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**RIGHTS AND OBLIGATIONS OF HUSBAND AND WIFE
IN MUSLIM MARRIAGE
A STUDY ON THE ISLAMIC FAMILY LAW IN KELANTAN**

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

I hereby declare that the work in this academic project is my own except for Quotations and summaries which have been duly acknowledged.

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ABSTRAK

Kajian ini merupakan satu bentuk kajian yang membincangkan tentang hak –hak dan kewajipan suami isteri.Kajian ini dijalankan adalah bertujuan untuk memberi pendedahan dan juga kesedaran kepada suami isteri khususnya tentang hak dan kewajipan terhadap pasangan masing –masing.. Didalam institusi perkahwinan , setiap pasangan yang ingin melangsungkan perkahwinan haruslah mengetahui tentang konsep sebenar perkahwinan dan sedar tentang hak dan kewajipan terhadap pasangan mereka.Manakala kajian seterusnya adalah bertujuan untuk mengetahui dan mengkaji tentang enakmen –enakmen yang diperuntukan dalam undang –undang keluarga islam kelantan No.4 , 2002 .Bagi mencapai tujuan ini , penulis telah membuat kajian tentang enakmen –enakmen tersebut..Hasil Kajian ini boleh dibuat kesimpulan bahawa setiap pasang suami isteri haruslah menyedari kepentingan hak masing-masing agar diri mereka tidak terus dianiayai oleh pihak yang tidak bertanggungjawab.Justeru itu,undang-undang keluarga Islam memainkan peranan penting dalam melindungi mereka bagi mendapat keadilan.

ABSTRACT

This research form is to discuss about the rights and obligations of husband and wife as a marriage couple. The purpose of this research is to give clear explanation and awareness to the marriage couple particularly about their rights and obligations. In marriage institution, each couple who intend to involved in marriage first beside aware about their rights and obligations each other. Next, the other purpose of this research is to know and study about the enactments provisions as provide under Islamic Family Law (Kelantan No.4, 2002). In order to achieve this vision, the writer was making a study about the enactment. From this research, the writer concludes that each marriage couple should aware with their own rights to ensure they get protection from irresponsible persons. Hence, the Islamic Family Law plays important roles to protect them and to ensure justice is on their behalf.

ملخص البحث

يناقش هذا البحث الحقوق والواجبات بين الزوجين. ويهدف هذا البحث لإعطاء الفهم والإدراك والمعلومات إلى الزوجين خاصة فيما يتعلق بالحقوق والواجبات الزوجية. وما ينبغي على كل من الزوجين أن يعرفه من حيث حقيقة الزواج وما يتعلق به من الحقوق والواجبات بينهما قبل الزواج. ويهدف هذا البحث أيضا للتعرف على النصوص القانونية الموجودة في قوانين الأسرة الإسلامية (كلنتان) رقم ٤ - ٢٠٠٢ ومما استنتج الباحث أنه ينبغي على كل الزوجين أن يعرف الحقوق والواجبات الزوجية وأهميتها معرفة جيدة حتى لا يقع الظلم من قبل جهة معينة وبالتالي فإن قوانين الأسرة الإسلامية تلعب دورا هاما لحماية حقوقهم ورعاية واجباتهم لأجل تحقيق العدل في الزواج.

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GLOSSARY

<i>Ayat</i>	Plural of ayah, verses of the Qur'an
<i>Baligh</i>	Of the age of majority.
<i>Bida'ah</i>	Pernicious innovation signifying the opposite of Sunnah .Act or conduct that violates the established precedent by the Arabs.
<i>Fard 'ain</i>	An obligation upon every person in the community.
<i>Fard kifayah</i>	When someone in the community performs it.
<i>Fiqh</i>	Jurisprudence.
<i>Fuqaha</i>	Islamic jurists.
<i>Hadith</i>	Saying of the Prophet Muhammad s.a.w.
<i>Haram</i>	Forbidden
<i>Hukm</i>	Legal rule.
<i>Iddah</i>	Probation period that a woman must before following dissolution of marriage by death or divorce.
<i>Ijma'</i>	Consensus of opinion of the 'ulama.
<i>Jahiliyyah</i>	Ignorance, i.e. the period before Islam embraced
<i>Jumhur</i>	Dominant majority
<i>Khul'</i>	Separation upon a request by the wife.
<i>Li'an</i>	Accusing one's wife of committing adultery or fornication by way of imprecation.
<i>Mahr</i>	Dowry.
<i>Mazahib</i>	Schools of jurisprudence
<i>Mu'amalat</i>	Transactions.
<i>Nasab</i>	Paternity or lineage.
<i>Qadi</i>	Judge.
<i>Ruju'</i>	Reconciliation after a revocable divorce.
<i>S.A.W</i>	Abbreviation of " Sallallahu ' Alaihi Wa Sallam"meaning " peace be upon him".It is compulsory for a Muslim to utter this blessing whenever he hears the Prophet Muhammad's name being mentioned.
<i>Sahih</i>	Valid.
<i>Shar'I</i>	Doubt.
<i>Sunnah</i>	Saying,deeds and approvals of the Prophet s.a.w
<i>Surah</i>	Chapter of the Qur'an .The number preceding colon denotes the Chapter number while the numbers after the colon denotes the verse number.
<i>Talaq</i>	Divorce.
<i>'Ulama</i>	Plural of 'alim , Islamic jurists.
<i>Wajib</i>	Mandatory or obligatory.
<i>Wali</i>	Legal guardian

