

*Some Questions Related To*

# *Women's rights in Islam*



**Written By: Ayatollah. Seyed Reza Hosseini Nassab**

Translated By: Majid Karimi

Edited By: Ghulam Abbas Sajan



**In The Name of Most High**

## **The history of discrimination against women before Islam**

From a review of the history of former civilisations and a research in historical periods before the advent of Islam, it becomes abundantly clear that the liberating religion of Islam was followed by regeneration of women's rights in that dark period. For more information, we will take a look at the history of discrimination and injustice done to women in the territories of Sasanian Empire in Iran, Roman Empire, Europe and Arabian Peninsula

Before the appearance of Islam, a terrible situation of abuse of women's rights prevailed over Iranian and Roman empires and also in Arabia. These matters will be described and discussed according to historical evidences and instances.

### **The abuse of women's rights during Sasanian's Dynasty**

A study of Zoroastrian historical documents such as books like "**Matigan Hezardastan**", "**Vandidad**" and "**Andarzhaye Azarbad Mehrsepandan**", dominant during the Sasanian reign of Iran, it becomes clear that the women's natural rights were terribly violated by the religionists and the governments of that time.

As an example, women were considered personal properties of men and had the same price as a slave which was about 2000 silver coins. For further information, please look up the entry of "**slave and slavery**" in the book of "**Iranica Encyclopaedia**".

In the book, "**Bondhesh**", it is mentioned that:

"Ormazed (it means Ahooramazda) was unable to find any creature for procreation and therefore, he, selected the woman"

On the basis of this book, women do not have any possibility of reaching Ahooramazda (God) like men. (For further explanation, refer to "**Bondhash**" by Mehrdad Bahar, part 6.)

Also, during that time, when a girl got to the age of nine years, she was required to marry a person that others had chosen for her and if she did not accept the choice, she faced the death penalty. (Refer to "**Sasanian Kingdom**", translated by Murtaza Saghab- Far, pages 173-175).

According to what is mentioned in "**Matigan Hezardastan**" men could sell their wives to others if they so desired.

In light of what is stated above, it becomes clear that the condition of women in the Sasanian period was repressive, discriminative and full of injustice because of tyrant governors and deviant religious men. Women's rights were terribly suppressed and ignored.

## **The abuse of women's rights in the Western civilization**

The western world at the time of the appearance of Islam was dominated by Judaism and Christianity and women's condition of those societies were affected by these two religions.

Now let us look at some examples from the view point of these religions toward women

The Jews and Christians of the world believe in the **Old Testament and New Testament** (Torah and Bible) and have always been under the influences of their instructions. "Genesis" from Bible, has emphasized frankly to patriarchy and women have been introduced as those who must suffer and are to be controlled by men forever.

Here, we refer to the exact verses: In "Genesis" Chapter 3 Verse 16, where it says:

"To the woman he said: I shall greatly increase the pain of your pregnancy and in birth, you will bring forth children and your craving will be for your husband and he will dominate you."

According to the above mentioned verse in Old Testament, God gave two punishments to the women:

A: The labour pain in childbirth.

B: Domination of women by men (patriarchy).

And these two penalties are because of Eve's mistake that she ate the forbidden fruit!!

Moreover it is concluded from the above that not only the woman is not equal to man, but also she is

subordinate and dependant on man and created from one of the man's ribs. With this regard, the human being was created in a form of man (Adam) and, the woman was created afterwards from one of his parts...

The reference text is as follows:

"Hence Jehovah God had a deep sleep fall upon the man, and while he was sleeping, he took one of his ribs and then closed up the flesh over its place. And Jehovah God proceeded to build the rib that he had taken from the man into a woman and to bring her to the man."

(Holy Scriptures, Genesis, 2:21-22)

### **The condition of women in Arabia**

The dark period before appearance of Islam in Arabia, is even called by the Arabian people as the period of ignorance. The people of that period believed woman as a cause of indignity and embarrassment and whenever they were told that their wives had given birth to daughters, they became ashamed and remorseful. Therefore, many of them buried their baby daughters alive which was extremely brutal and savage.

Holy Quran, in The "Folding Up" chapter, refers to these horrible and awful crimes of the Arabs in the period of ignorance and questioned them why were those innocent and faultless daughters killed and buried alive? The text of mentioned verses is as follows:

#### ***The Folding Up***

Sura - 81 The Folding Up

[81:0] In the name of God, Most Gracious, Most Merciful.

[81:1] When the sun (with its spacious light) is folded up.

[81:2] When the stars fall, losing their luster.  
[81:3] When the mountains vanish (like a mirage).  
[81:4] When the she-camels, ten month with  
young, are left untended.  
[81:5] When the wild beasts are herded together (in  
human habitations).  
[81:6] When the oceans boil over with a swell.  
[81:7] When the souls are sorted out, (being joined,  
like with like).  
[81:8] When the female (infant), buried alive is  
questioned-  
[81:9] For what crime was she killed?

### **The role of Islam in recognizing the rights of women**

The liberating religion of Islam in that Dark Age granted women their suppressed rights. On the one hand, the explanatory and illustrative messages of Quran rose up and challenged the inaccurate culture of ignorance that deprived women of their right of inheritance, whereas they were considered as inferior and dependant on man, and when the female children were buried alive. On the other hand, the great Prophet (s) of Islam promoted the veneration of the women practically by venerating and respecting his wife Khadijeh and his daughter Fatemeh Zahra (Peace be upon them).

Whenever Fatemeh entered any place where the Prophet Muhammad (Peace be upon him and his progeny) was present, he stood up out of respect for her and kissed her hands and by this behaviour he replaced the old dark culture of ignorant times by the new and elevated culture of Islam.

