

Gunawan Adnan

Women and The Glorious Qur'ān:  
An Analytical Study of Women-Related  
Verses of Sūra An-Nisa'



Universitätsdrucke Göttingen



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**Respectfully dedicated to**

**My honorable parents  
...who gave me a wonderful world.**

**To my beloved wife, son and daughter  
...who make my world beautiful and meaningful as well.**

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Gunawan Adnan  
Göttingen, 2004

Although my specialty is medicine and not Arabic studies, when I came into contact with this book while it was still in the manuscript stage, I took the opportunity to read it. It was pure curiosity on my part to learn whether women's position in Muslim society today is actually based on the scripture of the Qur'an itself. I had read parts of the Qur'an over the years and had noted the very pragmatic approach it took to matters of daily life, such as the responsibilities of a person who can read and write towards those who cannot, or how an inheritance is to be divided amongst the male and female members of a family. The latter and other parts of the Qur'an seemed to confirm the general opinion that women always play a subordinate role in Muslim society. Reading this book I was surprised to find that there is a diversity of opinions regarding woman's role and that in some instances and in some social contexts, rules that appear at first glance to discriminate against women, actually give them a measure of protection and social standing. I was also quite amazed to learn from discussions with the author - a very enthusiastic young man - that the concept of polygyny, which one tends to regard as an integral part of Muslim society, was originally conceived as a measure of expediency to protect orphaned or widowed women when men were in short supply, and not as a standard practice. On the whole and in many ways I found this book and the discussions with the author informative and very illuminating.

Prof. Thomas A Crozier

## **Bismillāhir-rahmānir-raḥīm**

(In the Name of Allāh, the Most Gracious, The Most Merciful)

“...And of knowledge, you (mankind) have been given only a little”  
**Q.S. Al-Isra’ / 17: 85**

Say (O Muhammad pbuh) to mankind: “If the sea were ink for (writing) the words of my Lord, surely, the sea would be exhausted before the Words of my Lord would be finished, even if We brought (another sea) like it for its aids.”  
**Q.S. Al-Kahf / 18: 109**

To Allāh belongs whatsoever is in the heavens and the earth. Verily, Allāh, He is al-Ghānī (Rich, Free of all needs), Worthy of all praise. And if all the trees on the earth were pens and the sea (were ink wherewith to write), with seven seas behind it to add to its (supply), yet the Words of Allāh would not be exhausted. Verily, Allāh is All-Mighty, All-Wise.  
**Q. S. Luqmān / 31: 26-27**

“...Allāh will exalt in degree those of you who believe, and those who have been granted knowledge. And Allāh is Well-Acquainted with what you do.”  
**Q. S. Al-Mujādilah / 58: 11**

## Conclusion

### A. General Conclusion

The Qur'ān does not chronologically present the creation process of man and woman. It, nevertheless, does principally and essentially respect and view woman as just as an important part of the whole cosmos as man. The existence of woman is considered by the Qur'ān to be as urgent as the existence of man. God, The Almighty, as the Qur'ān informs us, gives equal rewards to everybody who performs good deeds and gives punishments to those who commit evil deeds. There is no single verse that supports and promotes gender discrimination on the basis of gender. Unfortunately, in most societies, especially Muslim ones, the concept of gender, which is actually a product of a social construct tends to accord women a low status and often puts them in a non-advantageous position.

It seems that many ancient values and traditions which might have been derived from classical cultural and religious teachings have thoughtlessly been adopted and continuously applied to the present day. Moreover, the exaggerated regards for the translation and interpretation of the meaning of divine scriptures and texts – including the Qur'ān, Old Testament, etc. – as the source of a final and legitimate verdicts (*fatawā*), have made the position of women weaker and more disadvantageous. Therefore, it is a crucial necessity to promote gender equality through a reconstruction of gender relationships in a more just way. This task is not only the responsibility of women, especially Muslim woman, but also men. It is not a struggle and fight of woman against man.

The gender bias in the interpretation of some religious or divine scriptures are understood by some to say that discrimination against and oppression of women are allowed and to make such attitudes permissible. There is therefore a need to reexamine and reinterpret certain gender-related verses, which can bring a fresh breeze to building an equal and harmonious inter-relationship between man and woman. Theologians, that is Qur'ānic Commentators in this context, have an important role to play in reinterpreting religious texts. As has become clear in the passage of time, many interpretations of the meaning of divine scripture legitimised certain social and cultural constructs. Conversely, there were also many value systems and social constructs that were built based on a basis of understanding or interpretation of divine scripture, for instance, the Old Testament's concept of the creation of woman (Eve), who was thought to have been created from Adam's rib. The action of woman (Eve) were also regarded as the main reason for God expelling mankind to this earth, so that

woman is guilty and deserved to carry inherited sins i.e. the Original Sin.<sup>1</sup> This story has inevitably infiltrated into some Qurʾān exegesis (commentaries [*kitāb tafsīr*]).

The Qurʾān acknowledges anatomical differences between man and woman. These differences, however, do not automatically make one sex more valuable than the other. The Qurʾān, for instance, says that the essential concept of building a family life (marriage) is to gain the so-called *mawadda waraḥma*, namely, to enjoy a harmonious life full of peace and love. Gender-related verses in the Qurʾān provide general guidance regarding how to simultaneously improve individual and social quality. The Qurʾān does not burden one sex alone with the absolute and awkward responsibility for this; the most important aspect of Qurʾānic spirit that must be learned by mankind is that how to share burdens or responsibility between both sexes (man and woman) in order to achieve a happy life, both life in this world and in the next as well. Moreover, the Qurʾān declares that the special qualities and superiority of a person is not given or handed out as a gift from the Heaven (God), but it depends on one's effort (*ikhtiyār*). Thus a good fate or bad one does not depend on gender i.e. male or female.