ABBREVIATIONS

comp.	Comelier / compiled by
ed.	Editor/ Edition/ edited by
IFLA	Islamic Family Law Administration
n.a	no author
n.pb.	no publisher
n.pl.	no date/ no year
p.	page
pp.	pages
S.A.W	Salla Allāh anhu/ anha/ anhum
S.W.T	Subhānahu wa taālā
trans.	Translator/ translated by
vol.	volume

CHAPTER ONE

CHAPTER 1

MARRIAGE IN ISLAM

1.1 INTRODUCTION

The foundations of the family in Islam are blood ties and marriage arrangements, more or less precisely defined. Behind such conceptions lay the diversity of pre-Islamic Arabian society, in which almost every imaginable form of marital and sexual relationship had been practiced. The advent of Islam brought, as we have seen, the restriction of permissible sexual relations, however, was by no means simply interpreted and implemented; from it emerged complex patterns and rationales, which continue to be subjects of discussion in Islamic societies.¹

1.1.1 CONTROL OF SEXUAL BEHAVIOR

Human behavior has always been subject to rules because social life would be inconceivable otherwise. As Hobbes has put it, "In no part of the world, and at no period of time, do we find the behavior of men left to unsheltered freedom". This is particularly true of sexual behavior, since "sex is capable of impelling individuals, reckless of consequences while under its spell, toward behavior which may imperil or disrupt the cooperative relationships upon which social life depends". It is true that sex is more capable than other drives of being diverted into substitutive forms of expression or sublimation. Nevertheless, modern clinical research and evidence clearly indicate that excessive sexual deprivation produces personality maladjustments

¹ -Hammudah 'Abd al'Ati.1997.*The Family Structure in Islam*. American Trust Publications.p50

that hinder satisfactory relationships and endanger the mental health and efficiency of society.²

Muslim's of early centuries believed that sexual deprivation could lead to mental and physical disturbances bordering on insanity .One observer related that a group of people had decided to abstain for ascetic reasons , but soon they developed physical as well as mental abnormalities , especially depression and fatigue. It was widely believed that sexual deprivation was contrary to the preservation of the human species, harmful to health and destructive of moral integrity.It was, therefore, in the interest of the individual and society that sexual relationships be sanctioned and regulated, not condemned or ignored. This world surely is important if we could accept Pata's characterization of the Middle East as an area of intense sexuality.³

Sex, then , is crucial survival and personality development .It " is intimately bound up with deep psychological gratifications: the need for security , feeling of personal worth, feelings of lower and the assurance of being loved and lovable." So crucial I sex that no social system can afford to ignore it or be indifferent to its implications. The light in which a religion views sex is probably most indicative of that religion with regard of man, society and the universe. It seems almost axiomatic that a religious system which devalues sex would be most otherworldly, would initially discourage marriage but belittle family life and depict women as contemptible sex symbols. By contrast, a system which overestimates sex would be no less injurious to social stability.⁴

1.1.2 ISLAM'S POSITION ON MARRIAGE

Unlike the doctrine of the Hebrew Essences and the early Christian ascetics, but in common with the main body of Jewish and other human traditions, Islam recognized the value of sex and advocates marriage. It strongly discourages celibacy, even for

² - Hammudah 'Abd al'Ati.1997.*The Family Structure in Islam*.p.51

³ - Hammudah 'Abd al'ti.p.51

⁴ -Ibid.p.51

ascetic reasons. The normal, natural course of behavior for a Muslim is to establish a conjugal family of procreation. This is the common practice of ordinary men, spiritual leaders and even prophets .To that effect , there are many passages in the Qur'an and the Traditions of the Prophet which go as to say when a Muslim marries he thereby perfects half his religion; so let him be God minded with respect to the other half.⁵

Muslim jurist have interpreted the Qur'an to mean that marriage is a religious duty and is consequently a moral safeguard as well as a social necessity .As religious duty, it must be fulfilled; but like all other duties in Islam, it is enjoined only upon those who are capable of meeting the responsibilities involved. The predominant view among the jurists is that, although marriage is a social necessity, it is not absolutely necessary for every individual. Hence, they have developed a rough typology from the point of view of religion. First, some individuals are apprehensive that abstinence may lead them astray. For these, marriage is a religious duty because they must guard against illegitimate sexuality, and marriage is the natural mechanism of such moral protection.⁶