\*\*\*\*\*

## **Does Islam consider women and men as equal?**

From the perspective of Islam, God's consideration of the status of man and woman is equal as human beings. To shed light on this issue, we refer to the first verse of Chapter "The Woman" which is as follows:

### ***The Woman***

Sura – 4 The Woman

[4:1] O mankind! Reverence your Guardian Lord who created you from a single soul and he created from that its mate. And from them twain scattered (like seeds) countless men and women – fear Allah, through whom you demand your mutual (rights), and (reverence) the wombs (that bore you): for Allah ever watches over you.

According to this verse, the origin of human beings creation, including both man and woman, is regarded as "primordial ego" that is sacred soul and there is no distinction between them as a human beings.

Therefore, the status of the soul of man and woman in the presence of God is the same and equal and this justice in creation is emphasized in the Glorious Quran.

The important point that is worth describing is that the physical differences of men and women are just because they are supplementary and complementary to each other. Thus while each one has his/her own special integrity; in humanity and human integrity they are equal. Therefore, the physical differences are not the justifiable reason for superiority of one group over another.

## **The equality of all human beings in the presence of God**

God in the Glorious Quran addresses all human beings, both man and woman, and says:

### ***The Chambers***

Sura - 49 The Chambers

[49:13] O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not that you 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).

According to this verse, all of human beings, whether women or men, and black or white, are equal before the presence of God, and the only prominent factor for superiority and excellence is piety and virtue.

### **Answer to a question**

There is an important question, why has the Glorious Quran called man as "responsible"? Does it mean that men are superior?

In answering this question, let us examine the following verse:

### ***The Woman***

Sura - 4 The Woman

[4:34] 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 (the husband's) absence what Allah would have them guard. As to those women on whose part you fear disloyalty and ill-conduct, admonish them (first), (next) refuse to share their beds, (and last) do *dharb* (have separation); but if they return to obedience, seek not against them means (of annoyance) for Allah is Most High, great (above you all)

For the real meaning of this verse, please pay attention to the following points.

### **Meaning of Protectors and Maintainers (Responsible)**

The word “Responsible” applies to the person who is in a position of trust. For this reason in lexical meaning, the word “Responsible” is applicable to everyone who has effective responsibility. Since the responsibility of undertaking and providing the subsistence and supporting the family financially, according to Islam, is on man, the overlord in this honourable verse of Quran, has introduced men as the supporter of women. They are responsible for undertaking the subsistence of life and providing the expenses of family members.

Therefore, the above verse does not mean that men are superior or excelsior in comparison with women, but it is an expression of responsibility for men in front of the family as protectors and maintainers.

After explaining equality and parity status of women and men in the presence of God and viewpoint of Islam, it is worth answering several other questions in this field like the difference in inheritance between men and women, polygamy, temporary marriage and the right of divorce and so on.

The word, “*dharb*” has different meanings in Arabic and in this instance it means separation.

\*\*\*\*\*

## **Is Men's share in inheritance twice that of women in Islam?**

Inheritance regulations in Islam are collection of rules and processes which can be understood after paying careful attention to the different scenarios. It will be absolutely clear after careful consideration to the issues of inheritance that the men's portion are at times twice that of women; in some other situations the women's portion are more than those of men; and in some situations the shares of men and women are the same.

The Noble Prophet (peace be upon him and his progeny) of Islam proceeded to enact inheritance rights for women, which the people of Arabia did not recognize before then. Before that women were disinherited in numerous territories like Iran, during the period of Sasanian dynasty.

Famous writer "Saeid Nafisi" in the book "**Social History of Iran**" writes about this period as follows:

"When the daughter got married she was disinherited from her father's wealth, and she had no right to choose her husband."

For further explanation about the system of inheritance in Islam, we will discuss some of the applicable dimensions.

### **Classifications of relatives' heritage**

On the basis of regulation and provisions of Islam regarding heritage, the people who inherit through relationships are classified into three groups:

**First group:**

First group consists father, mother and descendants of the deceased and if there is no child the heritage goes down to the grandchildren, great grandchildren, any descendants or anyone who is closer to the dead person is the inheritor. As long as there is even one single person of this group present, he or she has priority over the others, except the wife or the husband on some conditions.

**Second group:**

Second group are grandfathers, grandmothers, brother and sister of the deceased person and if there is no brother or sister, or their children or grandchildren, whoever that is closer to the dead person, will be the inheritor. As long as even one person of this group exists, there will be no inheritor among the third group; but if he had a wife, according to the general regulations of inheritance, she will inherit her portion of heritage.

**Third group:**

Third group includes uncles, aunts, maternal uncles, and maternal aunts. They will be the inheritors but if they do not exist, their children will inherit.

**Inheritance by the first group**

In a nutshell, it will be sufficient to address the various questions related to this group by giving some examples

\* If the inheritor of the dead person is from the first group, for example a son or a daughter, all the properties of the dead person belongs to her/him. If there are several sons or daughters, all the inheritance is

shared equally among them and if there are both, sons and daughters, the heritage is divided in such a way that each son receives two portions and each daughter one.

In this situation the portion of man is twice that of woman.

\* If the inheritor of the dead person is father, mother and a daughter, then each one of the father and mother receives one-sixth and the daughter three-sixth of the portion. The reminder, that is one-sixth of the portion, is divided amongst them in the same proportions.

In this situation, the woman's portion (the daughter of the deceased person) is three times that of the man (the father of the deceased person).

\* If the inheritor of the deceased person is just the father and a daughter, or mother and a daughter, the heritage is divided into four shares; the father or the mother gets one portion and the daughter three portions.

In this situation also, the woman's portion (the daughter of dead person) is three times the man's portion (the father of the deceased person).

### **Heritage of the second group**

Here, we refer to some of the questions regarding the portions of heritage among the second group and provide some examples:

\* If the inheritor is just a brother or a sister of the deceased person, all the properties are inherited by him/her. In the situation where there are, several

brothers or sisters from the same father and mother as the deceased, the inheritance will be in such proportion that the share of each brother will be twice that of each sister.

In this situation, the men's portion (the brothers) is twice that of the women (the sisters).

