

WOMEN IN MUSLIM SOCIETY

In order to understand the position of women in Islam it is necessary to take into consideration a few premises which would be helpful in appreciating what will follow. In the first instance it should be remembered that Islam is not a religion in the sense that other religions are taken to be religions – in which the domains of God and Caesar are quite a part from each other. Islam is a code of life which seeks to regulate every sector of human activity. The Quran says: “Say (Oh Prophet), Surely my worship and my ritual, my sacrifices and my life and my death (everything) is for Allah, the Sustainer of the worlds” (VI.163).

At the same time it should be clearly understood that all the members of the Islamic brotherhood are bound to seek salvation through efforts, both individual and collective, to implement the teachings of the Holy Quran. Thus unless and until every sphere of the life of believers is regulated in accordance with the Divine commandments and unless and until all members, or at least an overwhelming majority of them, lead a life in accord with the spirit of Islam, the results aimed at by Islam cannot be achieved. According to the Holy Quran, “to obey some of the Divine commandments and to disregard others leads only to failure in this life and in the hereafter.” It continues:

Do you believe in a part of the Book and disbelieve in another? What then is the reward of such among you as do so but (to meet with) disgrace in the life of this world and, on the Day of Resurrection, they shall be consigned to the most grievous chastisement? (II:85).

Next, we should realize that the Divine commandments contained in the Book of Islam are not ordained in the interest of individuals alone, but in the interest of both the individual and the community. On the one hand, Islam lays down obligations on the individual in the interest of the community and on the other, it imposes responsibilities on the community in the interest of the individual. While the individual is required to make all sorts of sacrifice for the sake of the common good of the society, the social organization is also required to devote all its powers towards im-

proving the lot of the individuals composing it. The result is that the individual has to face a number of disabilities in the interest of the social good which he, realizing his obligations to the group, gladly accepts. Thus alone can the community as a whole survive in the struggle for existence and thus alone can the individuals, forming a community, enjoy a life of happiness and contentment. The last thing to be noted in this connection is that the greater the sacrifice that an individual makes in the interest of the society, the greater is the reward promised to him. The individual who makes the supreme sacrifice of laying down his life here for the sake of the community is rewarded in the life of the Hereafter:

And say not of those who are slain in Allah's way (that they are) dead; on the other hand they are alive, but you perceive (this) not (I:154).

A cursory glance at our animate environment will convince anybody that there is going on around us a severe struggle between life and death on this planet. The hand of death is trying constantly to eliminate living beings. Were Death allowed to work unchecked for any length of time, Life itself would soon be wiped off the face of the earth. But the Divine purpose aims at running this world up to an appointed time and Nature, therefore, is constantly producing new living organisms to take the place of those consumed by death.

The main instrument invented by Nature to perpetuate life is sexual activity which results in production of new living beings with the consequence that the activity of Death is negated and animated nature continues its destined journey in the world.

For the purpose of carrying on sexual activity the plant and animal kingdoms are divided into two different but complementary parts known as male and female. Both the male and female organisms have different anatomical and physiological characteristics for their functions are different and full cooperation between these two components of the living world is essential for the production of new living beings.

Sex Differences in Human Life

The differentiation of the male and the female has been main-

tained in the human race, and human beings are divided into two distinct sexes called men and women, whose anatomy and physiology are different. These differences between the male human beings and the female human beings can, in no way, be eliminated. These two categories of humanity, the male and the female, can perpetuate the human race by co-operation and not by antagonism.

The famous French surgeon, Dr. Alexis Carrel, says in his famous work, *Man the Unknown*: "The differences existing between man and woman are of a more fundamental nature. They are caused by the very structure of the tissues and by the impregnation of the entire organism with specific chemical substances secreted by the ovary. Ignorance of these fundamental facts has led promoters of feminism to believe that both sexes should have the same responsibilities. In reality, woman differs profoundly from man. Every one of the cells of her body bears the mark of her sex. The same is true of her organs and, above all, of her nervous system. Women should develop their aptitudes in accordance with their own nature without imitating the males. Their part in the progress of civilization is higher than that of men. They should not abandon their specific functions."

