is understood that it has more respected their rights."

71- Both men and women have the right to inherit.<sup>111</sup> Because of the financial burden of *Mahr* (dowry) and alimony (*Nafaqa*) over the man, the Lord recommends<sup>112</sup> dividing the inheritance by

<sup>109</sup> Surah Al-Noor, verses 30-31.

<sup>110</sup> حضرت حاج سلطانحسین تابنده گنابادی، رضاعلیشاه ثانی، تجلی حقیقت در اسرار فاجعه کربلا، انتشارات حقیقت، چاپ چهارم ۱۳۷۲.

<http://www.sufism.ir/>

<sup>111</sup> Surah An-Nisa, verse 7. From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large,-a determinate share.

للرجال نصيب مما ترك الوالدان والأقربون وللنساء نصيب مما ترك الوالدان والأقربون مما قلن منه أو كنن نصيبا مفروضاً.

<sup>112</sup> Surah An-Nisa, verses 11-14. 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 share is two-thirds of the inheritance; if only one, her share is a 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 ('s) after the payment of legacies and debts. Ye 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, Al-wise. In what your wives leave, your share is a half, if they leave no child; but if they leave a child, ye get a fourth; after payment of legacies and debts. In what ye leave, their share is a fourth, if ye leave no child; 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 any one). Thus is it ordained by Allah; and Allah is All-knowing, Most Forbearing. Those are limits set by Allah: those who obey Allah and His Messenger will be admitted to Gardens with rivers flowing beneath, to abide therein (for ever) and that will be the supreme achievement. But those who disobey Allah and His Messenger and transgress His limits will be admitted to a Fire, to abide therein: And they shall have a humiliating punishment.

two for the male child and one for the female child. This ratio (two to one) is inherited from the husband and wife from the husband. Before death, any individual is authorized to transfer the ownership to others. For after death, he is not authorized to will more than a third of his properties. But after death, observing the sharing based on the ratio of two to one is a divine rule.

72- The woman's pudendum (*Boza*) is the man's property, but it is not true to the contrary. This right is a kind of intellectual property right and not a material one. It is, therefore, stipulated that a woman is not included in the deceased man's hereditary estate to be inherited by the inheritors. It is also stipulated that after the death of the husband, the heirs are not allowed to recapture or retake the property that the husband had given to her wife; moreover, they must not become rigid in remarrying the widow or the dead-husband woman.<sup>113</sup>

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يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ النِّثَاءِ فَإِنَّ لِكُلِّ نَسَاءٍ فَوْقَ اثْنَتَيْنِ فَلِهَا تَرْتِيبٌ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ فَإِنْ لَمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَهُ آبَاؤُهُ فَلِأُمَّهِ الثَّلَاثُ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِأُمَّهِ السُّدُسُ مِنْ بَعْدِ وَصِيَّةِ يَوْصِي بِهَا أَوْ دِينِ آبَائِكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيْهِمْ أَقْرَبُ لَكُمْ نَفْعًا فَرِيضَةٌ مِنَ اللَّهِ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا. وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلِكُمُ الرُّبْعُ مِمَّا تَرَكَنَّ مِنْ بَعْدِ وَصِيَّةِ يَوْصِينَ بِهَا أَوْ دِينِ وَهُنَّ الرُّبْعُ مِمَّا تَرَكَنَّ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ فَإِنْ كَانَ لَكُمْ وَلَدٌ فَلِهُنَّ الثُّمُنُ مِمَّا تَرَكَنَّ مِنْ بَعْدِ وَصِيَّةِ نُوَصِّونَ بِهَا أَوْ دِينِ وَإِنْ كَانَ رَجُلٌ يُورِثُ كِلَاكُمَا أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثَّلَاثِ مِنْ بَعْدِ وَصِيَّةِ يَوْصِي بِهَا أَوْ دِينِ غَيْرِ مِصْرٍ وَصِيَّةِ مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ. تِلْكَ حُدُودُ اللَّهِ وَمَنْ يُطِعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ذَلِكَ الْقَوْرُ الْعَظِيمُ. وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُّهِينٌ.

<sup>113</sup> Surah An-Nisa, verse 19.

<sup>114</sup> حضرت سجاد (ع)، رساله حقوق امام سجاد (ع)، مؤسسه انتشارات مشهور. ۱۳۹۰، قم. همچنين نگاه كنيد به شرح رساله حقوق توسط حضرت حاج دكتور نورعلي تابنده مجدوبعليشاه:

<sup>115</sup> حضرت حاج ملا سلطانمحمد بيدختي گنابادي، بيان السعادة في مقامات العباد، چاپ دوم، ۱۳۴۴ هجری شمسی، چاپخانه دانشگاه تهران. ترجمه محمدآقا رضاخانی و دكتور حشمت الله رياضي، انتشارات حقيقت.