\* If the inheritor is only one maternal sister or one maternal brother but not from the same father (step brother or step sister) of the deceased person, all the properties go to him/her or is divided equally between them. Whereas if there are some maternal brothers or some maternal sisters or combination of both, each of them shares equally the property of the deceased

In this situation, the women's portion (the sisters) is equal to that of the men (the brothers).

### **Heritage of the third group**

Third Group includes paternal and maternal uncles and aunts and their off springs. If there is no one existing from the first and second groups, they will inherit the deceased person's property. We now refer to some possible scenarios from this group.

\* If the inheritor is a single paternal uncle or aunt, he/she inherits all the properties. If there are several paternal uncles or aunts, the uncles inherit twice that inherited by aunts.

In this situation, the men's portion (the uncles) is twice that of the women (the aunts).

\* If the inheritor is a single maternal uncle or aunt, he/she inherits all the properties. If there are maternal uncles and aunts (whether they are all from a single father and mother or different father or mother), all properties are shared equally amongst them.

In this question, the man's portion (the maternal uncles) and the woman's (the maternal aunts) is equal.

\* If the inheritor of the dead person is a maternal uncle and one paternal aunt, all the properties are divided into three parts, one portion goes to maternal uncle and two portions go to paternal aunt.

In this situation, the woman's portion (the paternal aunt) is twice that of the man (the maternal uncle).

From the above examples, it is clear that the claim of some writers that the men's portion is always twice that of the women is not correct. This is because of lack of knowledge regarding heritage regulations in Islam. As can be seen, in some cases, women's portion is twice or three times that of men, in some cases, men's portion is twice that of the women; and sometimes, both of them share equally.

Therefore, the preference in Islamic inheritance rules is not based on gender, but it is based on the relationship of the deceased to the inheritors. Accordingly, it changes the portions of men and women - sometimes men get more, at times they get less and in some situations their shares are equal.

It therefore has to be clearly understood that the claim of those who say: when discussing Islamic inheritance that Islam grants more portion to men because of

masculinity and less portion to women because of femininity”, is unacceptable, incorrect and unfair.

\*\*\*\*\*

## **Does Islam agree with polygamy?**

The phenomenon of multiple wives or "polygamy" has been one of the issues of the societies throughout the history of mankind. This phenomenon has attracted the attention of the researchers in different Eastern and Western countries even in the present age.

For example, some time ago, in United States a Christian priest "David Krish" claimed that he was a messenger of God and who also tried to collect weapons in his temple. He and his companions were killed by security forces of United States. It was revealed that he had 16 wives. In the year 2006, another priest, "Varen Jeffs" in Utah State in America, who had about eighty wives, was summoned before the court as a result of complaints from some of his wives and for some other reasons. The explanations and expressions of his thoughts and the leadership of his sect and promulgation of polygamy was for a while the subject of the news and television discussions.

### **The bases for Polygamy**

It seems one of the social elements and a justification for polygamy in all centuries is that there have always been more women in comparison to men in many countries. Factors such as numerous wars prevailing in many countries, men working in dangerous places such as mines, the increase in life expectancy amongst women, and many other factors have caused the increase in the number of women in relation to men in the society.

In order to accommodate the lives of these women who could not find their male match, especially those who

had lost their husbands in wars, some previous social reformers advised those men who economically and financially are able to support more than one family to marry these women who otherwise would have no opportunity to have married lives.

Social scholars have suggested three solutions to solve the problem of these groups of women whose number is more than that of men.

**The First Solution is** that these women remain single to the end of their lives and their expenses are covered by the governments. Although this solution may seem to be ideal, but considering two points it is not practical. Firstly, generally speaking, in previous societies and in many countries at present time, there is no social security system to cover these expenses. The women without the support will be vulnerable and will be deprived and left on their own. Secondly, each human being, further to his/her material requirements, has some natural and sexual needs and being asked to be single and unmarried for their entire life would be a recommendation against her/his natural needs and rights.

**Second Solution is** as is practiced in Western societies, is to expose these women to prostitution and earn their livelihood in this way.

**Third Solution which is** attributed to Bertrand Russell is that governments should provide the financial requirements of these women and their natural needs would be fulfilled through prostitution and illegitimate relations.

Obviously the second and third solution would lead into great social disorders such as degrading a women's honour such as that of prostitutes and its consequential dangerous outcomes, such as an increase in the number of illegitimate children. Considering the millions of illegitimate children in European and American countries, some of the western scholars have admitted the incorrectness of the second and the third solutions.

**Fourth Solution** is that in order to meet the financial and natural needs of this group of women, those men who are able to support more than one family economically and socially should marry another woman. This solution has been practiced during many historical cycles and in many countries such as Mesopotamia region, ancient Persia, Arabian countries and similar places.

Considering the above, it becomes clear that polygamy is not limited to Islamic period or its divine guidance, but it is something which had prevailed among ancient nations as well. Furthermore, many of pre-Islamic religious leaders who are respected by Christians and Jews, such as the Prophet Abraham (Peace be upon him) had more than one wife.

### **The Role of Islam in limiting Polygamy**

With regard to these four solutions, Islam does not recommend the first solution for its impracticality in societies and the denial of natural needs of the women. It also rejects the second and third solutions because of prevalence of prostitution and its outcomes and Islam clearly discards them. In order to solve this social disorder, only the fourth solution remains. Islam has

neither denied it completely nor at the same time approved it unconditionally and without any limitations.

Prior to advent of Islam in Arabian Peninsula, without undertaking necessary commitments for supporting women, men were allowed to marry even ten women. Furthermore, head of states such as some kings in dynasties of ancient Persia used to keep tens of spouses, rather than the queen, in their Harems.

On the one hand, Islam limited polygamy and the number of wives one could have, and on the other hand, imposed two following main conditions:

**First Condition:** the ability of the husband to manage more than one family economically and to provide legitimate and natural needs of all the wives and their children.

**Second Condition:** the observance of treatment based on justice by husband towards all the wives and the proper and fair attitude to them on equal bases, without discrimination and without usurping the rights of anyone of them.