Second, some individuals are capable and desirous of sex but are not so apprehensive of excess; they anticipate no irresistible temptation or lack of self control. For these, marriage is preferable to abstinence and even to supererogatory devotion, which is voluntarily undertaken to uplift a person's spiritual and moral state.⁷

Third, there are individuals who lack potency, for some reason or other. In this case, marriage is still considered preferable to abstinence by some jurists, while others argue that abstinence is preferable because marriage under such conditions will defeat its purpose and deprive the female partners of the moral protection they need and the fulfillment they merit.⁸

Although, Islam advocated marriage and took various measures to regulate its functioning, it seems to have realized that marriage is not a light commitment. A

⁵ -Ibid.p.52

⁶ - Ibid.p.52

⁷ -Ibid.p.52

⁸ -Ibid.p.53

person must be fairly certain of his ability to meet the responsibility of marriage before taking a spouse. It is true that in Islam poverty is no barrier to a successful marriage; Allah has, as the Qur'an puts it, undertaken to provide for every living creature, and he can, and has promised to, enrich the poor mates of His bouny. But, at the same time, Islam recognized that it may not always be possible for everyone to have at his disposal the means to marriage.⁹

There can arise obstacles of various kinds and problems of varying magnitude. But Islam's response to these is not in the direction of celibacy, laxity, or aversion to marriage and sex altogether. Rather, it prescribes several specific measures, the last of which is resort to self –discipline and temporary abstinence in the hope that the assured help of Allah will be forthcoming.¹⁰

The Prophet Intimated that whoever can marry should do so, but he who cannot, should practice voluntary fasting, which helps him to safeguard his moral integrity and to assume command over his desires. The immediate implication of all this is probably that neither sex nor marriage is dismissed easily or taken lightly.¹¹

As might be expected, this doctrine was not always fully internalized or implemented by all segments of Muslim society there have been some mystic Sufis who abstained from marriage and regarded family responsibility as incompatible with their personal spiritual aspirations. The rise of such individuals and the circulation of their beliefs may be more indicative of social tension than of personal preference on their part or of actual incompatibility of family life and spiritual ambitions. It seems to have been more in the nature of individual protest and withdrawal than real incompatibility of Deficiency of the marriage doctrine proper. Extreme trends advocating abstinence from marriage and withdrawal from society probably emerged in reaction to the political dissension and moral laxity its power structure.¹²

⁹ - Ibid.p.53

¹⁰ - Ibid.,p.53

¹¹ - Ibid.p.53

¹² - Ibid.p.53-54

The general Sufi trend is sometimes believed to have been encouraged by worldly personalities in the power structure. The apparent paradox is partly explained by the fact that it was in the interest of the contemporary leadership to divert the attention of the common people from political interest and mundane concerns in general, so that opposition and rivalry would be reduced to a minimum." Asceticism" and its concomitants were regarded as a "rational" means to that end.¹³

But there is another theory that political authorities were opposed to extreme Sufism even to the extent of persecuting its advocates because they were causing public disorder and propagating a worldview, which, if widely embraced, would disrupt social life. Both theories have elements of validity, but neither seems adequate by itself to account for the facts. It is likely that political authorities on some occasions tolerated or even encouraged, implicitly or explicitly, the Sufi ascetics who might have been regarded as harmless, otherworldly pacifists .In other circumstances when some of these Sufis went to the extreme and made pronouncements that were considered heretical, the political authorities took action to protect themselves as well as to maintain order. At any rate, such Sufis were in the minority, and not all of them were of the pacifist type, nor were all influences upon Sufism internal to Islam.¹⁴

1.1.3 THE PURPOSE OF MARRIAGE

The strong emphasis that Islam has put on marriage may be seen more clearly in the context of the purposes that marriage is designated to serve. In common with other systems, Islam favors marriage as a means to emotional and sexual gratification; as a mechanism of tension reduction, legitimate procreation, and social placement; as an approach to interfamily alliance and group solidarity .But there seems to be a difference of degree, at least, in that Islam's relatively greater stress on these ends enhanced to a corresponding degree the value placed on marriage.¹⁵

¹³ - Ibid.p.54

¹⁴ - Ibid..p.54

¹⁵ -Ibid.p.54-55

The social significance of third difference in emphasis is that marriage was contracted while the prospective mates were still relatively young, and that it was more common among Muslims than among others. Progeny apparently were highly desirable and were received with enthusiasm .It is true that many of these practices go back to pre-Islamic times, when Arab men preferred to marry young virgins and to seek marriage outside their immediate kinship group, in the belief that it was more conducive to numerous as well as healthy progeny. Such practices continued in Islam and were approved by the Prophet.¹⁶

What is probably most characteristic of the Islamic position, is that marriage, apart from these functions and perhaps also because of them, is regarded first and foremost as an act of piety. Sexual control may be a moral triumph, reproduction a social necessity or service, and sound health a gratifying state of mind .Yet these values take on a special meaning and are reinforced if they are intertwined with the idea of Allah, conceived of as religious commitments, and internalized as divine blessings. And this seems to be the focal point of marriage in Islam, even though it does not exclude or underrate the other purposes.¹⁷

To paraphrase some Qur'an verses, the call is addressed to mankind to be dutiful to God, who created them from the two of them spread abroad many men and women.