The Qurʾān, indeed, reforms and is characterized by gender equality. Among other things, it equalizes the position of man and woman as the slave (*ʿābid*) of God and created from the same material (element) "*nafsin wāḥidatin*". Moreover, both men and women will be given a high position by God if they are pious "*taqwa*".<sup>2</sup> Men and women are given the same opportunity to partake of God's blessing and mercy as well as His approval (*riḍallāh*). The Qurʾān does not acknowledge Inherited or Original Sin. Everybody is responsible for his/her own sin. Even though, it may appear that certain verses give more privileges to man such as verses concerning inheritance, polygyny, testimony, etc. these verses were revealed as answers to special questions with particular backgrounds (*khuṣūṣ as-sabāb*). This holds also true although the context (*lafẓ*) of the verses are general (*ʿumūm al-lafẓ*). And although, almost all gender-related verses revealed based on special backgrounds, the *lafẓ* (context) of the verses are general (*ʿumūm*). Given this, which one of both forms should be more strongly taken into consideration to determine a certain law?

Most 'ulamā' (*jumhūr ūlamā*) and Qurʾān commentators are of the opinion that general context (*ʿumūm al-lafẓ*) must be given the first priority i.e. law should be determined based on textual aspect of the verses. But some 'ulamā' consider the special backgrounds (contextual aspects) of the verses must be given

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<sup>1</sup>Read again "*Al-Kitāb (the Bible): Kitāb Kejadian (Genesis) 2:18, 2:21-23 and 2:12*" Indonesian Edition. Lembaga Al-Kitāb Indonesia, Jakarta, 1992, p. 10.

<sup>2</sup>See again QS. Al-Ḥujarat/49:13.

priority by, namely, considering the essential and principal [i.e. the quality, conductors (doers), social background, etc. of the case] of the cause of the revelation (*asbāb an-nuzūl*) of the verses. It is understandable that *jumhūr ‘ulamā’*’s opinions are very textual on the one hand, and minority ‘ulamā’’s opinions are more moderate and contextual on the other.

## **B. The Similarities and Differences of Opinion between Sha’rawī and Şiddiqī.**

### **B. 1. The Concept of Human Creation**

According to Sha’rawī the phrase *min nafsīn wāḥidatin* in sūra an-Nisā’ verse no. 1 may be interpreted in two ways, first, Eve was created from Adam’s rib, and second, Eve was created from the same material from which Adam was also created. However, Sha’rawī himself does not openly give his opinion regarding this issue. He just suggests that it is better to avoid interpreting such a controversial matter that we (human beings) did not witness in order to prevent ourselves from going astray. Unlike Sha’rawī, Şiddiqī is of the opinion that the phrase *min nafsīn wāḥidatin* in the above-mentioned verse does not refer to Adam but it refers to the same species and sort of material i.e. the species of creature.

### **B. 2. The Concept of Leadership**

Sha’rawī is of the opinion that the phrase “*ar-rijālu qawwāmūna ‘alā an-Nisā’i*” in sūra an-Nisā’ verse no. 34 could be interpreted that men are the protectors and leaders of women. He, however, adds that to hold the position or status as the leader or protector of women, men must be able to protect and to give security for women, if not, men do not deserve this position. Men earn this status because, according to Sha’rawī, the word *al-Qawwām* is identical with tiredness and struggle, which is associated with men. In addition, men must also be able to provide financial support (basic necessity of life) for their women i.e. wives and children, if not they should not occupy the position of leader. This is, according to him, in accordance with God’s revelation i.e. “...*wabimā anfaqu min amwālihim*, meaning “...and because they spend (to support them) from their means”. Like Sha’rawī, Şiddiqī also interprets and is of the opinion that the phrase “*ar-rijālu qawwāmūna ‘alā an-Nisā’i*” indicates that, men are the managers of women. As managers of women, men have to protect and provide a secure state for them, because, according to Şiddiqī, the obligations as such are part of men’s duties and responsibilities.

### **B. 3. The Concept of Inheritance**

Both Sha'rawī and Şiddiqī are in agreement that the formula 2:1 of inheritance is fair enough. Both of them thought that it is fair and not discriminatory against women because it is appropriate to the rights and responsibilities between men and women. For instance, men are responsible for supporting financial life both for their wives and children whereas women are free from such responsibilities. Moreover, if women get married, they obtain bride price, whereas men have to pay for the bride price. Men must pay the bride price again if they get married for the second time, while women will receive a new bride price if they get married a second time, etc.

### **B. 4. The Concept of Polygyny**

Sha'rawī and Şiddiqī are of the opinion that the verse no.3 of sūra an-Nisa' is not aimed at instructing the conduct of polygyny; it is just a *rukhsa* (exception or a contingency arrangement). Since this verse was revealed in relation to the matter of taking good care of orphan-girls, one must be able to catch and recognize the spirit behind the revelation of this verse i.e. to protect women and to treat them justly. Furthermore, both of commentators emphasized that a man is required to be just, fair and successful in the first marriage as the prerequisite of conducting polygyny. As a logical consequence, if a man fails in doing so, he cannot be permitted to practice polygyny i.e. to marry a second or up to four wives.