Now in order to clarify the role of Islam in limiting and imposing conditions on polygamy, two verses of the Glorious Quran will be reviewed:

### ***The Woman***

Sura - 4 The Woman

[4:3] If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two, or three, or four; but if you fear that you 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.

The expressions of this verse indicate that the permission for polygamy from Islamic point of view is under certain strict conditions, without them, the social problems would not be solved.

The other point to note according to this verse is that the number of wives, under the specified special circumstances, has been limited to two, three and a maximum four. And Islam, according to this verse clearly does not permit unlimited number of wives even if one is able to observe these conditions. Furthermore, the Glorious Quran has considered the justice among wives as the fundamental factor in polygamy and Islam clearly opposes having more than one wife if these conditions cannot be fulfilled. In that case it is recommended that a man should have only one wife. The Quran categorically states: *but if you fear that you shall be not able to deal justly with them then marry only one.*

In other verse of the Chapter “Women” of Glorious Quran, we read:

***The Woman***

Sura - 4 The Woman

[4:129] You 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 you come to a friendly understanding, and practice self-restraint, Allah is oft-forgiving, most merciful.

When this verse is compared with the third verse of the same chapter of the Glorious Quran, and if we think

about them, obviously we will find that the Glorious Quran, in normal condition and where there are no exceptional circumstances, Islam prefers monogamy. Islam also limits the resort to polygamy even as a solution for social problems and insists on following with justice, which is difficult to accomplish.

\*\*\*\*\*

## **Why has Islam not opposed the temporary marriage?**

**Answer:** Marriage is a union between man and woman. This union sometimes is permanent, without any limitation and sometimes is temporary with a time period being specified. Both of these are legal marriages; equal and the same and the only difference is for its duration: while one is permanent, the other is for a fixed period.

The following conditions are valid both in permanent or temporary marriages:

1. Man and woman should not have any legal obstacles in their marriage such as consanguineous or causative or any other legal obstacles, otherwise the marriage is void.
2. The dowry which is agreed by both sides should be mention in marriage contract.
3. The fixed period of marriage should be determined.
4. The marriage contract is legalized.
5. The child born in temporary marriage is legitimate and is just like a child born in permanent marriage and is entitled to have the identity card specifying the name of the father, and there is no difference between permanent and temporary marriage.
6. The child's expense is upon the father and the children inherit from both the parents.
7. When the period of marriage ends, the woman should keep the prescribed legal detachment period and if during the legal detachment it is found that she is pregnant, she should avoid any marriage until the baby is delivered.

Also, other rules of permanent marriage should be considered at the time of temporary marriage. The only difference is that the temporary marriage is for addressing the necessities. The charges and expenses of the woman are not borne by man and if the woman at the time of marriage does not set out the condition of inheritance, she does not inherit from her husband. It is clear that these two differences do not have any impact on the marriage.

All of us believe that the Islamic rules are the final and eternal religious laws which answer all needs. Now consider a young man who is forced to live in another country for his studies for a long period of time and because of the limitation and lack of facilities cannot have a permanent marriage. He, therefore, has three choices:

- A: He stays bachelor during the whole period.
- B: He succumbs to corruption and fornication.
- C: According to the above mentioned conditions, he marries a woman that legally permits marriage for a certain specified period of time.

In the first case, we frequently are confronted with failure, although a few are able to forego any sexual relationships and are patient and have forbearance; but this is not the case with all.

The condition of those who choose the second way is misery and corruption, which is also illegal in Islam. The thought of prescription of this method as a justification because of necessity is a kind of obliquity and malice.

Therefore, just the third way remains which Islam permits.

The point that is important to consider, is the permissibility of the temporary marriage is with specified qualifications. It does not mean that it is permitted at all times and unwarranted situations. Some people do perform temporary marriage for revelry. Some anecdotes from our holy leaders forbade the people from plethora in these matters.

\*\*\*\*\*

## **Has Islam permitted the man to punish his wife?**

The answer of this question can be inferred with precision from the anecdote of the honourable Prophet of Islam when he rhetorically asks those who have incorrect behaviour:

"How can you embrace your wife with the same hand that you beat her with?"

Through this meaningful expression, it is clear that our holy Prophet who is the authority on Islamic divine rules, by this question and answer, seriously disapproved beating and punishing of the wife by the husband.

To those who use verse 33 of Chapter "The Woman" of the Glorious Quran, to prove discrimination between men and women, it is necessary to explain logical and correct meaning of this verse before explaining our reasons in this regard:

### ***The Woman***

Sura - 4 The Woman

[4:34] 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 (the husband's) absence what Allah would have them guard. As to those women on whose part you fear disloyalty and ill-conduct, admonish them (first), (next) refuse to share their beds, (and last) do *dharb* (have separation); but if they return to obedience, seek not against them means (of annoyance) for Allah is Most High, great (above you all)

For understanding of the real meaning of this verse, please pay attention to the following points.

### **Meaning of Responsible (Protector and maintainer)**

The word "Responsible" in this verse means to be in charge of protection and maintenance of the family. For this reason in lexical meaning, the word "Responsible"; applies to whoever understands effective responsibility. Since the responsibility of undertaking and providing the subsistence and supporting the financial requirements of a family, according to Islam, is on man, the overlord in this verse of the Quran, has introduced men as the supporter of women. The men are responsible for undertaking the subsistence of life and providing the expenses of the family members.

### **Encouraging righteous women**

Those who have question regarding this verse in the Glorious Quran did not pay enough attention to this verse which encourages and exalts the proper characteristics of righteous and benefactor women, who are devoutly obedient, courteous, modest and chaste, compared to the admonished disloyal and disobedient women. Therefore, the rule of encouraging and appreciating its correct meaning is superior to the threat to and affliction pain on women.