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ
مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ

رَقِيبًا .¹⁸

¹⁶ - Ibid.p.55

¹⁷ - Ibid.p.55

¹⁸ -Al-Quran.Annisa' 4:1

"O mankind! reverence your Guardian-Lord , Who Created you from a Single person , Created , of like nature, his mate , and from them twain scattered (like seeds) countless men and women ;- reverence God , through Whom ye demand your mutual (rights), and (reverence) the wombs (that bore you); for God ever watches over you". "

It was Allah who created mankind out of one living out of one living soul, and created of that soul a spouse so that he might find comfort and rest in her.

فَأَلْقَى عَصَاهُ فَإِذَا هِيَ ثُعْبَانٌ مُّبِينٌ¹⁹

"Then (Moses) threw his rod, and behold! It was a serpent, Plain (for all to see)!"

And it is a sign of Allah that He has created for men, of themselves, mates to between them mutual love and mercy." Surely, in that are signs for those who contemplate".

وَمِنْ آيَاتِهِ أَنْ خَلَقَكُمْ مِنْ تُرَابٍ ثُمَّ إِذَا أَنْتُمْ بَشَرٌ تَنْتَشِرُونَ²⁰

" Among His Signs is this , that He created you from dust ; and then , - behold , ye are men scattered (far and wide) "

Even at the most trying times of married life, and in the midst of legal disputes and litigations, the Qur'an reminds the mates involved of Allah's injunctions to be kind and charitable to one another and dutiful to Allah.²¹

¹⁹ -Al-quran.Al A'raaf 7:107

²⁰ -Al Quran.Ar Ruum 30:20

²¹ - Hammudah 'Abd al'Ati.p.55

It is noteworthy that the Islamic marriage provisions apply equally to men and women. For example, if celibacy is not recommended for men, the same is true for women: marriage is the normal course for both of them. It may be even more so for women since it assures them of relative economic security, among other things. This added advantage for women does not, however, picture marriage as a purely economic transaction. In fact, the least focal aspect of marriage in the precepts of Islam is the economic factor, no matter how powerful this may have been in other ideologies.²²

The Qur'an commends marriage to the spouseless and the pious even though they may be poor or slaves.

وَأَنْكِحُوا الْأَيَامَىٰ مِنْكُمْ وَالصَّالِحِينَ مِنْ عِبَادِكُمْ وَإِمَائِكُمْ إِنْ يَكُونُوا فُقَرَاءَ يُعْنِهِمُ اللَّهُ
مِنْ فَضْلِهِ وَاللَّهُ وَاسِعٌ عَلِيمٌ.²³

"Marry those among you who are single, or the Virtuous ones among yourselves, male or female: if they are in poverty, God will give them means out of His grace: for God encompassed all and He knoweth all things."

On the other hand, whatever dowry a man gives his prospective wife belongs to her exclusively and whatever she may have acquired before or after marriage is hers alone. There is no statutory community of property of husband and wives. Furthermore, it is the husband who is responsible for the support and economic security of the family. He must even provide his wife with the kind of help and service to which she was accustomed before marriage. According to some jurists, the wife is under no legal obligation to do the routine housework, although she may do so, and usually does, as the family situation requires.²⁴

²² -Ibid.p.55-56

²³ -Al-Quran.An Nuur.24:32

²⁴ -Ibid.p.56

CHAPTER TWO

CHAPTER 2

2.1 INTRODUCTION

Husband's obligations are the wife's rights and are obliged to be fulfilled by a husband. Before discussing the wife's rights which is outlined by Islam, it is necessary to look into why does this right is allocated. Islam viewed greatly against the right of a wife because she is also like a man who is an ancestry at Adam and Adam is originated from earth. Allah said:-

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ
 مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً.....²⁵

" O mankind ! Reverence your Guardian –Lord, who created you from a single person, created, of like nature, his mate, and from them twain scattered (like seeds) countless men and women; - reverence God....."

The above citation is clearly showed that man and woman are created by Allah from a single variety and fairly for the woman to obtain the right as equal as man. The equality of the rights is such as:-

²⁵ Al-Quran. Annisa'4:1

(1) *The equality from the aspect of honesty*

Both man and woman is the creature from Adam ancestry and both are equal from the angle of position, freedom and honesty.