## Zusammenfassung

### A. Generelle Zusammenfassung

Der *Qurʾān* präsentiert keinen chronologischen Schöpfungsprozeß von Mann und Frau. Dennoch respektiert er die Frau wie auch den Mann im Wesentlichen als einen wichtigen Teil des gesamten Kosmos. Die Existenz der Frau wird im *Qurʾān* als genauso wichtig angesehen wie die Existenz des Mannes. Dem *Qurʾān* zufolge gibt Gott der Allmächtige jedem dieselbe Belohnung, der gute Taten vollbringt, und bestraft diejenigen, die Böses tun. Es existiert keinen Hinweis auf die Unterscheidung nach dem sozialen Geschlecht („gender“) auf der Basis des biologischen Geschlechts („sex“). Leider wird das Konzept des sozialen Geschlechts, das eigentlich ein soziales Konstrukt ist, in vielen, besonders in muslimischen, Gesellschaften auf eine niedrige und benachteiligte Position der Frau bezogen.

Es scheint, dass alte Werte und Traditionen, die zum Beispiel von klassischen kulturellen und religiösen Lehren stammen, unüberlegt angepasst wurden und kontinuierlich angewendet werden. Außerdem schwächte die übertriebene Betrachtung der Übersetzung und Interpretation der Bedeutung göttlicher Schriften und Texte – inklusive des *Qurʾān* und des Alten Testaments, usw. – als finale und legitime Urteile (*fatwā*) die Position der Frau. Deshalb ist es besonders wichtig, die Gleichheit der Geschlechter durch die sogenannte Rekonstruktion der Geschlechterbeziehungen in einer gerechteren Art und Weise zu fördern. Dies ist nicht nur die Aufgabe der Frau, z.B. der muslimischen, sondern auch des Mannes. Es ist kein Kampf von Mann gegen Frau.

Das Vorurteil bezüglich der Geschlechter in der Interpretation von religiösen oder göttlichen Schriften liefert die Legitimation für die Diskriminierung und Unterdrückung der Frau. In diesem Fall müssen bestimmte geschlechterbezogene Verse reinterpretiert werden, die mit gerechteren Vorstellungen kompatibel sind und einen neuen Raum für die gleichberechtigte und harmonische Beziehung zwischen Mann und Frau gewährleisten. Theologen, wie zum Beispiel *Qurʾān* -Kommentatoren müssen im Zusammenhang mit der Reinterpretation von religiösen Texten eine wichtige Rolle spielen. Wie im Laufe der Zeit klar wurde, legitimierten viele Interpretationen der Bedeutung von göttlichen Schriften bestimmte soziale und kulturelle Konstrukte. Andererseits gab es auch viele Wertesysteme und soziale Konstruktionen, die auf der Basis der Interpretation göttlicher Schriften beruhen, wie zum Beispiel die alttestamentliche Wahrnehmung der Schöpfung der Frau (*Eva*), die so aus der Rippe Adams erschaffen wurde. Die Frau (*Eva*)

wird auch als Ursache für die Vertreibung des Menschen (Adam) aus dem Paradies betrachtet, so dass die Frau es verdiene, die Erbsünde zu tragen, usw.<sup>3</sup> Diese Geschichte sickerte unvermeidbar in manche Exegese des *Qurʾān* (*kitāb tafsīr*).

Der *Qurʾān* bestätigt die anatomischen Unterschiede zwischen Mann und Frau. Die Unterschiede erheben jedoch nicht ein Geschlecht über das andere. Der *Qurʾān*, zum Beispiel, sagt, dass das essentielle Konzept der Gründung einer Familie (Heirat), *mawadda waraḥma*, zu erreichen ist, nämlich ein harmonisches Leben in Frieden und Liebe zu führen. Geschlechterbezogene Verse im *Qurʾān* stellen generelle Richtlinien dar, wie individuelle und soziale Qualität gleichzeitig verbessert werden können. Der *Qurʾān* belastet nicht ein bestimmtes Geschlecht oder eine bestimmte Person mit der absoluten Verantwortung; aber das Wichtigste des Geistes des *Qurʾān*, das von der Menschheit erfasst werden muss, ist es, die Bürden der Geschlechter oder die Verantwortung zwischen den beiden Geschlechtern (Mann und Frau) zu teilen, um ein glückliches Leben sowohl auf dieser Welt als auch danach zu führen. Außerdem erklärt der *Qurʾān*, dass die Besonderheit und die Übermacht einer Person kein von Gott gegebenes Geschenk ist, sondern von den eigenen Bemühungen des Einzelnen abhängt (*ikhtiyār*). Deshalb hängt ein gutes oder schlechtes Schicksal nicht vom Geschlecht (männlich oder weiblich) ab.

Der *Qurʾān* wahrlich reformiert die Gleichheit der Geschlechter vielmehr. Unter anderem macht er die Position des Mannes und der Frau als Sklaven (*ʿābid*) von Gott gleich, da sie aus demselben Material erschaffen sind: *nafsīn wahidatin*. Weiterhin verleiht Gott Männern und Frauen eine hohe Position, wenn sie fromm sind: *taqwa*.<sup>4</sup> Männer und Frauen haben dieselbe Möglichkeit den Segen und die Gnade Gottes zu erringen. Der *Qurʾān* kennt keine Erbsünde. Jeder ist für seine eigenen Sünden verantwortlich. Obwohl einige Verse dem Mann mehr Privilegien zu geben scheinen, wie zum Beispiel die Verse über die Erbschaft, Polygynie, Zeugenaussage etc., wurden diese Verse als Antworten auf bestimmte Hintergründe verstanden. Dies trifft auch zu, wenn es sich beim Kontext (*lafẓ*) der Verse um einen generellen handelt (*ʿumūm al-lafẓ*). Und obwohl nahezu alle geschlechterbezogenen Verse auf einem speziellen Hintergrund beruhen, sind ihre Zusammenhänge generell (*umum*). Wenn dem so ist, welcher der beiden Formen soll dann zuerst und dringend betrachtet werden, um ein bestimmtes Gesetz zu bestimmen?

