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The Muslim Woman

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A lightly edited excerpt from Ch. XI "Introduction to Islam" by Dr. M. Hamidullah

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When studying the principal rights and obligations of women in Islam, it must be pointed out at the very outset, that in spite of a capacity of Muslim law to adapt itself and to develop according to circumstances, there will be no question that one will recognize the extreme liberty that a woman enjoys today both in fact and in practice. She enjoys this liberty in certain sections of social life, both in the capitalistic and the communistic West. Islam demands that a woman should remain a reasonable being. It does not expect her to become either an angel or a demon. "The golden means is the best of things," said Prophet Muhammad. If one wants to compare or contrast her position in Islam with that in other civilizations or legal systems, one should take into consideration all the facts, and not merely isolated practices. In fact, in regard to certain aspects of morality, Islam is more rigid and more puritan than certain other systems of life in our times.

Women's Personal Status in Islam

As a mother

381. The position of a mother is exalted in Islamic tradition. Prophet Muhammad has gone so far as to say: "Even Paradise lies underneath the feet of your mothers." Al-Bukhari reports: Somebody asked the Prophet which work pleases God most? He replied "The service of worship at the appointed hour." And when it was continued: "And what afterwards?" the Prophet replied: "To be bounteous to your father and mother." The Qur'an refers to this often, and reminds man that he must always keep in mind the fact that it was his mother who had borne him in her womb, suffered much on his account and brought him up after making all kinds of sacrifices.

As a wife

382. As regards the woman as wife, the saying of the Prophet is well known: "The best among you is the one who is best towards his wife." In his memorable Farewell discourse, pronounced on the occasion of the Last Pilgrimage, the Prophet spoke of women at length, and said in particular:

"Well then, people! Verily there are rights in favour of your women which are incumbent upon you, and there are rights in favour of you which are incumbent upon them. As to what is incumbent upon them in your regard, is that they should not let your beds be trampled by other than you, should not allow those to enter your houses whom you do not like without your authorization, and should not commit turpitude. If they do commit that, then God has given you permission to reprimand them, to separate yourself from them in beds, and to strike them but not hard. If they abstain and obey you, then it is incumbent upon you to provide their food and dress in accordance with good custom. And I command you to treat women well, because they are like captives in your houses, possessing nothing for themselves, and you, on your part, take them as a deposit from God, and permit yourselves the enjoyment of their persons by means of a word of God. Have therefore the fear of God with regard to women, and I Order you to treat them well. Attention! Have I communicated? O God, be witness!"

As a daughter

383. With regard to woman as daughter, the Islamic attitude can be guessed from the reproaches which the Qur'an makes against the pagan, pre-Islamic behaviour at the birth of daughters: *"And they assign unto God daughters - be He purified (from this)! - and unto themselves what they desire (i.e., sons); and when if one of them receiveth tidings of the birth of a female, his face remaineth darkened, and he is wroth inwardly. He hideth himself from the folk because of the evil of what whereof he hath tidings, (asking himself); Shall he keep it in contempt, or bury it beneath the dust? Verily evil is their judgment."* [Qur'an 16:57-59]. The Qur'an reminds ceaselessly that God has created all things in pairs, and for procreation both the sexes are equally indispensable, each one having its particular function. And it proclaims: *" . . . unto men a fortune from that which they have earned, and unto women a fortune from that when they have earned."* [Qur'an 4:32]

Equality of Women - Equal to man in certain respects and not so in certain others

384. To avoid redundancy, Nature has not willed perfect equality among the two sexes, but a complementary distribution of avocations and functions. For instance, it is not possible for a man to conceive a baby; similarly the natural attributes of men cannot be exercised by women. She has a more delicate physical constitution, her voice will be more melodious and less sonorous, and she will have a taste more in conformity with the need to conserve this delicacy. Men however are more robust and will have greater strength and are therefore more endowed to engage in the more painful parts of life. To each will be according to his or her requirements, both natural and reasonable.

384. If there is a certain natural inequality between the two sexes, in many other aspects of life they resemble each other. Therefore their rights and obligations in those domains will also be similar.