### **What is the meaning of "Disloyalty and ill-conduct" in this verse?**

It is obvious that every difference in opinion and taste in even trivial affairs of the family like selecting the

colours of clothing or the kinds of food and so on do not mean "disloyalty and ill-conduct". Because intellectuals never accept that these differences in taste or opposition in trivial affairs are causes to punish or injure the wife. Therefore, the literal meaning of the word "rebellion" is women who disobey divine rules and without any reason, harm her matrimonial relationship or betray her husband.

### **Prevention of Disobedience and Rebellion**

Obviously, there are some of the members in each society who break the laws and are rebellious. However, the rules of each society provide different methods in order to prevent committing of crimes and controlling them. It is not limited to men or women or any other specific group but all of the people in the society should follow them.

The Glorious Quran discusses the ways of admonishing disobedient men, women and all the lawbreakers. At the end of the above verse, the Quran explains some of the ways of preventing and controlling the disobedient women who infract the sanctity of the divine laws.

In this verse, the three recommended steps in response to preventing disobedience and rebelliousness are as follows:

- Admonish and advise as the first measure;
- next refuse to share their beds; and
- lastly have dharb (separation) from them.

The meaning of admonishment and advice is clear. But other two ways, "refusing to share their beds" and "separation", need more explanations.

Allamah Tabatabai in "**Tafsir Al Mizan**" has expressed that the expression, "refuse to share their beds", does not mean to break-up the marriage and leave the bed totally, but it means to remain living together and just separating their beds or the husband turning his face and paying no attention to her. Other interpreters believe that it means the total separation of man from their beds.

### **What is the meaning of “dharb” in this verse?**

The word "dharb" in Arabic language has different meanings. It has different meanings in different dictionaries. For instance, in the book, "**Lesan Al Arab**", it means: achieve and invoke. In order to prove this meaning for "dharb", refer to a poem of "Kumait" who is a famous literal Arabian poet. In this poem he argued that “dharb” is request and the “dharaba” also means requested.

Also, in "**Lesan Al Arab**" the word “dharb” means prevention or prohibition, and it says "I do dharb one person from other person". It means that I prevent him. Also others hold that the term means "to separate or keep away".

In this book the term “dharb” means "to separate or keep away".

Therefore, this word has different meanings and it does not mean "beat" only. Even some of the intellectuals believe that the word " dharb" in this verse, is not necessarily "beat the woman", but means demand and request for getting their attention by the help of psychological ways, and preventing them from committing actions of guilt and by Islamic legal system.

Also Islamic traditions interpreting this verse, conclude that the purpose of "dharb" in this verse is not related to hurt somebody as commonly believed.

With regards to the anecdotes told by some of the great commentators of the Glorious Quran, like Tabarsi in "**Majma Al Bayan**" and Allameh Tabatabai in "**Tafsir Al Mizan**" it is found from an authentic justifiable book such as "**Vasael Al Shia**", that Imam Ja'far Sadiq (a.s.) while explaining "dharb" says: "Beat your wife with a toothbrush". It is obvious that, the purpose of this word in this verse is not to smack and beat by lash and whip but is a very delicate way of catching the attention of the other side.

For this reason, the Prophet of Islam Muhammad (s.a.w.w.) told some of the men who beat their wife in astonishment:

"How do you embrace your wife while you beat her?"

### **To whom is this verse address to?**

As mentioned, the word "*dharb*" in this verse does not mean to beat or strike as is commonly understood. But if someone considers that it as a physical punishment, then here is a question: "To whom is this verse addressed to and who is responsible for preventing rebellious women when they are disobedient? Is this verse addressed to husbands and can these husbands punish or admonish their disobedient wives, or are the legal authorities and justice system responsible for it?"

Our answer to this question is as follows:

According to the rules of admonishment and prohibition and penal laws in Islam, the advice to disobedient wives regarding this matter can be made by their husbands, relatives and acquaintances. Husbands do not share the beds with them. But, legal authorities and judges are responsible for carrying punishment including corporal punishment and no one else can proceed to punish the women by themselves. For instance, the Glorious Quran states "And (as for) the man and the woman who steals, cut off their hands as a punishment for what they have earned". It is obvious that, common people are not addressed in this verse. Therefore, no individual person can punish a thief and cut off his hand. Punishment for thieves should be operated in special conditions. For example:

- 1- The value of the stolen goods is equal to or exceeding the specified amount.
- 2- A person who steals due to hunger and poverty is not liable to punishment.
- 3- He commits the crime by breaking and entering the property of the owner.

Obviously, the judge is responsible for recognizing the mentioned conditions in Islamic Jurisprudence as he is expected to know the principles of Islamic Jurisprudence. There are several other conditions related to the issue which the lay people are not familiar with.

This Islamic rule shall be applied when punishing disobedient women. Therefore, the court of justice and judges, who knows the rights and Islamic Jurisprudence and the principles of the civil law are responsible for recognizing women's disobedience or rebellion. An ordinary person without any knowledge about legal laws is not authorized to evaluate his wife's behaviour and

judge it as disobedience and rebellion and act like a judge and punish his wife.

## **Conclusion**

As mentioned, it is clear that firstly: the word "dharb" in this verse of the Chapter "The Woman", does not mean to beat or strike. Secondly, if we consider the word "dharb" in this verse means to punish physically the disobedient person, the authorized judge is responsible for recognizing and determining the type of the crime and its punishment.

Therefore, Islam does not authorize and permit a man to punish his wife on his own recognition.

\*\*\*\*\*

## **Does the right of divorce belong only to men?**

In the perspective of Islam, marriage has been emphasized as a holy relationship and a pleasant tradition, whereas divorce is mentioned as a most unpleasant allowable action.

Divorce is the last solution to end the excruciating joint life devoid of affection. Therefore, all other appropriate ways for protecting the family should be carried out before the solution of divorce is applied.

From a study of civil laws applicable in Iran, which are taken from the Islamic jurisprudence, it is clear that the request of divorce can be made by men and by women or jointly by both of them together and to be considered by the court. The decision on a divorce application will be made by the court or other competent authorities and in accordance with the regulations and special conditions.