<sup>116</sup> حضرت حاج ملا سلطانمحمد بيدختي گنابادي سلطانعليشاه، مجمع السعادات، انتشارات حقيقت، چاپ دوم، ۱۳۵۳.

- In Persian. Haqiqat Publication. Tehran. Iran.<sup>117</sup> <http://www.sufism.ir>
- Nour Ali Shah Gonabadi, His Holliness Haj Molla Ali. (2003). The treatise of Zolfaqar, in forbidness of smoking opium. In Persian. Haqiqat Publication. Tehran. Iran.<sup>118</sup> <http://www.sufism.ir>
- Salih Ali Shah Gonabadi, His Holliness Haj Sheikh Mohammad Hassan. (1939). The treatise of Salih Advice. Haqiqat Publication. Tehran. Iran. Translated to different languages from Persian by <http://sufi.ir/pandesaleh.php>. Explanations by His Holliness Haj Dr Nour Ali Tabandeh Majzoub Alishah II.<sup>119</sup>  
<http://mazaesoltani.com/audio-pandesaleh.php>  
<http://mazaesoltani.com/video-pandesaleh.php>  
[http://jozveh121.com/main\\_page.jsp?link=pandeSaleh](http://jozveh121.com/main_page.jsp?link=pandeSaleh)
- Tabandeh Gonabadi, His Holliness Haj Sultan Hussein Reza Ali Shah. (1993). Manifestation of the Truth In the Secrets of the Tragedy of Karbala. In Persian. Haqiqat Publication. 4<sup>th</sup> Print. Tehran. Iran.<sup>120</sup>  
<http://www.sufism.ir>
- Tabandeh Gonabadi, His Holliness Haj Dr Nour Ali Majzoub Alishah II. (2014). Manifestation of the Truth In the Secrets of the Tragedy of Karbala. In Persian. Haqiqat Publication. 4<sup>th</sup> Print. Tehran. Iran.<sup>121</sup> <http://www.jozveh121.com>
- Tabandeh Gonabadi, His Holliness Haj Dr Nour Ali Majzoub Alishah II. (2014). The treatise of comparative law. In Persian. Silselat-o-Riza Publication. Mashhad. Iran.<sup>122</sup>  
<http://www.jozveh121.com>
- Tabandeh Gonabadi, His Holliness Haj Dr Nour Ali Majzoub Alishah II. (2014). Obligation of the husband to divorce and the condition of divorce. In Persian. Attorney general website. Iran.<sup>123</sup>  
<http://www.vekalat.org/public.php?cat=2&newsnum=103180>
- Tabandeh Gonabadi, His Holliness Haj Dr Nour Ali Majzoub Alishah II. (2001). The collection of juristic-social papers. In Persian. Haqiqat Publication. 4<sup>th</sup> Print. Tehran. Iran.<sup>124</sup> <http://www.sufism.ir>
- Tabandeh Gonabadi, His Holliness Haj Dr Nour Ali Majzoub Alishah II. (2017). Lecture in 5 November, 2017. The creation of man and woman and the necessity of two feminine and masculine qualities for

<sup>117</sup> حضرت حاج ملا سلطانمحمد بیدختی گنابادی سلطانعلیشاه، ولایتنامه، انتشارات حقیقت، چاپ دوم، ۱۳۸۴.

<sup>118</sup> حضرت حاج ملا علی نورعلیشاه ثانی، ذوالفقار در حرمت کشیدن تریاک، چاپ اول جدید ۱۳۸۲، انتشارات حقیقت.

<sup>119</sup> حضرت حاج شیخ محمد حسن صالحعلیشاه گنابادی، رساله شریفه پند صالح، چاپ اول اردیبهشت ۱۳۱۸. شرح و ترجمه پند صالح به زبانهای مختلف در سایت تصوف ایران موجود است: <http://sufi.ir/pandesaleh.php> حضرت حاج دکتر نورعلی تابنده مجذوبعلیشاه ارواحنا فداه قطب سلسله نعمت اللّهی سلطانعلیشاهی گنابادی در طی مدت چند سال بطور هفتگی این کتاب را شرح کرده‌اند. شرح این فرمایشات به صورت فایل های صوتی در سایت مزار سلطانی: <http://mazaesoltani.com/audio-pandesaleh.php> شرح این فرمایشات به صورت فایل های تصویری در سایت مزار سلطانی: <http://mazaesoltani.com/video-pandesaleh.php> همچنین متن پیاده شده از نوار را می توان از این لینک دریافت نمود:

[http://jozveh121.com/main\\_page.jsp?link=pandeSaleh](http://jozveh121.com/main_page.jsp?link=pandeSaleh)

<sup>120</sup> حضرت حاج سلطانحسین تابنده گنابادی، رضاعلیشاه ثانی، تجلی حقیقت در اسرار فاجعه کربلا، انتشارات حقیقت، چاپ چهارم، ۱۳۷۲.