Die meisten *ʿulama* (*Jumhūr*) und *Qurʾān*-Kommentatoren sind der Meinung, dass dem generellen Kontext die Priorität gegeben werden muss, d.h. das

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<sup>3</sup> Siehe: „Al-Kitab (Die Bibel): Kitab Kejadian (Genesis) 2:18, 2:21-23 und 2:12“ Indonesische Edition. Lembaga Al Kitab Indonesia, Jakarta, 1992, S. 10.

<sup>4</sup> Siehe: QS.Al-Hujarat/49:13.

Gesetz nach dem textuellen Aspekt der Verse zu bestimmen. Wohingegen manche *‘ulama* der Ansicht sind, dass der spezielle Hintergrund der Verse, also das Essentielle und Prinzipielle (d.h. die Qualität, die Ausführenden, der soziale Hintergrund, usw. des speziellen Falles) der Offenbarung (*asbāb an-nuzūl*) der Verse Priorität erfahren müsse. Es ist angemessen, wenn die Meinungen des *jumhur ulama*’ einerseits sehr textuell, und die die Minderheit der Meinungen moderater und kontextueller als die anderen sind.

## **B. Die Ähnlichkeiten und die Meinungsverschiedenheiten zwischen Sha’rawī und Şiddiqī.**

### **B.1. Das Konzept der menschlichen Kreation**

Entsprechend Sha’rawī kann die Phrase „*min nafsīn wāḥidatin*“ im sūra an-Nisā’ Vers Nr. 1 auf zweierlei Art gedeutet werden; in der ersten wurde Eva aus der Rippe Adams erschaffen, und an der zweiten Stelle wurde Eva vom gleichen Material erschaffen, aus dem auch Adam erschaffen wurde. Jedoch gibt Sha’rawī selbst verdeutlich nicht hinreichend sein Urteil betreffend dieser Aussage (Thema). Er schlägt gerade vor, daß es besser wäre, die Deutung einer solch umstrittenen Angelegenheit, die wir (menschliches Wesen) bei der wir nicht zeuge waren, zu vermeiden oder offen zu lassen, um uns nicht in die Irre zu führen. Anders als Sha’rawī ist Şiddiqī der Meinung, daß die Phrase „*min nafsīn wāḥidatin*“ im oben erwähnten Vers sich nicht auf Adam bezieht, sich aber auf menschliche Wesen und nicht auf Tiere bezieht, sondern auf die Art der Materie, aus der Kreaturen geschaffen wurden.

### **B.2. Das Konzept der Führung**

Sha’rawī ist der Meinung daß die Phrase „*ar-rijālu qawwāmūna ‘alā an-Nisā’i*“ im sūra an-Nisā’ könnte Vers Nr. 34 gedeutet werden, den Männer der Schutz und der Führer für Frauen sind. Er fügt jedoch hinzu, dass Männer, um die Position oder den Status als der Führer oder der Schutz der Frauen zu halten in der Lage sein muss, Sicherheit für Frauen anzubieten. Wenn sie hierzu nicht in der Lage sind, verdienen sie nicht die Führer der Frauen genannt zu werden, da zufolge Sha’rawī, das Wort *al-qawwām* mit Ermüdung oder Bemühung und Kampf identisch ist. Außerdem müssen Männer auch in der Lage sein, Frauen finanzielle Unterstützung (grundlegende Notwendigkeit des Lebens) zu geben, wenn sie die Position als Führer halten wollen. Dieses ist dementsprechend in Übereinstimmung mit Gottes Enthüllung d.h. „... *wabimā anfaqu min amwālihim*“ bedeutet „... und weil sie (die Männer) sie mit ihren Mitteln unterstützen. Wie Sha’rawī ist auch Şiddiqī der Meinung, daß die Phrase „*ar-rijālu qawwāmūna ‘alā an-Nisā’i*“ bedeutet, daß Männer die Verwalter der Frauen sind. Als Verwalter der Frauen, müssen Männer sie schützen und

gesicherte Umstände für sie zur Verfügung stellen, weil, entsprechend Ṣiddiqī, die Verpflichtungen ein Teil der Aufgaben und der Verantwortung der Männer sind.

### **B.3. Das Konzept der Erbschaft**

Sha'rawī und Ṣiddiqī stimmen überein, daß die 2:1 Formel der Erbschaft ehrlich genug sei. Alle fanden, daß sie angemessen und nicht diskriminierend sei, weil sie mit den Rechten und den Pflichten zwischen Männern und Frauen übereinstimme. Zum Beispiel sind Männer für die Unterstützung des finanziellen Lebens ihrer Frauen und Kinder verantwortlich, während Frauen von solche Pflichten frei sind. Außerdem, nach beider Meinungen, wenn Frauen heiraten, erhalten sie einen Brautpreis (*engl.* bride price), während Männer diese aufbringen oder zahlen müssen. Männer müssen diesen Brautprice jedesmal, wenn sie wieder heiraten, zahlen, während Frauen jedesmal eine neue Aussteuer erhalten.