For more explanation, attention is drawn to, the applicable text of the Civil laws in this area as follows:

**Article 1133** of Civil laws: a man can ask in accordance with the terms of this law, for a divorce and to be relieved of his wife.

**Note:** A woman can also request for divorce to the court with the conditions specified in articles 1119, 1129 and 1130.

Also, the woman can receive the right of divorce as a stipulation in the marriage contract which is completed before the marriage ceremony is carried out.

**Article 1130:** in these cases, woman can refer to the judge for a divorce:

If it is proved to the court that continuity of the married life can be harmful to the couple and, therefore, to prevent harm and hardship, the court can order a divorce

**Note:** Poor conditions and hardship in this article means the creation of a situation that makes the life of the woman difficult and intolerable. The following are some examples of hardship which the court should consider in making their decision:

1. Leaves the wife for 6 months continuously without providing maintenance or leaves her for 9 months in a year without any acceptable reason.
- 2- Addiction to drugs or alcoholic drinks that hurt the foundation of the family unit and it is not possible for him to stop, according to the view point of a physician. And also when the man does not fulfil his commitment and after stopping the addiction, he again starts using the drugs, or alcohol. In such case, on a request by the woman she can be granted divorce.
- 3- Under certain conditions if the man is imprisoned for 5 years or more.
- 4- Beating or other kinds of abuse of the woman that normally woman cannot tolerate.
- 5- All kinds of hard psychological or profuse illness that hurt the joint life of the couple.

The cases that are mentioned in this article do not prevent the court from pronouncing a divorce, when in other cases the hardship and improper conditions are clear.

The other important point to note is that the action of divorce should be carried out only after issuance of an

appropriate certificate by the court that it is not possible to reconcile the differences between the husband and the wife. The request for this certificate is the right of both the husband and wife.

In article 8 of Family Support laws there is provision that a man or woman can request the issuance of disagreement certificate and the court after accepting the reasons should issue disagreement certificate:

- 1- Where there is agreement between the couple for a divorce.
- 2- Where the Husband refuses paying her alimony and considers it as an unnecessary matter. Also, in other cases where the husband does not fulfil some of the rights of the woman and it is not possible to require him to do that.
- 3- Where there is deference of woman towards her husband.
- 4- Misconduct or abusing the interaction and relation of the couples that make the continuity of living intolerable for both sides.
- 5- All kinds of hard psychological or profuse illness that hurt the joint life.
- 6- Madness of one of the couple where the revocation of marriage may be impossible.
- 7- Non-compliance with the order of the court regarding the prohibition of taking a job or profession that is not proper for the solidarity of family or dignity of the husband or wife.
- 8- Sentencing of the husband or the wife to certain penalty which comprise 5 years imprisonment or more or a pecuniary fine which he is not able to pay leading him to be detained or imprisoned for five years or more.
- 9- Any risk of harmful addiction, recognized by the court that family solidarity is jeopardized

and it is not possible to continue a meaningful matrimonial relationship.

- 10- When the husband decides to have another wife or the court recognizes that he does not treat all the wives with justice and equity.
- 11 Either of the couple leaves the family life. The court should recognize this matter.
- 12- Certain condemnation of anyone of the couple for any crime that is against the dignity of the family.

The recognition of which kinds of crimes are against the dignity of a family and according to the situation of both sides and other factors is to be determined by the court.

- 13- If either one of the couple is sterile, at the request of the other side, the court can give the order for divorce. Also, because of their special physical conditions, the couple is not able to bear a child.
- 14- Remaining absent in accordance with civil code article 1029.

**Note:** The divorce can be issued according to the Divorce laws and Disagreement Certificate only if the parties agree officially that the matter can be referred.

In the light of what is said, it is clear that the right of divorce and issuing disagreement certificate from the perspective of civil law recognizes both, man and woman. But the performing of divorce should be done by the court or any righteous person.

\*\*\*\*\*

## **What is the difference between the boys' and girls' maturation age?**

The importance of maturation age becomes clear when we consider its role in the following aspects:

**Spiritual aspect:** beginning of obligation of religious rites such as praying, fasting, performing hajj and other duties which are obligatory on a mature person.

**Legal and judiciary aspect:** being eligible for marriage and bearing other legal and judicial issues.

**Economical aspect:** being capable of approving financial transactions such as purchasing and selling properties or merchandize.

The point that we will talk about, is about the first aspect that is the maturity for fulfilling of the religious duties such as praying, fasting, performing hajj and other religious duties. With respect to the two other aspects - economical and legal and judiciary- we need to understand that not only the physical maturation is important but also the growth and mental maturation is necessary and sometimes this is more important than physical maturation.

In other words, we have three kinds of maturations:

- Bodily maturation that obligates religious duties.
- Mental maturation that enables to carry out legal and judiciary duties.
- Economical maturation that ensures capability to carry out financial transactions.

### **The norm of recognition of maturation age:**

Based on Islamic anecdotes, there are two norms for recognition of the boys and the girls age of maturity: one of them is the specified age of maturation and the other is bodily maturation.

Some of our scholars emphasize that boys' maturation is when they see sperm (*ihitelam*) and the girls' when they start to have menses. Therefore, when a boy sees sperm or a girl sees blood in period of menses (*haiz*), it indicates that they are matured and they have reached the age of maturation.

Whereas some others state that the age of nine for girls and fifteen for boys is the age of maturation. Some also state that both the boys and girls maturation age is 13 years old.

Our deductions from the verses and Islamic traditions are:

If a nine-year-old girl gets her menses then she is mature at that age. If her menses start anytime between the age of nine and thirteen, this will be her age of maturation. She must perform religious duties from that time on. Even though she does not start her menses at the age of thirteen, she is considered mature and must carry out her religious duties.

The recognition of maturation age of boys is like this: if the boy before the age of 15 years sees sperm, he has reached the age of maturation, and although he does not see any sperm at the age of fifteen, he is considered mature and must perform religious duties.