<sup>121</sup> حضرت حاج دکتر نورعلی تابنده، خانواده و اختلافات خانوادگی و علل عمده، قسمت اول، جزوه شماره ۱۹۵، پاییز ۱۳۹۳.

<sup>122</sup> حضرت حاج دکتر نورعلی تابنده مجذوبعلیشاه، رساله حقوق تطبیقی، انتشارات سلسله الرضا، ۱۳۹۰، مشهد.

<sup>123</sup> حضرت حاج دکتر نورعلی تابنده مجذوبعلیشاه، الزام شوهر به طلاق و شرط طلاق. سایت دادستانی.

<sup>124</sup> حضرت حاج دکتر نورعلی تابنده، مجموعه مقالات فقهی-اجتماعی، انتشارات حقیقت، ۱۳۸۰، تهران.

human perfection. Tehran. Iran.<sup>125</sup>

<http://www.mazaresoltani.com/download/mp3/96/1396-08-14-Sobhe-YekShanbe-Khelghate-Zan-Va-Mard-Takamole-Bashar-128.mp3>

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Bidabad, Bijan. (2009). Sufi Foundations of Constitutional Law in Islam, Law Philosophy, Individual rights, Public Law, a theosophy approach. Tehran. Iran.<sup>127</sup> <http://www.bidabad.ir/doc/mabani-erfani-hoquqe-asasi.pdf>

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Bidabad, Bijan and Bidabad, Faranak. (2017) Sufi Foundations of Psychology in Islam, Mystical Psychology and Social Functioning of Sufism, a theosophy approach. Tehran. Iran.<sup>129</sup> <http://www.bidabad.ir/doc/psychology-sufism-fa.pdf>

Bidabad, Bijan. (2018). Philosophy of law: an Islamic Sufi approach. International Journal of Law and Management. Vol. 60 Issue: 5, pp.1179-1195, <https://doi.org/10.1108/IJLMA-06-2017-0132>

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Le Bon, Gustave. (1884). Civilisation islamique et arabe. Translated to Persian by Fakhr Daei Gilani. 1<sup>st</sup> print. 1933-1934. Iran.<sup>131</sup>

Motahari, Morteza. (1974). The system of women's rights in Islam. Sadra Publication. Iran.<sup>132</sup>

Roshdi, Mohammad. (1950). The Arab civilisation. Arabic. Assaadah Publication. Egypt.<sup>133</sup>

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<sup>125</sup> حضرت حاج دکتر نورعلی تابنده مجذوبعلیشاه، سخنرانی ۱۴-۰۸-۹۶: خلقت مرد و زن و لزوم دو خصلت زنانه و مردانه برای کمال بشر.

<sup>126</sup> بیژن بیدآباد، مبانی عرفانی حقوق در اسلام، حقوق تطبیقی، نظام‌های حقوقی، حقوق جزا از دیدگاه حکمت، ۱۳۸۸.

<sup>127</sup> بیژن بیدآباد، مبانی عرفانی حقوق اساسی در اسلام، فلسفه حقوق، حقوق فردی، حقوق عمومی از دیدگاه حکمت، ۱۳۸۸.

<sup>128</sup> بیژن بیدآباد، عوارض امواج الکترومغناطیس بر بهره‌وری و شیوه‌های ایمن‌سازی. مجله توسعه تأسیسات و تجهیزات نشریه انجمن صنفی

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<sup>129</sup> بیژن بیدآباد، فرانک بیدآباد، مبانی عرفانی روانشناسی در اسلام (روانشناسی عرفانی و کارکرد اجتماعی تصوف از دیدگاه حکمت)، ۱۳۹۶.

<sup>130</sup> ژرژ ریبر، حقوق مدنی، جلد اول.

<sup>131</sup> گوستاو لو بون، تمدن اسلام و عرب، ۱۸۸۴ میلادی، ترجمه فخر داعی گیلانی، طبع اول، مهر ۱۳۱۲ تا شهریور ۱۳۱۳.

<sup>132</sup> مرتضی مطهری، نظام حقوق زن در اسلام. ۱۳۵۳، انتشارات صدرا.

<sup>133</sup> محمد رشدی، مدنیة العرب، مطبعة السعادة، مصر، ۱۳۲۹.