### **B.4. Das Konzept der Polygynie**

Sha'rawī und Ṣiddiqī sind der Meinung, daß Vers 3 der sūra an-Nisa' keine Anweisung zur Polygynie ist; er ist ein *rukḥṣa* gerecht (eine Art Erlaubnis oder eine Verhalten in dringender Situation oder als not Ausweg). Da sich dieser Vers auf die richtige Obhut verwaister Mädchen bezieht, muß man darüberhinaus verstehen, daß es darum geht, Frauen zu schützen und sie gerecht zu behandeln. Darüber hinaus betonen beide, dass ein Mann gerecht, fair und erfolgreich bei der ersten Heirat sein muss als Voraussetzung dafür, eine zweite Ehe einzugehen. Als logische Konsequenz ist es ihm nicht gestattet, eine zweite oder bis zur vierten Ehe (Polygynie) einzugehen, wenn ihm diese Voraussetzungen fehlen.

## List of Transliterations

There are many transliteration systems known in scholarly works, for instance, DMG., Encyclopaedia of Islam, English, French and Russian systems. However, the transliteration system i.e. Arabic-Latin transliteration used in this dissertation is English system. This based on the fact that this dissertation is written in English. This English-Arabic translation system could be found in the following consonants:

Arabic	English	Arabic	English
أ	:	ا	a
ب	:	ب	b
ت	:	ت	t
ث	:	ث	th
ج	:	ج	j
ح	:	ح	ḥ
خ	:	خ	kh
د	:	د	d
ذ	:	ذ	dh
ر	:	ر	r
ز	:	ز	z
س	:	س	s
ش	:	ش	sh
ص	:	ص	ṣ
ض	:	ض	ḍ
ط	:	ط	ṭ
ظ	:	ظ	ẓ
ع	:	ع	‘
غ	:	غ	gh
ف	:	ف	f
ق	:	ق	q
ك	:	ك	k
ل	:	ل	l
م	:	م	m
ن	:	ن	n
ه	:	ه	h
و	:	و	w
ء	:	ء	’
ي	:	ي	y

### Notes:

“ā” denotes that this “a” must be read long. Example: *kitāb* (book)

“ī” denotes that this “i” must be read long. Example: *mu‘minīn* (believers)

“ū” denotes that this “u” must be read long. Example: *mu‘allimūn* (teachers)

[**ḍ**] This consonant (*ḥurf*) is called “*ta marbūṭa*”. This [**ḍ**] is not written if it is connected to a short consonant. Example: *Jāhiliyya* (ignorants). Nevertheless, it will be written if it is connected with a long consonant, for instance: *Ṣalāh* (prayer). Moreover, this [**ḍ**] “*ta marbūṭa*” will be read or pronounced as sound [**ḍ**] or “*h*” in it is *sukūn* (zerovokal), for instance, [**ḍ**] in the word “*Ṣalāh*”. The word *Ṣalāh* is originally written in Arabic “*Ṣalāta*”.

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### Chapter I

#### Women Before and After the Coming of Islam

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## Introduction

### A. Background of the Study

The Qur'ān is a revealed scripture of the religion of Islam and one of the greatest revealed scriptures. It was gradually revealed to the prophet Muhammad (peace be upon him (p.b.u.h.)), according to most 'Ulamā' (Islamic scholars or *jumhūr l-ūlamā*) over 22 years, 2 months and 22 or 23 days. This revelation period of the Qur'ān can be divided into two phases: 13 years in Mecca and the rest in Medina.<sup>5</sup> The surās (chapters) that were revealed in Mecca are known as *as-Sūra al-Makkiyya*, while the sūras that were revealed in Medina are called *as-Sūra al-Madaniyya*.<sup>6</sup>

The Qur'ān consists of 114 surās that are divided into 30 parts, which are known as *juz*. Based on their length, the surās are classified into four categories:<sup>7</sup>

1. *As-Sab'ut-Ṭiwāl*, which are the seven long surās, i.e. *sūra al-Baqara*, *sūra al-Imrān*, *sūra an-Nisa'*, *sūra al-A'raf*, *sūra al-An'ām*, *sūra al-Mā'idah* and *sūra Yūnus*.
2. *Al-Mi'ūn*, which are the sūras that consist of 100 verses or a bit more. For example, *sūra Hūd*, *sūra Yūsuf*, *sūra Mu'min*, etc.
3. *Al-Matṭānī*, are the sūras that consist of fewer than 100 verses, particularly, *surā al-Anfāl*, *sūra al-Hijr*, etc.
4. *Al-Mufaṣṣal*, are the sūras that consist of short verses, among others, *sūra aḍ-ḍuhā*, *sūra al-Ikhlās*, *sūra al-Falaq*, *sūra an-Nās*, etc.

The Qur'ān is revealed in the Arabic language, in what is considered as classical standard Arabic style. Thus the Qur'ān says:

وَلَقَدْ يَسَّرْنَا الْقُرْآنَ لِلذِّكْرِ فَهَلْ مِنْ مُدَكِّرٍ ﴿١٧﴾

<sup>5</sup>Departemen Agama R.I (Department of Religious Affairs of the Republic of Indonesia), "Al-Qur'ān dan Terjemahannya" Jakarta, March 1, 1971, p. 16. The sentence "Departemen Agama", will be abbreviated throughout as Depag R.I.

<sup>6</sup> For more about the content of *as-Sūra al-Makkiyyah* and *as-Sūra al-Madaniyya*, see Nagel, T. "Medinensiche Einschübe in Mekkanischen Suren". 3<sup>rd</sup> Edition (1995), Vandenhoeck & Ruprecht in Göttingen. See also Manna Khalil al-Khaṭṭān, „*Mabāḥith fī 'ulūm al-Qur'ān*“, Beirut: Third Edition, 1973, p. 10-20. Compare also with Sayyid Qutb, "Tafsīr fī dīlāl l-Qur'ān", Dār ash-Shurūq, Bairut, 1982, etc.