Allah said:-

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ.....²⁶

"We have honoured the sons of Adam ..."

(2) *The equality from the aspect of humanity*

Both man and woman are equal from the aspect of their creation .

Allah said:-

هُوَ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ.....²⁷

"It is He who created you from single person ..."

From the above, it is clearly showed that both man and woman are created from earth. Thus, it is fairly for the woman to obtain her equal human right because she is the same beside man from the aspect creation.

²⁶ Al-Quran.Al Isra' 17:70

²⁷ Al-Quran.Al A'raaf 7:189

(3) *The equality from the aspect of right*

Islam gave the equal right for both man and woman in various fields such a *muamalat*, economy and social.²⁸

After generally discussing the woman rights in Islam, it is fine to look into what are the rights of a wife which must be fulfilled by the husband in accordance with what are outlined by Islam.

2.2 HUSBAND'S OBLIGATIONS

2.2.1 GOOD TREATMENT

Through has been discussed about this right in the equality of right but in this part, it is looked in the form in which it is a special right for a wife. Islam has imposed to the husbands so that the behave finely towards wives. As the head of a family, the husband is obliged to give happiness to wife and siblings by spend time in a friendly way with them.

Allah states in the Quran :-

.....وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ فَإِنْ كَرِهْتُمُوهُنَّ فَعَسَىٰ أَنْ تَكْرَهُنَّ شَيْئًا وَيَجْعَلَ اللَّهُ

فِيهِ خَيْرًا كَثِيرًا²⁹

²⁸ Muhamad Uqlah (Dr.).1983.*Nizamul Usrah fil Islam.Umman Hatif : Maktabah Al Risalah Al Hadith*.p.43

²⁹ Al-Quran.AnNisa'4:19

"on the contrary live with them on a footing of kindness and equity .If ye take a dislike to them it may be that ye dislike a thing, and God brings about through it a great deal of good".

Among the manifestation of fine treatment of the husband towards his wife are: -

- (1) Always dignifying a wife and never insulting her whether in the forms of words or behaviours .Has to call a wife with a pleased call.
- (2) Has to forgive a wife for her mistake. Do not heavily enraging her when she is doing something that make up discontented.
- (3) Has to hear her conversation and to accept her views if it is found relevant and acceptable.

From the above explanation, it is clearly showed that a husband has to behave justly and precede the importance of wife which ought to be preseded.This is necessary to ensure the establishment harmony, peace and tranquility in domestic living and in addition, a husband should be patient against any negligence of his wife.

2.2.2 TO GIVE EDUCATION

Allah legally entrusts a wife to her husband and he is responsible on the physical and spiritual safety of his wife. Where he has to take his wife whether to heaven of hell?

Allah expressed this fact as follows:-

يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَاظٌ شِدَادٌ لَا

يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ³⁰

³⁰ Al-Quran.AtTahrim 66:6

"O ye who believe! Save yourselves and your families from a Fire whose fuel is Men and Stones , over which are (appointed) angels stern (and) severe, who flinch not (from executing) the commands they receive from God , but do (precisely) what they are commanded."

To protect oneself from raging give at the hell is by leaving all prohibitions of Allah, upon oneself and members of a family. The wife and siblings should be educated and compelled so that they have dunced all orders of Allah and have leaved all prohibitions of Allah.

As a leader, a husband is obliged to give religious education to his wife at least in *Fardhu ain* to ensure that his wife can perform her role as a Muslim wife. If a husband cannot do so, he has to provide a teacher or otherwise his wife has to learn outside their home for this purpose even without consent from her husband. This husband is also obliged to educate and to lead his wife and children in performing their obligations towards Allah.

According to Allah's statement: -

وَأْمُرْ أَهْلَكَ بِالصَّلَاةِ وَاصْطَبِرْ عَلَيْهَا لَا نَسْأَلُكَ رِزْقًا نَحْنُ نَرْزُقُكَ وَالْعَاقِبَةُ لِلتَّقْوَى³¹

"Enjoin prayer on thy people, and be constant therein. We ask thee not to provide sustenance: we provide it for thee. But the (fruit of) the Hereafter is for righteousness."

³¹ Al-Quran.AtTaaha20:132

2.2.3 HAS PATIENCE AT HEART

The world of a woman is her feeling and it is certainly for the woman behaviour to be discontented, grumble and often fussing .In this way, a husband is obliged to be more patience, courageous and not easily hurting his wife for a little mistake which is done by his wife .The husband's obligation is to better (to improve) some bad things with wisdom

As Allah's creature, there is nothing impeccable exceptionally Allah S.A.W. Therefore a husband cannot hate his wife because of some defects upon his wife .A husband has to know that for any deficiencies upon his wife , there should be plenty of favorable circumstances which cannot be found upon other woman. Thus a husband must always be patience in facing any challenge and readily to accept any deficiencies and advantages upon his wife open- heartedly.