In this connection Oswald Schwarz observes in his work, *The Psychology of Sex*: "A large part of woman's body is organized for gestation, and if a woman is denied this fulfilment of her physical and mental organization, she withers. But in motherhood she acquires a new, a spiritual beauty." And again: "There is in men no equivalent to the maternal instinct, because men do not need children for their physical or personal completeness." In still another place in the same work he says: "It cannot be denied that the male personality radically differs from the female. It is easy to see that it must be so, because each sex has an existence radically different from the other. This existential difference is represented in the biological sphere, palpably and most conspicuously, by the different sexual functions — fertilization and gestation."

In view of this hard fact, the affairs of life have been divided by Nature into two separate and distinct parts, one of which has been allotted to each of the sexes. Woman has been entrusted with the onerous task of reproducing and nursing life. This is a task which she and she alone can perform. And this is so important a task, which she has to perform in spite of her physical frailty, that

she has been, with justice, absolved of all other responsibilities of life, like earning a living and working in other spheres of life where hard physical labour is required. Thus the sphere of activity of each of the sexes becomes automatically distinct. The female has to rear and nurture life by confining her activity within a physically limited circle and the male is free to move about in all the spheres of life other than that of the female. That is exactly what the following Quranic verse means:

And (as a matter of routine) you women remain confined to (affairs of) your home (XXXIII:33).

This obviously means that ordinarily she should not worry about the affairs outside her home. This, however, does not mean that women are debarred from moving outside the four walls of their homes. They can go wherever necessary. There is one thing, of course, which they are not allowed to do and that is roaming about the streets merely to exhibit their personal charms and sartorial embellishments:

And do not go about displaying yourselves like the displaying of (the days of) ignorance of old (XXXIII:33).

Complementary Roles

The parts played by the two sexes are complementary. Man is not superior to woman merely because he is the male, neither is the woman inferior to him only because she is the female. Before Divine Law both had essentially an equal status. Both were promised similar rewards if they obeyed Divine commandments and both were warned against similar chastisement if they disregarded those commandments. Says the Holy Quran:

And the believing men and the believing women are the well wishers of one another, they enjoin (the doing of) good and forbid (the commitment of) evil and establish prayer and pay the poor tax and they obey Allah and His Messengers. Upon such will Allah shortly bestow Mercy.

For surely He is the Mighty and Wise (IX:71).

Yet, in spite of all that has been said about on the authority of the Holy Quran, that Book of all times does give some preference to men over women. As for instance:

The men are the maintainers of women (IV:34).

And for men are above women a degree (in status) (II:228).

This superiority of men has reasons for its sanction, one of which is explained by the first of the above two verses, that they maintain the household by spending their well-earned wealth. Woman, being the nurse of life, should not, according to the Book of Islam, be over-burdened with this responsibility of maintaining the family economically. The family, as an organized unit of the community, has to be properly managed and to run a system like that of the family, there must be at the head a person who should possess the final authority to make decisions in domestic affairs. It is exactly this position that has been assigned to man as the head of the family by virtue of which he is declared to possess a degree of superiority over the woman.

Woman's Legal Rights

Of women's legal rights the Book of Islam gives full details. A general principle is laid down in the following words:

And for them are rights similar to those (of men) against them (II:228).

The most important thing recognized by the Book of Islam for the woman is that she has a personality of her own, a fact which is not recognized by any other religious or social system of the world. While in the twentieth century Europe and America a woman is known by her father's name during her maidenhood and by her husband's name after her marriage, like Miss Jones and Mrs. John, in Islam a woman is known by her personal name both before her marriage and after. Says an American judge, Pierre Crabites:

A Muslim girl may marry ten times, but her individuality is

not absorbed by that of her various husbands. She is a solar planet with a name and legal personality of her own.

The perfect and complete individuality of the person of the woman is made manifest in a most striking manner in the matter of property. According to Islamic Law, the woman possesses an absolute right over her property. If she has attained majority, she may dispose of it according to her will without having recourse to anybody else, her father, brother, husband or son, or any other person. There is no difference in this matter between a man and a woman. The property of a woman cannot be touched even if her husband or father or any other relative has obligations exceeding what he possesses. Similarly, these relatives are not held responsible if she contracts debts. A woman has the same rights as a man for acquiring property. She may inherit it, receive it in gift or donation, earn it by her own work and toil, and all this remains hers, and hers alone. It is she who is the absolute mistress to enjoy it or to give it as a gift to whomsoever she likes, or to dispose of it, by sale or any other legal means. All these rights are inherent in a woman; there is no question of obtaining them through special contracts with the husband, or by an award depending on somebody else. No power is permitted to deprive her of her legal right in this connection. Says the Holy Quran: "For men is a portion of what is left behind by parents and (other) relatives and for women (also) is a portion of what parents and (other relatives) leave behind; whether it is little or much (it is) a fixed portion" (IX:7).