<sup>7</sup> Depag R.I. (1971), p. 17

“And We have indeed made the Qur’ān easy to understand and remember: then is there any that will receive admonition?” (54:17).

The Qur’ān is easy to understand and also difficult to comprehend in places. The Qur’ān says in *sūra al-Imrān*:

هُوَ الَّذِي أَنْزَلَ عَلَيْكَ الْكِتَابَ مِنْهُ آيَاتٌ مُحْكَمَاتٌ هُنَّ  
أُمُّ الْكِتَابِ وَأُخَرُ مُتَشَابِهَاتٌ فَأَمَّا الَّذِينَ فِي قُلُوبِهِمْ زَيْغٌ فَيَتَّبِعُونَ مَا  
تَشَابَهَ مِنْهُ ابْتِغَاءَ الْفِتْنَةِ وَابْتِغَاءَ تَأْوِيلِهِ وَمَا يَعْلَمُ تَأْوِيلَهُ إِلَّا اللَّهُ  
وَالرَّاسِخُونَ فِي الْعِلْمِ يَقُولُونَ آمَنَّا بِهِ كُلٌّ مِّنْ عِنْدِ رَبِّنَا وَمَا يَذَّكَّرُ إِلَّا  
أُولُو الْأَلْبَابِ ﴿٧﴾

“It is He Who has sent down to you (Muhammad pbuh) the Book (this Qur’ān). In it are Verses that are entirely clear, they are foundations of the Book [and those are the Verses of al-Aḥkām (commandment), e.g. verses on *al-Farā-īḍ* (obligatory duties) and *al-Hudūd* (legal laws for the punishment of thieves, adulterers)]; and others not entirely clear (allegorical). So as for those in whose hearts there is a deviation (from the truth) they follow that which is not entirely clear thereof, seeking *Al-fitna*<sup>8</sup> (polytheism and trials), and seeking for its hidden meanings, but none knows its hidden meanings save Allāh. And those who are firmly grounded in knowledge say: “We believe in it; the whole of it (clear and unclear Verses) are from our Lord.” And none receive admonition except men of understanding.<sup>9</sup>

The above verse of the Qur’ān shows clearly that there are passages, which are allegorical and liable to different interpretation. The true interpretation of the allegorical parts is only known to Allah and to those who are firmly rooted in knowledge, who believe in revelation from the core of their heart. However, there are those who do not believe in revelation sincerely and they use such allegorical verses for misleading others and for spreading confusion. The

<sup>8</sup> *Fitna* (Arabic, plural: *fitan*) means trials, persecution, confusion in the religion, conflicts and strife among the Muslims.

<sup>9</sup> QS. Al-Imrān/3:7. Muḥammad Taqiuddin Alhilāli & Muḥammad Muḥsin Khān, “*Translation of the Meanings of The Noble Qur’ān*”, King Fahd Complex for Printing of The Holy Qur’ān, Medina, K.S.A. 1<sup>st</sup> Edition. 1984. p. 68. This English Qur’ān Translation will be used throughout in the translation of Qur’ānic verses in this dissertation.

Qur'ān, as Badru d-Dīn az-Zarkashī said, is a protective haven and lasting gift of bliss, excellent argument and conclusive proof, it cures the heart's fear, and makes just determinations whenever there is doubt. It is lucid speech, and final word, not facetiousness; a lamp which light never extinguishes, an ocean which depths will never be fathomed. It's oratory stuns reason, which combines concise succinctness and inimitable expression.<sup>10</sup>

A great revealed book like the Qur'ān cannot be without allegorical verses. as it deals with complex situations, metaphysical questions, the nature of the creator and creation, and other unknown and unseen realities. In such situations it is very difficult to deal without allegories. These allegorical verses however, are full of meaning. Furthermore. the Qur'ān says that allegorical verses are liable to be misinterpreted by those whose hearts are not straight and who mean mischief. Apart from this, there are people who are not only very sincere in belief, but also in knowledge as well – *ar-rāsikhūna fī al-'ilm* - who have a firm faith in the revealed Book and have a high level of knowledge in understanding the real objectives of these verses and in explaining it to others.<sup>11</sup>

Even though the people of *al-rāsikhūna fī al-'ilm*- are firm in faith and have good knowledge, they are likely to differ from each other in understanding these verses. This is because of differences in socio-cultural backgrounds, on one hand, and because of differing circumstances, such as changing social scene and historical developments on the other. This could cause considerable differences in interpretation and understanding. The Qur'ān warns against those who intend to use allegorical verses for misleading others and for spreading confusion.<sup>12</sup>

For revealed books like the Qur'ān (or other scriptures, too) it is necessary to start with having faith in unseen beings – what the Qur'ān calls *īmān bī al-ghayb*. But – and it is also important to note this – the Qur'ān does not demand blind faith. It speaks of 'reasoned faith' which satisfies people of understanding – *ulī l-albāb*. Literally, *ulī l-albāb* means people of essence. Since reason is essence of mind, people of reason are called *ulī l-albāb*. Thus the Qur'ān does not demand mankind accept something just because it is revealed, but also because it satisfies human needs. Human reason is also a creation of Allah, as well as the revelation. Some people might object to revelation being judged by human logic. This seems to be a valid objection. But a little reflection will

<sup>10</sup> Badru d-Dīn az-Zarkashī: *al-Burhān fī 'Ulūm al-Qur'ān*, ed. Abu l-Faḍl Ibrāhīm, Cairo, 1957, Vol. I, pp. 3-4. In Tilman Nagel: *The History of Islamic Theology: from Muhammad to the Present*, (2000). Engl. Edit. p. 1. This is quoted by Nagel in commenting the method or style of most Islamic introduction to the Qur'ān research.