It is important to note that if some of the duties are hard for a newly matured person then he or she can perform

that obligation, such as fasting at a reasonable future date.

\*\*\*\*\*

**What is the commandment of shaking  
hands by  
Muslims with non-Muslim members of the  
opposite sex?**

One of the difficulties faced by Muslims in non-Islamic countries is that in many instances they are exposed to situation where they are in a dilemma regarding shaking hands with non-Muslim woman. Some examples are parties, formal and diplomatic meetings, their work place, governmental departments or at the time of interview to receive visa and so on. Muslim men and women are exposed in emergency times to shake hand with non-Muslims of the opposite sex. They question whether in these situations shaking hands with non-Muslim people is permitted or not?

In order to answer this question, we should refer to three related matters in this issue. At first we will discuss the view point of Islam in relation to primary edicts, then we will discuss shaking hands with covers such as hand gloves, and then we will discuss about shaking hand in emergency situations.

**Primarily edicts about shaking hands**

According to primarily edicts of Islam about women, men are not permitted to touch any part of the body of the women, whether she is Muslim or non-Muslim. Regarding this matter, there are many anecdotes from religious traditions.

**First anecdote:**

Sama Ibn Mehran says: I asked from Imam Jafar Sadiq about shaking hands between a man and a woman. The Imam said: it is not permitted, except for the woman who is forbidden to marry him (the woman who are intimate for man) such as sister, daughter, aunt or niece. But he should not shake hands with those women whom he can lawfully marry, except with cloth or hand cover. Even then, he should not press her hand.

**Second anecdote:**

Abu Basir says: I asked from Imam Sadiq about contacting and shaking hands of a man and woman. He said: no, it is not permitted.

It is clear that the answer of this question is absolute and it includes all Muslim men and women. So there is not any difference between Muslim men and women about this issue. In this regard, the statement by some writers that the question is only limited to Muslim women, is not acceptable.

There are other anecdotes about this issue and quality of women's allegiance with prophet that exist in anecdotal books and confirm the same edict and we will not discuss this further in order to summarize the topic.

In summary, according to what is said, it is clear that in normal and non-emergency situations men should not shake hands with non-intimate women, whether she is Muslim or not.

### **Shaking hands with a hand cover:**

It is clear from the collection of anecdotes that shaking hands of men with non-intimate women with covers such as hand glove or cloth is permitted, provided that hand-shake is not done with the intention of sexual pleasure or caressing. About this issue for example we refer to anecdote from the honourable Prophet of Islam:

"It is not permitted for women to contact with non-intimate except with covers of cloth."

So, in normal situations it is permitted to shake hands, if a non-intimate man or woman has a glove or cloth that cover his/her hand or he/she does not have intention of having sensual pleasure in the encounter.

### **Contacting in emergency and desperate situations**

In Islamic Jurisprudence, there are key rules such as "No difficulty" and "No Harm". According to the rules the primarily religious edicts change totally and are substitute with secondary edicts. I have expressed 99 rules on this in my book "**Al Ghavaed Al Fiqhiah**".

The general rule is that there should be no handshake between opposite sexes except where the relationship is intimate as explained above. However, in non-Muslim countries in certain situation and emergencies it may become necessary to shake hands with the opposite sex. The situations for Muslim men not shaking hands with non-Muslim women may result in distress or substantial damage or it causes problem and the man is unable to explain the reason of his action (of not shaking hands) or it is contrary to the common law of that area. In this case contact is permitted on the condition that he does

not have the intention of sensual pleasure and it is an emergency situation.

\*\*\*\*\*

## **What is the viewpoint of Islam regarding guardianship?**

### **Definition of guardianship:**

The verbal meaning of "guardianship" in Arabic is to embrace, to provide assistance to somebody or to train. But the purpose of this word in legal and religious term is to keep or train a child physically and spiritually by someone who is determined by law as the person or persons suitable to provide the health and happiness for the ward in future and now.

### **Is guardianship a right or duty?**

There are three possible answers to this question:

- Guardianship is a right
- Guardianship is a duty
- Guardianship is both a right and a duty.

If the guardianship is simply a right, it is transferable to others and the owner of this right can deprive himself by transferring his/her right.

But if it was just a legal or religious duty, the owner should accept it and he/she cannot shirk from this responsibility.

From the collections of civil law (such as Article 1168 and 1172 of Civil Law) it is stated that guardianship is not only a right but also a duty for parents. So the holder of this, in training and growing of his/her child is responsible and obliged and he/she cannot refrain from keeping the child.

Yet depending on the interests of the child, and in the situations which are explained in law, the court can deprive one or both of the parents of this right.

The other theory that exists is that the guardianship for the father is a duty, but for the mother it is a right.

### **The criterion of religious edict about guardianship**

In male-dominated countries, the right of guardianship is for men, but in those countries that pay more attention to women's rights this right is transferred to women.

But in the view point of Islam, to be a man or a woman is not a preferential criterion to acquire this right but fundamental criterion is interests of the child.

According to this, if the wife and husband got divorced, the right of guardianship until the child becomes 7 years old because of the need of keeping and training in home is given to mother. But after that because of interest of the child and the needs of him in his relationship with outside world in adolescence age, the right is given to the father.

This order is for normal situations. But in exceptional cases depending on expediency of child or adult, the court transfers the right of guardianship to those who have a merit and ability; and it does not matter whether it is the father or the mother.

Of course, if the child stays with one of the parents, the other one is not deprived of visiting his/her child in normal cases, and according to Article 1174 of civil laws, if the parents have problem, the court determines the quality, time and place of meeting.

Now, in order to give more explanation, we shall narrate some legal and religious edicts:

**Article 1168:** keeping the child is both a right and a duty for the parents.

**Article 1169:** for protecting and keeping the child, where his parents got divorced, the mother is responsible for her child till the age of 7, and thereafter that responsibility is given to the father.

Note: if the child is 7 years old and parents have problems about guardianship, bearing in the mind the interests of the child, the issue is dependent on the decision of the court.