However, woman has been assigned a position a little different from man's with respect to inheritance, as she gets half as much as her brother.

It is perhaps necessary to give an explanation justifying the inequality between sister and brother, between mother and father, and between daughter and son. It seems that the Legislator has taken into consideration the rights of a woman in their entirety, together with the fact that laws are framed for normal cases of life and not for rare exceptions. We have already mentioned that the woman possesses her property separately, on which neither her father nor her husband nor any other relative exercises any right whatsoever. Further, in addition to this separation of her proprietary rights, she has the right to maintenance (food, dress, lodging, etc.), and the court obliges her husband or father, etc., to satisfy these needs of the

woman. Again, the woman obtains from her husband the *dower*, a contractual sum, which remains vested exclusively in the woman herself. This *dower* is not a dowry, which is not an obligatory thing. *Dower* is a necessary element without which no marriage is valid. Thus it will be seen that a woman has lesser material needs to satisfy on her own account than a man, who has heavier obligations in such conditions. It is easy to understand that a man has the right to a greater part of heritage than a woman.

Marriage

Let us speak of marriage, which also raises numerous questions. Marriage, according to Islam, is a bilateral contract, based on the free consent of the two contracting parties. The parents certainly aid by their counsel and their experience in searching or selecting the companion of life for their children, yet it is the couple who have the last say in the matter.

The Holy Quran has laid down detailed instructions with regard to the mutual relations of the two sexes. In the first instance a cardinal principle is laid down in the following words: "They (the women) are (like) an apparel for them" (II:187), which obviously means that their position is reciprocal. Each of the sexes is the protector of the other. Next, it is stated that both the men and women have similar rights against each other: "And for them (the women) is the like of what it is against them. (II:278)."

And then it is laid down that mutual love and affection has been ingrained in human nature. Says the Quran:

And one of His Signs is that He hath created mates for you from among yourselves so that you may find tranquility with them and He hath put between you (mutual) love and compassion (XXX:21).

And live with them (women) in a becoming manner (IV:19).

Then either retain them (women) in a becoming manner or let them go away in a becoming manner (II:231).

And retain them not (in order) to harm (them) that you may exceed (the limits) (II:231).

It is quite easy to behave compassionately towards one's companion in life when relations are cordial but when the breaking point is reached in marital relations, it is not physically possible to restrain oneself from bitterness. The Book of Islam enjoins that in case a man decides to divorce his wife even then he should behave towards his wife in a good and kind manner:

And if you intend to take another wife in place of one and you have already given (the first) one of them a heap of (wealth), then take back nothing out of it (IV.20).

And for the divorced women (there should be) provision according to usage – (this is) a duty (enjoined) on those who guard (against evil) (IV:20).

So make some provision for them and give them a good send off.

Annulment of Marriage

The possibility of the annulment of a marriage also exists in Islamic law. There is the unilateral right acquired by the husband to divorce his wife. The wife also may acquire a similar right while contracting the marriage. The court of justice also possesses the right of separation of the couple on the complaint of the wife, if the husband is incapable of fulfilling his conjugal duties, or if he is suffering from a particularly serious illness, or if he disappears for years without leaving a trace, etc. Further there is also the bilateral separation, when mates agree mutually, on conditions to discontinue their marital tie. The Quran insists that the mates should refer their quarrels to an arbitration, before deciding on definite separation. The following saying of the Prophet may be remembered: "The most detestable of the permitted things in the eyes of God is divorce."

Polygamy

In a discourse about women the problem of polygamy must also be discussed in the light of the Quran. The problem should be considered as a social problem and not as a problem of the individual woman. In the light of past history it is obvious that in a nation involved in warfare the proportion of the female population is

likely to be greater than the male population. This is due to the fact that the male members of a nation are killed in large numbers in warfare. If in this case one woman is married to one man there will be a surplus of women of marriageable age with the consequence that:

- (a) the surplus women will have to live single lives .
- (b) as a result, in order to satisfy their sexual needs and economic requirements they might take to the profession of prostitution which has actually happened everywhere in the world where monogamy has been enforced; or
- (c) one man should be allowed to marry more than one woman in which case the surplus female population is provided for.