2.2.4 BEHAVE JUSTLY TOWARDS WIFE

Every leader is obliged to behave obligations upon the people under his leadership and so a husband is obliged to behave justly towards his wife. A wife cannot be husband and her right cannot be neglected while her maintenance is obliged to be given completely according to husband's ability .Cruelty over his wife when he has a single wife but when a husband has more than one wife, he begins to behave unjustly. A younger wife is being loved while the older wife is being neglected.

2.2.5 TO GIVE MAINTENANCE AND PROVIDE NECESSARY

The husband is required to provide for his family .If a man has enough money to provide for his family and still refuses to do so, Islamic law allows a woman to take some of his money without his permission and knowledge. Thus a man must be able and willing to meet the basic and essential needs of a family; otherwise, he should not enter in marriage. And, once he is able and marries he must give his family enough to cover their basic needs or else the state may step in and order him to do so.³²

The husband responsibility to maintain his wife and family does not mean that a woman may not help her husband in his professional per suits or add to the economic stability of the family if the need arises or if they both agree for her to do so. By the same token, a man is also encouraged to assist his wife in her household chores as the Prophet (S.A.W) used to do.³³

2.2.6 PROTECT HIS WIFE AND FAMILY

Work is the usual avenue by which men find means to take care of their families. For this reason, men may be obliged to spend many hours outside the home. Providing for and protecting the family may be the major duty for most men; nonetheless, men are also faced with the responsibility of ordering and organizing society in an Islamic fashion suitable to the prevailing circumstances. A man may not merely be the bread winner for his family; he may also be mayor of a city, a judge of a district, and officer in the army or any other occupation or profession. He may have commitments which make similar demands or perhaps greater demands upon his person and time than his family does. Consequently, man, protector of the nation, tribe, community and family, spends much of his time and energy in those or related pursuits.

³² Ibid.p.23

³³ Jameelah Jones & Abu Ameenah Bilaal Philips.*Plural Marriage In Islam*.p.15

A happy marriage enables a man to go about his work with consistent purpose. It is the husband's responsibility to provide for, defend and be considerate of his wife and family's woman, on the other hand, is not obligated to leave her home in search of work. Nor does she have to share her home with anyone not in her immediate household (children, husband) if she does not crate to do so. She is entitled to rule within her private domain. However, if a wife desires to pursue goals outside of the home for personal development or economic necessity, there is no blame on her of she does so with her husband's consent and approval. And, if a wife is overburdened with the weighty responsibility of managing the household, then the husband should help her in any way which suits their needs and situations.³⁴

2.3 HUSBAND'S RIGHTS

A husband also has the right to order his wife to fulfill her religious duties like bathing after childbirth (after she has stopped bleeding), after menstruation and after intercourse, as prayer is an obligatory duty upon her and prayer is not possible without purity. In addition to ordering her in regard to her religious duties, he can compel her respect to his right to sexual wife, when her husband call his wife to satisfy his desire, she must go to him even if she is occupied at the oven. If a woman refuses her husband's bed and he passes the night in anger, the angels curse her until morning.

This is of course in reference to a woman who unjustly refuses her husbands sex in order to control him or make him do certain things for her which is not duties. Such actions upset the natural balance of marriage and put the man who refuses her sexual blackmail under unnecessary emotional pressure which destroys the concept of *Sakan* (emotional rest) , a fundamental principle of marriage as was previously pointed out.³⁵

³⁴ Jameelah Jones & Abu Ameenah Bilaal Philips. *Plural Marriage In Islam*.p.25

³⁵ Jameelah Jones & Abu Ameenah Bilaal Philips. *Plural Marriage In Islam*.p.19

CHAPTER THREE

CHAPTER 3

3.1 WIFE'S OBLIGATIONS

3.1.1 GET THE PERMISSION LEAVE FROM HOUSE

A woman is not permitted to leave her husband's house in order to visit her relatives or friends without his permission, because obedience to one's husband is obligatory while visiting relatives a neighbours is not obligatory , but recommended ; and it is not permitted in is Islamic Law to leave that which is obligatory for that which is recommended. However, it must be noted that man has been ordered to live with his wives on a footing of kindness and equity and it would not be equitable to forbid her from seeing her parents, relatives and close friends without a valid reason. On the other hand, women cannot be restricted from going to the 'Eid prayer', since Allah has ordered them to do so. Nor can they be prohibited from going to the mosque even though it is not an obligation on them to do so.³⁶

3.1.2 OBEDIENCE TO HUSBAND

The obedience to husband required of women is not blind obedience as long as the husband's instructions do not oppose the precepts of Islam .And, for the sake of harmony and good will, husbands are advised not to exercise their right of obedience harshly and dictatorially.However, a woman's submission to her husband's authority