386. This sums up, in a way, the Islamic teaching on woman: she is considered equal to men in certain respects but not so in certain others. This could be understood better in the description of her obligations and her rights which follows.

Women's Obligations

Religious duties

387. In religious matters, her first duty, even as that of man, is to believe in the oneness of God, which is the only means of salvation in the Hereafter. One knows that Islam has formally prohibited the use of compulsion to convert anybody to Islam - and it may be recalled, by the way, that a non-Muslim wife of a Muslim man has the full right to conserve her religion and to practise it in her individual capacity in wedlock - and one also knows that inside the Muslim community, a rigorous discipline is maintained for its conservation as a whole and the preservation of its system of life. Treason in this respect is punished, yet certain cases of the time of Orthodox Caliphs show that the punishment of women on account of apostasy is less severe than that of men.

388. Among the Islamic religious practices, it is incumbent upon women, as also upon men, to celebrate the services of worship [*salat/prayers*] though with certain concessions. An adult woman is exempt during several days every month from performing the daily services of worship. As to the congregational prayer of Friday, it is optional for her, while it is obligatory for man. The rigour of fasts is also lightened to her; and at the moment of child-birth, monthly courses, etc., she has the right to postpone her fasts of the month of Ramadan. With regard to *Hajj* (pilgrimage to Mecca) also, there are certain rights from which she is exempted, if she cannot perform them for feminine reasons. To be brief, Islam is lenient and considerate to her. As to last of the basic duties, *viz.*, the payment of her zakat tax, she has equality with man, though certain schools of law - the Shafi'ite for instance - make her certain concessions. So, there is a tax on the savings, yet the savings converted by a woman into ornaments of personal use are exempt from tax. In spite of the fact that Islam lays emphasis on the constant circulation of the national wealth for the purpose of continually increasing it, and discourages hoarding by subjecting it to a tax, it has nevertheless made a concession in favour of women and their feminine tastes.

Social duties

389. There also social duties. With a view to distribute the national wealth equitably, the means leading to the accumulation of wealth in the hands of the few are forbidden, as is the case of interest and games of chance. A Muslim woman is as much subject to these rules as a man. Lotteries and speculations on racing, etc., are harmful to the economic equilibrium of society, and remain expressly forbidden to both men and women.

390. Let us recall another source of numberless misfortunes and that is alcohol. It is the express duty of every Muslim to abstain from it. The Qur'an [5:90] calls it the work of Satan. Its physiologic, economic, moral and other evils are well known and so will not be discussed here. Alcoholic beverages have a particular aspect concerning the woman: It is she who nourishes her baby with her blood, and then with her milk, thus transmitting her health or her ailment to her baby, to the next generation and to the future of humanity.

Moral duties

391. A very comprehensive duty is that of morality. If spirituality is our duty in our relations with our Creator, morality has the same place in our mutual relations with our fellow-beings. In its ardent desire to attack the very sources of evil, not merely certain of its manifestations, Islam has imposed, recommended, or otherwise encouraged certain practices, which can astonish us sometimes if we do not take into consideration their profound motives. All religions say that fornication and adultery are crimes, but Islam goes further and prescribes the means to diminish temptation. It is easy to hope that everyone would develop one's individual morality in order to resist the temptations, but it is wiser to diminish the occasions in which persons with weak characters (who constitute the majority of the human race) need

to engage in a battle where defeat is a foregone conclusion.

392. Thus the Qur'an [33:59] first exhorted women 'to put on their *jalabib*' (a sort of cloak or overall covering from head to foot), in order to diminish the occasions of attraction to protect them from the wickedness of men, as the Qur'anic verse explains. Then came the revelation [24:30-31] for behaviour inside the house with friends and visitors: "*Tell the believing men to lower their gaze and be chaste; that is purer for them; lo! God is aware of what they do. And tell the believing women to lower their gaze and be chaste and to display of their adornments only that which is apparent, and to draw their khumur* (veil covering the face) *over their bosoms . . .*" In every epoch of Islamic history, including the time of the Prophet, one sees Muslim women engaged in every profession that suited them. They worked as nurses, teachers, and even as combatants side by side with men when necessary, in addition to being singers, hair-dressers, etc. Caliph 'Umar employed a lady, Shifa' bint 'Abdallah, as inspector in the market at the capital (Medina), as Ibn Hajar (*Isabah*) records. The same lady had taught Hafsa, wife of the Prophet, how to read and write. The jurists admit the possibility of women being appointed as judges of tribunals, and there are several examples of the kind. In brief, far from becoming a parasite, a woman could collaborate with men, in Muslim society, to earn her livelihood and to develop her talents.