In this way women can satisfy their sexual needs within the bounds of law, be supported economically and help in the increase of the population. It is obvious that of the above three alternatives the last is the only one helpful both to the female element of the society and to the social organisation. That is exactly why Islam has given its sanction to the practice of polygamy. In allowing polygamy in other emergent cases, the Islamic law is more elastic and more in harmony with the requirements of society than the other systems in law which do not admit polygamy in any case. Supposing there is a case in which a woman has young children, and falls chronically ill, thus becoming incapable of doing the household work. The husband has no means of employing a maidservant for the purpose, not to speak of the natural requirements of the conjugal life. Supposing also that the ailing woman gives her consent to her husband to take a second wife, and that a woman is found who agrees to marry the individual in question. Western law would rather permit immorality than a legal marriage to bring happiness to this home.

In fact, Muslim law is nearer to reason for it admits polygamy when the wife herself consents to it. The law does not impose polygamy, which depends solely on the agreement of the woman, but only permits it in certain cases. It goes without saying that the second woman may refuse to marry a man who has already one wife. As to the first wife, the act of polygamy depends on the acceptance and insertion in the document of the nuptial contract, of the clause

that her husband would practise monogamy. Such a condition is as valid as any other of a legal contract.

It should be remembered, however, that the permission to practise polygamy is coupled with the condition that the husband should treat his wives equally in matters of maintenance and support:

And if you do fear that you shall not (be able to) do justice (to all) then confine yourselves to one (wife only) (IV:3).

And further:

So be not disinclined (from one of your wives) with utter disinclination so that ye leave her in (utter) suspense (IV:129).

Polygamy, however, is not the rule, but only an exception and this exception has multifarious advantages, social as well as others, and the Islamic law is proud of this elasticity.

Segregation of Sexes

The Quran lays down restrictions on women. These have been imposed not to deprive them of liberty, but to enable them to devote all their attention to the reproduction and nursing of human life. The Quran says, "And (as a matter of routine) remain confined to (the affairs of) your homes and go not about exhibiting (yourselves) as the exhibiting of (the days of) ignorance of old" (XXXIII:33).

This verse lays down two cardinal principles: that women should ordinarily confine their activities within their homes and that they should not move out of doors with a view to exhibiting their charms. This obviously means that their moving out of doors is not absolutely banned. At the same time, it is laid down that they should observe some precautions when they move out. For example the Quran says:

Oh Prophet! Say unto thy wives and thy daughters and (unto) women of the believers that they should let down their outer garments. That is more appropriate, for (thus) they will be known (as respectable ladies) and will not

(therefore) be given (any) trouble (by the evil-minded) and (remember) that Allah is All Forgiving (and) Merciful (XXXIII:59).

The above verse clearly lays down that when a lady belonging to a respectable family moves out of doors she should be so clad as to give the lookers-on the impression that she is quite respectable, which obviously means that the very outward look of a lady should be full of dignity and as a corollary one must take it that a respectable lady should not dress herself in a way which may make her look like a woman of loose moral character.

In order to maintain the sanctity of home, some other injunctions have also been mentioned in the Quran:

O ye who believe! Enter not the homes other than your own homes until you have asked for permission, and it has been expressly given (XXIV:24).

Why when you have to ask them for anything do ask them from behind a curtain; that is purer (both) for your minds and their minds. (XXXIII:53).

And then a woman, who has been addressed by a stranger from behind the curtain, is advised to speak to him in a rather stern voice:

“And be not (too) polite in (your speech to a stranger) least he in whose heart is a disease may expect something from you” (XXX:32).

Next, the close relatives who live under the same roof are enjoined to keep their gazes downward as a matter of routine and not to stare at one another.

Say unto the believing men that they cast down their gazes and say unto the believing women that they also keep their gazes cast down (XXXIV:30).

Thus, while the natural freedom of women has not been curbed, such restrictions have been imposed upon their conduct as well as those of men, which are conducive to the maintenance of a healthy moral atmosphere in the society, and is germane to the consolidation of the institution of family and to a happy and peaceful domestic life.