³⁶ Jameelah Jones& Abu Ameenad *Bilaal Philips.Plural Marriage in Islaam.p.21*

should be a part and parcel of her religious duties whose fulfillment will help her to get to paradise. If a husband wants his wife to do something which is against Allah's law, she should not obey him. Yet, a wife must obey her husband in all categories which fall under his right, such as not receiving male company without his consent , not leaving the house without his consent, not disposing of his wealth and possessions without his consent , not leaving the house without his permission and living where he wants her to live.³⁷

3.1.3 CONTROL THE EMOTION

The due to a woman's fragile, emotional make- up which is ideally suited for ultimate authority, she may wrongly disobey or contradict her husband. Under the influence of her monthly cycles, she may be contrary or high-strung and thus make bad decisions or unreasonable statements. This is a fact of life which men must allow for and deal with gracefully is not harshly .Regarding the aspect of harmony in married life³⁸, Allah has said:-

³⁹ وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ.....

"Live with them (women) in equity....."

It is important for man and woman to live together in friendship and harmony, bearing the misfortunes or calamities, which might befall one or the other or the family as a whole. It goes without saying that a woman should happily and peacefully fulfill her obligations to her husband, keeping in her mind the

³⁷ Jameelah Jones& Abu Ameenad Bilaal Philips. *Plural marriage in Islam*.p.15

³⁸ ibid.p17

³⁹ AlQuran. Annisa'4:19

fact that she is basically an equal partner sharing rights and obligations with her man.

Allah expressed this fact as follows:

وَبَعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ
وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ.....⁴⁰

"And women shall have rights similar to the rights against them according to what is equitable..."

3.1.4 CARING OF HUSBAND

A woman's primary responsibility in marriage is attendance to the needs of her husband .It is incumbent on her to make the marriage as happy as possible. Her major concern other than her children should be the happiness, comfort and welfare of her spouse .She should try to be honest, faithful, trustworthy, patient and devoutly obedient.

Indeed, she might consider her duty to her husband as one of the roads to paradise, as the fulfillment of the marriage bond is half of religion. Therefore, marriage should not be treated as one of life's sidelines but should give the importance and attention that is due it.

Accordingly, Islam views marriage as a bond which reflects Allah's mercy to us. He, in His infinite Beneficence granted us mates from among ourselves to whom and from whom we give and take pleasure and support .Each husband and wife are gifts one

⁴⁰ Al-Quran.Al-Baqarah 2:228

unto the other and clearly it is part of marriage to be thankful for Allah's blessings to us and cherish His favors by cherishing our mates. ⁴¹

3.2 RIGHTS OF THE WIFE OVER THE HUSBAND

3.2.1 DOWRY (MAHR)

This right of the wife has been discussed in some detail. Allah said in the Qur'an:

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً فَإِنْ طِبْنَ لَكُمْ عَنْ شَيْءٍ مِّنْهُ نَفْسًا فَكُلُوهُ هَنِيئًا مَّرِيئًا⁴²

"And give the women (on marriage) their dowries as a free gift; but, if they are, of their own good pleasure, remit any part of it to you , take it with right good cheer.. "

The payment of the dowry to the wife is an obligation and a debt upon the husband until he pays it and there is no escaping it unless the wife freely and willingly gives up her right to it. In the past, and in many cases today, the father tries to take the *mahr* away from his daughter. In the *jahiliya*, this was justified by saying that the father was merely recouping all the expenses he put forth for his daughter who is now a member of another family and benefits them.

Nowadays, it occurs often in this country that the husband tries to take back the dowry (if it is even paid in the first place) or make use of it in forms of spending which were obligatory upon HIM in the first place. This is a lowly practice and is completely

⁴¹ Jameelah Jones & Abu Ameenah Bilal Philips. *Plural Marriage in Islaam*. p.26

⁴² AlQuran. Annisa' 4:4

forbidden unless she explicitly allows it without any coercion or pressure. Otherwise, it is HER property and she may dispose of it (or not) as she alone sees fit.⁴³

3.2.2 MAINTENANCE (*NAFAQAH*)

Allah says:

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ وَعَلَى
الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا⁴⁴

"The mother shall give such to their offspring for two whole years, if the father desires to complete then term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear...."

Her support is one of the most important rights of the wife over her husband. *Ibn Katheer* commented that the above verse implies that he must provide for her without extravagance or the opposite, according to his ability and the standards set by his society at his time.

Support of one's wife is one of the most important obligations of the husband. It is one of the distinguishing aspects of "husband hood".

⁴³ http://www.beautifulislam.net/marriage/nikah_wife.htm

⁴⁴ Al-Quran. Al Baqarah 2:233

Allah said in the Qur'an:

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ

أَمْوَالِهِمْ⁴⁵

"Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means"

If a husband does not support his wife, she has no obligation to fulfill her obligations to him. If a woman goes to a judge and shows that her husband will not support her, the judge may immediately separate them according to numerous scholars.