The veil does not at all signify seclusion, but it does diminish the temptation that could draw untoward glances from strangers.

393. According to the Qur'an [30:21]: "*And of His signs is this: He created for you helpmates from yourselves that ye may find rest in them, and He ordained between you love and mercy.*" Women and men mutually form complements of one another [see Qur'an 2:187]; therefore they should accommodate one another for their mutual interest. Two equals cannot be in accord with each other in a hundred percent of cases; mutual concessions would be needed in the interests of the home and for the better comprehension inside the family. The counsel of the Qur'an [4:19], given to the husband regarding the treatment of the wife, provides food for thought: ". . . *but consort with them in kindness, for if ye hate them it may happen that ye hate a thing wherein God hath placed much good.*" In fact, the wiser one is, the greater the concession one makes, especially when one is also more powerful.

394: One seeks and prefers for the purpose of marriage the person one loves. But the question of love has quite a gloomy history in the annals of man. The motives of love, especially among the young, are often fantastic and ephemeral: a sweet voice, a delicious manner of smiling, the eyes, the colour, the coiffure or any other passing gesture starts the drama. However, for true conjugal life this does not suffice. Prophet Muhammad has given us a very wise counsel in this respect: "**Do not marry only for the sake of beauty; may be the beauty becomes the cause of moral degradation. Do not marry even for the sake of wealth; may be the wealth becomes the reason of insubordination. Marry rather on the grounds of religious devotion**", (Ibn Majah, No. 1859). As the Islamic religion regulates all domains of life, it goes without saying that the one who observes scrupulously one's religious duties is the one more apt to create peace at home. On another occasion, the Prophet said, "**The world is an ephemeral thing, of which one takes temporary advantage; and among the worldly things nothing is better than a good (pious) wife.**" (*idem*. No. 1855) At-Tirmidhi and an-Nasa'i report another saying of the Prophet: "**The perfect believer is the one who has a perfect character and is kind to one's wife.**"

395. As we have just remarked, Islam attaches particular importance to morality. Hence it is that promiscuity is ordered to be suppressed by every means. According to the Qur'an (4:34): if one fears immorality *nushuz*, (cf. 382) on the part of one's wife, one should first admonish, then exert pressure by separating the beds, and finally may even scourge, though not heavily. If there is no means of reform, divorce - which has been characterized as "**the most detestable among the lawful things,**" by the Prophet - may solve the problem. This obligation of chastity is reciprocal. A little later, the Qur'an (4:12 8-30) says that if a woman fears immorality (*nushuz*) or indifference, on the part of her husband, she should try to arrange things, and at last resort she too has the right to demand judicial separation.

395/a. A good mutual understanding implies identical views of the couple. This may take place at time spontaneously, i.e., both husband and wife arriving at the same conclusions. Whereas on other occasions one of the couple will have to make the concession and to renounce his personal opinion. However there is a limit to it, and one should not be astonished that the Qur'an [29:8] and the Hadith prescribe "**No obedience to a creature in the disobedience of the Creator.**" One is allowed to make concessions of all sorts, by love or for simple expedience, provided that this does not affect the formal law of Islam, above all the religious injunctions should on no account be violated.

395/b. One thing was very dear to the Prophet, and he talked of it on several occasions, that men should avoid effeminate practices, and that girls should not behave like boys in coiffure, in dress, in the manner of talking and so on. One should rather develop one's self in the natural direction, and not in the opposite way; otherwise it is the "curse of God" which shall befall the person who violates this direction, as a hadith mentions.