<sup>11</sup> Asghar Ali Engineer. "On The Methodology of Understanding Islam" in "Islam and Modern Age"; Lahore – Pakistan. May, 2001), p. 2

<sup>12</sup> Asghar Ali Engineer. Ibid. 2-3

show that this is not so. Gold is always tested by a touchstone, but it is no one thinks that the touchstone is more important than the gold. Without touchstones we cannot make sure that gold is genuine. The relationship between reason and revelation is similar. Revelation from Allāh is very important for human guidance. It is like the instruction manual of a car which must be followed correctly and precisely.

The relationship between reason and revelation is more complex than it appears to us. Human logic, however, is not enough to arrive at the center of God's words, which forever resist any attempt at emulation. His words are distinguished by their amazing accuracy and beauty.<sup>13</sup> This is like the inner value of gold, which can only be appreciated by those who have good understanding and the inner senses to appreciate its value - not as only a yellow metal. In the same way, revealed knowledge has an inner impact of pleasure, which can be appreciated by real believers; those who have an additional sense of perception, in their hearts as well as in their souls.

There are people who have eyes to see, and ears to hear, but because of the blindness of their hearts, they cannot see or hear the revealed truth. This means that because of lack of perception and their ego they are not prepared for judging and accepting the truth. The Qur'ān describes them as *summun, bukmun, 'umyun* (2:18), i.e. deaf, dumb and blind.<sup>14</sup> Thus sense of perception is necessary, but not sufficient for an appreciation of true guidance (from Allah). This needs a real appreciation from one's heart and soul. However, the relationship between revelation and its proper appreciation, on one hand, and that between revelation and reason, on the other, is very delicate. This enables ordinary people to be easily deceived by those who mislead others for their own interests.

An appreciation of true revelation is not possible by ignorant people and those without the faculty of intellect. The Qur'ān thus lays stress on both reason and revelation; it also says that real interpretation of those verses which are allegorical is possible only by *al-rāsikhūna fī al-'ilm* (those firmly rooted in knowledge) and also by the so-called people of *Ūlī al-Bāb*.<sup>15</sup> Knowledge and learning are of utmost importance for a proper appreciation of the revelation.

It is also important to note that the Qur'ān, though it contains the highest source of knowledge, initially addressed those who were:

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<sup>13</sup> Nagel, *Op. Cit.* (2000), p. 1

<sup>14</sup> God, The All Mighty, says in the Qur'ānic verse mentioned above "They are deaf, dumb, and blind, so they return no (to the Right Path). QS. Al-Baqara (2:18). Muḥammad Taqiuddīn & Muḥammad Muḥsin Khān, "Translation of the Meaning of The Noble Qur'ān", *Op. Cit.* p. 5.

<sup>15</sup> Read for instance Qur'ān *sūra Al-'imrān* verse no. 7., *sūra an-Nisa'* verse no. 162. See also *sūra al-'Imrān* verse no. 90. etc.

- a) either illiterate (Bedouins, rich and experienced people of Mecca and those whose intellectual level is far from sufficient, or those who had recently migrated from the desert to settled life in urban areas),
- b) or semi-literate but experienced in financial matters.<sup>16</sup>

In reality however, the main respondents to the Qur'ānic message were mostly the poor and the illiterates. The message had to be in a language which could be easily understood by the poor and uneducated people as well as those from urban and desert areas. In this regard, the Qur'ān, as quoted above, says: “And We have indeed made the Qur'ān easy to understand and remember; then is there any one who will remember (receive admonition)?” (54:17)<sup>17</sup>.

The Qur'ān does not deal with a static situation; it deals with a dynamic and changing society, and it would take knowledge to deal with very complex issues. Hence, allegorical verses contain numerous meanings that can be understood by those with great knowledge, intellectual qualifications and accomplishments. Moreover, the guidance of the Qur'ān has to transcend the situation. It is therefore important to understand that a revealed scripture does not only deal with what is given, but also has to cater to what is to come.

A religion “*dīn*” is always spiritually transcendent, that is, it goes beyond the given situation. Vested interests oppose it precisely because it subverts the status quo. Wherever there are established interests, there are in-built injustices that we call in modern politico-economic terminology *structural injustices*. A revealed scripture, the Qur'ān, has to address itself to these structural injustices and hence faces stiff opposition from vested interests.<sup>18</sup>

The pre-Islamic society of Mecca was controlled by rich traders on the one hand, and by priests (*kahana*) who were in collusion with these traders, on the other. The rich traders exploited the poor of Mecca and suppressed them by various means, for instance, through their illiteracy and superstitions. The *kahana* of *Ka'ba* were quite helpful in spreading superstitious beliefs and hence their collusion with rich and powerful tribal chiefs.<sup>19</sup> The Qur'ān addresses itself to correcting this ignorant state of affairs. This would not have been possible without spiritual renewal and without demolishing the bastion of tribal

<sup>16</sup>For more information on this issue see, for instance; ‘Abd al-Mun’im Sayyid Ḥasan, “*Awḍā‘ al-Mar’a fī al-Qur’ān al-Karīm*”, Dār al-Bayān li al-Nashr wa at-Tawzī‘. Maṣr: al-Qāhira, 1994. See also Murtaḍā al-Muṭahharī “*Nizām Ḥuqūq al-Mar’a fī al-Islām*”, trans. Abū Zahrā an-Najafī. 1<sup>st</sup> Edition, Sayhar Press, Taheran. 1985

<sup>17</sup>Muhammad Taqiuddin, *Ibid.*, p. 724.