The verse makes clear that the man being "in charge" goes back to the two causes mentioned. This means two things:

- 1) both men and women need to be aware of this right and this obligation and that the woman is under no obligation to stay in the marriage if she is not supported - regardless of his wealth and hers and
- 2) Muslim society must be organized in such a way that Muslim men are able to get the means to support a wife.

This second point is critical. If society reaches a state where women are more able to earn a living than men, this will undermine the "in charge" status of many men in their households. It will in fact undermine the Islamic household altogether. This is what is happening in virtually every Muslim land today with U.N. and other organizations giving primary attention to helping women to be economically viable and independence even when a large percentage of the men still cannot find the means to support a family. (It is the same destruction they inflicted on families in the U.S. in

⁴⁵ Al-quran. Annisa'4:34

the 50's 60's with the welfare system.) The corrupting influence this will have on society as a whole cannot even begin to be described.

Women are absolutely allowed in Islam to pursue business ventures (the Prophet's first wife Khadijah was a major business woman in *Makka*), employment and other means of earning money. They are, in fact, needed in various sectors such as women doctors and women teachers. However, facilitating the ability of men to earn a living and support a family is the FIRST priority in an Islamic society. All economic planning and social/economic programs must be in line with this principal.⁴⁶

3.2.3 KIND AND PROPER TREATMENT

Allah says:

وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ لِتَذْهَبُوا فِيْهَا كَرِهْتُمُوهُنَّ فَعَسَىٰ اَنْ تَكْرَهُوْا شَيْئًا وَيَجْعَلَ اللّٰهُ فِيْهِ خَيْرًا كَثِيْرًا⁴⁷

"...on the contrary live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing, God brings about through it a great deal of good."

Part of the problem is Muslims buying into the fantasy world being propagated in television, movies and other media. The *hadith* about the rib makes it clear that it is rare to find a "perfect wife" and in the same manner, no woman should expect to find the "perfect husband". If one is living in some fantasy world, they are apt to be greatly disappointed with real life.⁴⁸

⁴⁶ http://ww.beautifulislam.net/marriage/nikah_wife.htm

⁴⁷ Al-Quran. Annisa' 4:19

⁴⁸ http://ww.beautifulislam.net/marriage/nikah_wife.htm

3.2.4 NOT TO BE BEATEN

It is the right of the Muslim wife that she is not to be struck except in the case of *nusyuz* (rebellion against the husband's authority). Even in that case, the husband is only allowed to "strike" her, but in a way which does no harm, similar to the proper disciplining of a child. It is never lawful for him to strike her face or cause her any bruise or injury.

Allah says in the Qur'an:

وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَأَهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاصْرَبُوهُنَّ فَإِنْ أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا⁴⁹

"...And (as for) those (women) from whom you anticipate rebellion, admonish them, avoid them in the sleeping place and hit them. If they obey you, do not desire and further way to (harm) them. Surely, Allah Knows, Great."

It is incomprehensible how so many translators have translated the word "*wadhriboohunna*" in the above verse as "beat them" or, even more laughable: "beat them [lightly]". This is wrong, wrong, wrong. It is an abomination which has caused much misunderstanding and opened the door to the enemies of Islam. The word in Arabic means to "strike" or "hit". It includes everything from a tap with a tooth-stick to what in English we call beating. If it is stated that so-and-so "hit" so-and-so without further description, it would be assumed to be a single blow and it could be of any magnitude.

⁴⁹ Al-Quran. Annisa' 4:34

The verse mentions admonition, boycotting and hitting in the case of *nusyuz*. This refers to a rebellion against the husband's authority within the marriage which amounts to a breach of the marriage contract on her part. *Ibn Taimia* said about this:

"*Nusyuz* in the verse: {**...And (as for) those (women) from whom you anticipate rebellion (*nusyuz*)...**}

means that she is recalcitrant to her husband and she is estranged to him inasmuch as she does not obey him when he calls her to bed, or she leaves the house without his permission and other similar things in which she is required to obey him "

Many scholars have stated that the three steps must be taken sequentially, i.e., admonition then separation in sleeping and finally hitting, making hitting a last resort only in extreme situations. Thus the vast majority of when men do to their wives in spontaneous fits of rage often over trivial issues is absolutely *haraam* and not sanctioned by Islam in any way.⁵⁰

3.2.5 JUSTICE

If a man has more than one wife, he is required to do justice between them in terms of physical things (housing, clothing, food, etc.) and nights spent with each.

Allah said:

وَلَكِنْ تَسْتَطِيعُونَ أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمِيلِ تَذَرُوهَا

كَالْمُعَلَّقَةِ وَإِنْ تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا⁵¹

⁵⁰ http://www.beautifulislam.net/marriage/nikah_wife.htm