Women's Rights

396. The pre-Islamic Arabs attached less importance to a woman's person than to that of a man. Thus, if the culprit was a man and the victim a woman, retaliation would not take place. The Qur'an abolished this inequality, and edicts against the woman were placed on the same level as those against the man, whether they concerned persons or property or honour. One may even say that in certain cases, the rights of women are held to be more important. For instance, the Qur'an [24:4-5] decrees that if a man accuses a woman of immorality and does not produce proof, he is exposed not only to the penalty prescribed for a false accusation, but to be declared for perpetuity as unworthy of giving an evidence before a tribunal (this in addition to the Divine punishment in the Hereafter, which however, may be effaced in case of repentance). There is almost a consensus of opinion that repentance effaces the sin in the eschatological sense, yet the incapacity of evidence remains constant in spite of the recognized repentance. The Qur'an seems to require the purging of society from the evil of inconsiderate talk, particularly in matters where injury is easy to inflict and difficult to remedy.

397. The perfect and complete individuality of the person of the woman is manifest in a most striking manner in the matter of property. According to Islamic law, the woman possesses a most absolute right over her property. If she has attained majority, she may dispose of it according to her will without reference to anybody else, whether it be 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 liabilities exceeding his assets. 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 as a give or donation, earn it by her own work and toil; and all this remains hers and hers alone. She is absolute mistress of her property to enjoy it or to give it to whomsoever she likes as a give, or to dispose of it, by sale or any other legal means, at her will. All these gifts are inherent in a woman; there is no question of obtaining them through special contracts, with the husband for instance or by an award depending on somebody else.

Rights of Inheritance

398. The right to inheritance requires some explanation. A pre-Islamic Arab woman did not have the right to inherit from anybody, either her father or even her husband. The Prophet did not pay attention to this question during the first fifteen years of his mission. The chroniclers mention that in the year 3 H., a rich Ansarite, Aus ibn Thabit died, leaving a widow and four daughters of tender age. According to the Medinan customs, only male adults, capable of taking up arms in a war, had the right to inheritance; so even a minor son had no right to the property of his deceased father. So the cousins of Aus took possession of all that he had left, and the family became overnight completely destitute and deprived of the means of livelihood. At that moment, a passage of the Qur'an was revealed, promulgating the law of inheritance which has been practiced by Muslims ever since. and even by some communities. such as

the Christians of the Levant. According to this law [cf. Qur'an 4:7-12 and 4:176], different female relatives have obtained the right to inheritance: wife, daughter, mother and sister in particular. With regard to inheritance, Islam makes no difference between the moveable and immovable property; everything must be divided amongst the rightful heirs. In order to avoid evil caprices, Islam has also prohibited the bequest of property by testament to strangers and the deprivation of the near relatives. In fact, these latter do not require to be mentioned in a will; they inherit automatically. A will cannot even diminish or increase the rights of individual relatives to inheritance, the rights being fixed and determined by the law itself. The will is valid solely in favour of "strangers." i.e., those who have not right to inherit directly the property of the deceased. Islam has fixed the maximum, which one can bequeath by will, and that is one-third of the whole property, the two-thirds going to near relatives. A will for more than one-third is valid only if the heirs unanimously accept it at the moment of the distribution of the heritage.

399. The law of inheritance is complicated enough, for the shares of different heirs vary according to individual circumstances: the daughter alone or in the presence of a son, the mother alone or in the presence of the father, with children or without them, the sister alone or in the presence of the brother, father or children of the deceased, inherit in different proportions according to individual cases. It is not our intention to describe it here in full detail. The shares of female heirs, may however, be mentioned briefly. The wife gets one-eighth if the deceased also leaves a child; otherwise she gets a quarter. The daughter when alone gets a half, whereas several daughters get two-thirds which they divide amongst themselves in equal proportions; - all this where there is no son. In the presence of a son, the daughter gets half of her brother. [1] The mother, when alone, gets one-third; in the presence a father, child or brothers and sisters of the deceased, she gets one-sixth. The sister does not inherit if the deceased leaves a son; but when alone, she gets a half; two or more sisters get two-thirds which they divide amongst themselves equally. In the presence of a daughter, the sister gets one-sixth; in the presence of a brother, she gets the half of what he gets. There are also differences between the shares of full sisters, consanguine and uterine sisters.