**Article 1171:** if one of the parents dies, the tutelage of the child is given to the other parent even though the deceased was the father and had arranged for him/her a guardian.

**Article 1172:** Neither of the parents have any right to shun the responsibility of the child in the period of his or her guardianship. If one of them refuses from keeping the child, the court must enforce the guardian according to the request of another or other guardian or one of the family members. Where there is complaint that the enforcement was not effective, the father should accept the expenses of guardianship and where father was deceased, the mother is responsible.

**Article 1173:** When the father or mother, who is the guardian of the child, does not pay enough attention and is careless towards the child, and the physical or morality of the child is at risk, the court can decide

about the guardianship at the request of the family or guardian or decision of jurisdiction

The following are examples of uncared child and immoral parents:

1. Harmful addiction to alcoholic, narcotic stuff and gambling.
2. Renown of moral decay.
3. Stricken to psychological ills as recognized by a medical doctor.
4. Slave labour from the child or making him/her to work in immoral jobs, such as child sex, corruption, begging and handling contraband items.
5. Beating and maiming repeatedly beyond the usual limitations.

**Article 1174:** If because of divorce or any other reason, the parents do not live at the same location, the parent who is not the guardian of the child has the right to visit his/her child. The time and place of visiting and other details related to it is determined by the court if there is any dispute.

**Article 1175:** One cannot hold the child from the father or mother who is guardian, if there is a proof at law.

**Article 1176:** The mother cannot be forced to breast feed her baby unless the baby's nutrition is not possible with others.

**Article 1177:** The child must be submissive to the parents and in each age must regard them.

**Article 1178:** The parent must be aware of his/her child's need for treatments and must not be unresponsive to them.

\*\*\*\*\*

## **Is the women's veil only in Islam?**

By studying the history of prior religions, it is clear that the veil was part of other heavenly religions before Islam and the rules were followed.

Moreover, there were some special laws to divide men and in some religions, women were prevented from some social and economical activities.

For more explanations, we shall present instances from reliable sources.

### **Veil in Judaism**

Waldron in his book "**History of Civilizations**" (translated in Farsi), Volume 12, page 30 writes about Jewish veil and laws of Talmud, which is the main sources of Jewish jurisprudence, states:

"If a woman acted against the laws of Jewish religion, for example by visiting people without veil, knitting cotton in public, chatting with men or her voice was as loud as at her home, then the husband had a right to get divorce without paying her dowry."

So the veil and seclusion of the women in Jewish faith was much stricter than in Islam

### **Veil in Zoroastrianism**

Waldron also in the same book, "**History of Civilizations**", volume 1, states about the laws of ancient Iranian (Zoroastrians) and states:

"After Cyrus, the status of women declined specially in wealthy groups. Because poor women were forced to work, they came in contact with people and thus kept their liberty. But the other women were in seclusion. Women of upper class of society did not have the courage to go outside the house without covering. They were not allowed to talk to men outside their homes. Married women had no right of visiting a man."

In remains of the figurines of ancient Iran, there are no depictions of faces or names of women.

Kant Gabion in the book "Three Years in Iran" also believes that the very strict veil of Sasanian period remained in Iran in Islamic time. He believed that what was during Sasanian period in Iran not only the isolation of woman but has also kept them hidden from the public.

Therefore, veil and separation between men and women from each other was common in the ancient Iran as compared to much easier and more practical rules and moderate in Islam.

### **Veil in the Christianity**

"Jawaharlal Nehru" the late prime minister of India believed that the veil from non-Muslim nations in Rome and Iran entered the world of Islam. In his book "**A Look at the History of the World**", first volume page 328, he praised Islamic civilization and referred to the changes that were found later and says:

"A great and unfortunate change also gradually happened. Among the Arab women, there was no

veil and coverings. The Arab women did not live apart from men in a hidden manner and were even present in public places, went to the sermons and speeches. They even preached the people. But the Arabs also adopted the customs of two neighbouring empires of Iran and Eastern Rome as they conquered them. As it is quoted, it was especially the influences of Constantinople and Iranian empire, which brought about the seclusion and separation of men and women."

From the above it is clear that the Constantinople Empire under the Romans, who were mainly Christian, paid much attention to veil and separation between women and men.

On this basis, Georges Zeidan, a famous Christian writer says:

"If the purpose of veil is just covering the body by chaddar, scarf, mask and the like, this matter was there before Islam and even before the Christian period. Even Christianity had not changed it and it was common till medieval ages in Europe and the effects of it remain till today."

### **The veil in Islam**

As it was said, the veil in Islam is easier and more practical than in other religions because the veil of woman is just covering of the body and the hair for more respect of women.

Islam in the meantime has recommended for women as well as men studying, being involved in social activities and participation in the arena of the society.

## **Verses of veil**

Major verses related to this subject issues are in two chapters from Quran: The Light and The Confederates.

### ***The Light***

Sura - 24 The Light

[24:31] 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 husbands' 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 you may attain bliss.

### ***The Confederates***

Sura - 33 The Confederates

[33:59] O Prophet! Tell your wives and daughters, and the believing women, that they should cast their outer garments over their persons (when abroad): that is most convenient, that they should be known (as such) and not molested. And Allah is oft-Forgiving, most Merciful.

There is another verse where the word "Veil" is used. This is in verse 54 from chapter "The Confederates" of Quran about the wives of the honorable Prophet of Islam:

***The Confederates***

Sura - 33 The Confederates

[33:54] Whether you reveal anything or conceal it, verily Allah has full knowledge of all things.

**The philosophy of veil**

The Philosophy and motivation of veil, is to respect the status of women and provide a better protection of their dignities.

The veil in Islam does not prevent the active presence of women in social, economic, cultural, scientific and political lives.

Thus, the honourable Prophet of Islam had 14 centuries ago recommended women to study the human dignities like science and knowledge abreast with men and said:

"To gain knowledge is vital for every Muslim, man and woman."

\*\*\*\*\*