400. 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 women in their entirety, together with fact that the laws are frames for normal cases of life and not for rare exceptions (for which latter. Exceptional means are always provided). 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 father, husband, son, etc. to satisfy on their sole expenses these needs of the woman. Again, the woman obtains from her husband the *mahr*, a contractual sum which went before Islam to the father of the woman, but which in Islam remains vested exclusively in the woman herself. This *mahr* is not a dowry, which is not an obligatory thing. *Mahr* 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. It should be remembered that, in spite of the fact that the woman has the right to be maintained at the expense of others, Islam accords her a supplementary right to property in the form of inheritance. It goes without saying that a good household requires mutual co-operation, and the woman also works to increase the income of the family, or to diminish the expenses which would follow if she does work; but we are speaking of the rights of woman, and not of the social practices which may vary according to individuals. The notion of the maintenance goes so far in Islam, that, according to the law, a wife is not obliged even to give her breast for suckling; it is the duty of the father of the child to procure for it a foster mother at his own expense, if the mother does not want to suckle the infant.

Marital Practices

401. 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 child, yet it is the couple who have the last say in the matter. In this respect there is no difference between man and woman, in so far as the law is concerned. **Illegal practices may exist in varying degrees from region to region and class to class; but the law does not recognize the customs which contravene its provisions.**

402, While it is true that Islam permits polygamy, it is on this point that Muslim law is more elastic and more in harmony with the requirements of society than the other systems of 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, becoming incapable of doing the household work. The husband has no means of employing a maid-servant for the purpose, not to speak of the natural requirements of the conjugal life. Supposing also that the sick 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 afflicted home.

403. In fact, Muslim law is nearer to reason. For, it admits polygamy if the woman herself consents to this kind of life. The law does not impose polygamy, but only permits it in certain cases. We have just remarked that it depends solely on the agreement of the woman. This is true of the first wife as well as the second one in prospect. It goes without saying that the second woman may refuse to marry a man who has already one wife; we have seen that no one can force a woman to enter into a marriage tie without her own consent. If the woman agrees to be a "co-wife" it is not the law which should be considered as cruel and unjust with regard to women and as favouring only men. As to the first wife, the act of polygamy depends on her. For, at the time of her marriage, she may demand the acceptance and insertion, in the document of the nuptial contract, or the clause that her husband would practise monogamy. Such a condition is as valid as any other condition of a legal contract. If a woman does not want to utilize this right of hers, it is not legislation which would oblige her to do that. We have just spoken of exceptional cases; and the law must have possible remedies. Polygamy is not the rule, but an exception; and this exception has multifarious advantages, social as well as other - the details would be burdensome here - and Islamic law need not be shy of this elasticity.

404. In the religious law of antiquity, there was no restriction on the number of wives a man could have. All the Biblical prophets were polygamous. Even in Christianity which has become synonymous with monogamy, Jesus Christ himself never uttered a word against polygamy. On the other hand, there are eminent Christian theologians, like Luther, Malanchthon, Bucer, etc., who would not hesitate to deduce the legality of polygamy from the parable of the virgins spoken of in the Gospel of Matthew (25:1-12), for Jesus Christ envisages there the possibility of the marriage of one man with as many as ten girls simultaneously. If Christians do not want to profit by this permission (which the founder of their religion seems to have given them) [2], the law is not changed for all that. This is true of the Muslims also, whose law, moreover, is the only one in history which expressly limits the maximum permissible number of polygamous wives. (For Christian theory and practice, as well as for general discussion, cf. Westermarck, *History of Human Marriage*, 3 Vols.)

405. The possibility of the annulment of a marriage has also existed in Muslim law since all time. There is the unilateral right, acquired by a 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 plaint of the wife, if the husband is incapable of fulfilling his conjugal duties, or if he is suffering from a particularly serious sickness, or if he disappears for years without leaving a trace, etc. Further, there is also the bilateral separation, when the two mates agree mutually, on conditions, to discontinue their marital tie. The Qur'an [4:35] insists that the two should refer their quarrels to arbitration before deciding for definite separation. The saying of the Prophet may be remembered: "**The most detestable**

of the permitted things in the eyes of God is divorce." The law, the ethics, and the exhortations, complement each other; and the source of all these is the same, namely the Qur'an and the Hadith.

Addendum

In passing, one might also note that in this respect, women were generally well-treated even in the pre-Islamic society of Arabia. They enjoyed the privilege of possessing property in their own right, they gave their consent to marriage contracts in which they could even add the condition of **reserving their right to divorce their husbands**. They could re-marry when widowed or divorced. Burying girls alive did exist in certain classes, but that was rare. (See [Chapter 9](#) of Introduction to Islam)

As to the law relating to delegation of the right to divorce and the three kinds of delegation, refer to Ch. III of *The Hidayah*: (English Translation by Hamilton) "Where a husband delegates, or commits the pronouncement of divorce to his wife, desiring her to the effective sentence, and it is comprehended under three different deeds, termed (1) Option (*ikhtiar*) (2) Liberty (*amar bil-yad*) (3) Will (*mashiyyat*)."

"Such power may be granted generally too - if a husband says to his wife, "Divorce yourself, when you please", she is at liberty to divorce herself either a) on the spot, or b) at any future time - this is being a TRANSFER OF POWER; (*not a commission of agency*), the husband **may not retract**. That is to say, after being thus empowered, she stands as a **principal** in the execution of divorce, and **not** as an **agent**; and a commission of agency may be annulled at pleasure, whereas, the power devolved to another to act as a principal cannot be so.

"On the contrary, if a man says to another, "divorce my wife", the person thus addressed may divorce her either upon the spot or at any other time, and the husband *may also retract*, because this a commission of agency, and therefore is *not absolute*, nor restricted in point of place."

One may divide human actions, first of all, into good and evil, represented by orders and prohibitions. The acts from which one must abstain are also divided into two big categories: 1) those against which there is *temporal sanction* or *material punishment* in addition to condemnation on the day of the Final Judgment, and 2) those which are condemned by Islam **without providing a sanction** other than that of the hereafter.

But there are also injunctions against particular evils. As has already been remarked, there are those which accompany a sanction and the public punishment, and those regarding which there is only a warning of punishment in the Hereafter, and except in cases of extraordinary gravity, the **public authorities do not take cognizance of them**.

Entirely different is the case of fornication and adultery. For the consent of the parties does not attenuate its gravity. The Prophet had so greatly succeeded in developing justice and self-criticism among his companions that they preferred the severest public punishment in this world to the one in the Hereafter; and they presented themselves voluntarily before the Prophet, to confess their sins and submit themselves cheerfully to the legal sanctions. Outside confession, it is always very difficult to prove illicit sexual relations if the parties were willing. In order to diminish the temptation, Islam has taken other precautions also: prohibition of promiscuity, of easy and unsupervised meetings between the young of opposite sexes if they are not near relatives, and even the recommendation of the veil to cover the face of the woman if she goes out in the street or meets strangers. Far from attracting the gaze of amorous strangers by her coquetry, it is the duty of a Muslim woman to reserve her beauty and her attraction only for her husband. The veil has other advantages also for the woman. One knows the great difference between the exterior of those women who work in the fields, for instance, and of those who are not exposed to the sun. One knows also the difference between the outer and inner feathers of a bird. In fact

the veil preserves for a longer time the charm and freshness of the skin. One can see that plainly on comparing the skin of the face or hands with that of other parts of the body which are habitually covered. The veil does not at all signify seclusion, but it does diminish the temptation that would attract strangers. It is abusing the credulity of the simpleton to make-believe that covering the face with a veil generates tuberculosis. This disease is as prevalent among people where womenfolk never use the veil, not only in Black African, but even in the most highly developed societies from Finland to Italy, as the latest research has brought to light. In passing, it may be mentioned that there is no legal penalty for the neglect of this Quranic recommendation.

For more information on this subject [click here](#)

Endnotes :

[1] Generally, but not always, the male takes a share double that of the female *in his own category* e.g. (1) (Qur'an 4:11) where father and mother **each** get one-sixth, and (2) The Qur'an [4:12] where shares of uterine brothers and sisters are made equal. In both these cases the male and female inherit as man and woman **not** as relatives with the specific economic and social responsibilities like son-daughter, and brother-sister. (See Yusuf Ali, Footnotes to verses 4:11,12 and also 4:176)

See also page 63 of the Urdu book '*Aurat Islami M'aashirah Ney* by Syed Jalal-al-din: "Blood relations have greater rights upon one another." In the Islamic law of Inheritance, real importance is given to blood relationships (*nasab*) so that a relative nearer in degree of blood relationship, *whether male or female*, will get a portion of inheritance larger than the distant relative. As such, a *closer female* relative could in certain cases get *more than the male*. For example, if the deceased left behind a wife, a daughter (or a sister) and an uncle, the estate will be divided as follows: - wife=1/4 daughter (or sister)=1/2 uncle 1/4

Another principle of law must also be borne in mind, namely, that since all the male members of the family (close or distant) carry the legally enforceable obligation to provide maintenance and support to female members in particular (as well as other male members, in general) who are destitute. It is, therefore, the sharers/entitled to inheritance receive their fixed shares.

[2] "Monogamy as the unique and exclusive form of marriage, in the sense that bigamy is regarded as a grave criminal offence and a sin as well as a sacrilege, is very rare indeed. Such an exclusive ideal and such a rigid view of marriage is perhaps not to be found outside the modern, relatively recent development of Western culture. It is not implied in Christian doctrine even." (Encyclopedia Britannica, s.v. Marriage)

"It cannot be said that Christianity introduced obligatory monogamy into the western world . . . Christianity does not expressly prohibit polygyny except in the case of a bishop and a deacon (I Timothy, iii, 2 and 12 [which is however the recommendation of St. Paul and not the saying of Jesus Christ himself] . . . But no Council of a Church in the earliest centuries opposed polygyny; and no obstacle was put in the way of its practice by kinds in the countries where it has occurred in the time of [pre-Christian] paganism. In the middle of the sixth century Diarmait king of Ireland, had two queens and two concubines (H. D'Arbois de Jubainville, *Cours de litterature Celtique*, vi, 292). Polygyny was frequently practiced by the Merovingian kings [of France]. Charles the Great [Charlemagne] had two wives and many concubines; and one of his laws seems to imply that polygyny was not unknown even among priests (A. Thierry, *Recits des temps merovingiens*, [or its English translation - "*Narratives of Merovingian Era*," p. 17 sqq. V.] Hellwald *Die Menschliche Familie*, p. 588 n.L. Hallam, *Europe during the Middle Ages* 1, 420 n. 2) marriages with the sanction of the Lutheran clergy (Friedberg, *Lehrbuch des katholischen und evangelischen Kirchenrechts*, e. 436 note to 143) Luther speaks of polygyny with considerable toleration. It had not been forbidden by God (*ibid* i. 693 Sn) . . . In 1650 soon after the

Peace of Westphalia, when the population had been greatly reduced by Thirty Years' War, the Frankisch, Kriegstage (War Parliament) at Nuremberg passed the resolution that thenceforth every man should be allowed to marry two women (V. Hellwald, *Cours de litterature Celtique*) p. 500 note). Certain Christian sects have even advocated polygyny with much fervour. In 1531, the Anabaptists openly preached at Munster that he who wanted to be a true Christian must have several wives (ibid, p. 558 n.l.) And the Mormons, as all the world knows, regard polygyny as a divine institutions." (Westermarck, *History of Human Marriage* III 50-51). "In the instructions given by the Landgrave Philip of Hesse to Martin Bucer, regarding questions which he had to ask Martin Luther and Philip Melanchthon, one reads the following "I know that Luther and Melanchthon had advised the king of England not to repudiate his marriage, but rather to marry a second wife, as one sees in their motivate consultation." (J.B. Boussuet, *Histoire des variations des eglises protestantes*, livre VI, m depuis 1573 jusqu'a l'an 1546 in *Oeuvres completes de Boussuet* new edition at Bar-le-Duc, 1877, Vol. IIII, p. 233-250, in particular p. 244) See also *Dictionnaire de la Bible*, by F. Vigouroux Paris, 1912, Vol. IV, 513, s.v. polygamie.