<sup>18</sup>Asghar Ali Engineer. *Op. Cit.*, p. 4

<sup>19</sup>John L. Esposito, “*Islam : The Straight Path*”, 3<sup>rd</sup> Edition. New York: Oxford University Press Inc., 1998, p. 2-5.

power. These tribes had their own superstitions and social divisiveness, perpetrated through various means. Each tribe worshipped its own idol and developed sets of superstitious beliefs around it.

Spiritual renewal was possible only through attacking ignorance, illiteracy, superstitions, divisiveness and socio-economic injustices. The Qur'ān stresses belief in the unity of God (*tawhīd*) and thus demolished in one stroke tribal divisiveness. *Tawhīd*, if followed in its true spirit, could accomplish many goals at a time – religious as well as social. It was through the concept of and belief in *tawhīd*, that all superstitions woven around tribal idols were demolished. It was the concept of *tawhīd* that dealt a fatal blow to divisiveness in the society and brought about a strong sense of unity of all human beings as creatures of one God. Thus the concept of *tawhīd*<sup>20</sup> had great social potentialities which began to unfold themselves once people embraced it.

To empower weaker sections of society was also a very important task without which neither injustices could be removed from social structure nor the goal of social and spiritual renewal could be achieved. To empower the weaker sections of society and also bring about their spiritual renewal, imparting knowledge was highly necessary and hence the first revealed verse of the Qur'ān begins with the word *iqra'* (i.e. recite, read or in other words acquire knowledge). All sociologists know that knowledge is power and it is knowledge, which empowers the weaker sections of a society. Vested interests exploit the weak through their ignorance. It is only through knowledge that they can be empowered. And through knowledge they will be liberated from oppression and exploitation and it is through knowledge that their spiritual renewal will be possible, and it is knowledge that will liberate them from superstitions.

Thus the two major themes of the Qur'ān, apart from others, are *tawhīd* and *'ilm* (i.e. Unity of God and knowledge). Both of these were powerful weapons to unite people and to liberate them from superstitions and oppression. Therefore, it was no wonder that the weaker sections of society and the youth, who are eager for change responded to the message of Islam most enthusiastically. The liberation from all sorts of exploitation and oppression being a major theme of the Qur'ān, women's liberation also became a priority for the Qur'ān.

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<sup>20</sup>The doctrine or belief of monotheism (especially used in Islamic terminology "*Tawhīd*") in which it is believed that there is no God but Allāh, The Almighty. It can safely be said that Tawhīd (Arabic, derives from *wahhada* [*unify*]) is the belief in the Oneness of God. As is well known in Islamic doctrine "*lā ilāha illā l-lāhu*" means that there is no God but Allāh (himself).

It is well known that women were among the most oppressed sections of society in the pre-Islamic era. The burial of girl children was most indicative of this oppression against women. The Qur'an denounces this practice in no uncertain terms. Those who bury the girl child alive will be questioned on the Day of Judgment. "And when one buried alive is asked: For what sin she was killed?" (81:9) Unfortunately the practice still exists in many parts of the world, including certain parts of India. Women in Islam were given the same status as men in every respect. If anyone has doubt let him refer to the verse 33:35<sup>21</sup>. Yes, it is true there is also verse 4:34, which is often cited by the orthodox as pronouncement regarding the inferiority of women. It is with regard to such verses that the question of methodology of understanding the Qur'an arises.

The Qur'an is committed to creating a new set of ethics, a new liberated society transcending the given situation. The Qur'an describes the given situation as well as guides the faithful to what ought to be. While verse 4:34 narrates what is in the society, 33:35 is about what ought to be. It is unfortunate that much of the Muslim world has, by and large, not understood the significance of verse 4:34. The situation in the Muslim world reflects the status quo rather than the liberating pronouncements of the Qur'an. Women in Muslim society today do not enjoy the status that the Qur'an has given them. However, the status quo is also justified by quoting verses like 4:34 instead of verses like 33:35, which represents the transcendent spirit of the Qur'an. But men, which includes most of the eminent theologians of the Muslim world, were unwilling to concede this transcendent status to women and hence they stuck to the status quo in society. Even during the holy Prophet's time we find companions of the Prophet debating the issue of the status of women.

The other proof that the Qur'an treats men and women equally is that it makes it obligatory of both to enforce what is good and prevent what is evil. It is not only men who are charged with this important task, All faithful people,

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<sup>21</sup>The interpretation of the meaning of the verse no. 35 of *Sūra al-Aḥzāb* (35) is as follows: "Verily, the Muslims (those who submit to Allāh in Islam) men and women, the believers men and women (who believe in Islamic Monotheism), the men and women who are obedient (to Allāh), the men and women who are truthful (in their speech and deeds), the men and women who are patient (in performing all duties with Allāh has ordered and in abstaining from all that Allāh has forbidden), the men and the women who are humble (before their Lord, Allāh), the men and women who give shadaqat (i.e. Zakat, and alms), the men and women who observe shaum (fast) (the obligatory fasting during the month of Ramaḍan, and the optional *Nawāfil* fasting), the men and the women who guard their chastity (from illegal sexual acts) and the men and the women who remember Allāh much with their hearts and tongues (remember Allāh [while sitting, standing, lying for more than 300 times extra over the remembrance of Allāh during the five compulsory congregational prayers] or praying extra additional *Nawāfil* (additional) prayers of night in the last part of night). Allāh has prepared for them forgiveness and a great reward (i.e. Paradise), (QS 33 : 35)

including women, are required to fulfill this obligation.<sup>22</sup> It is only through the fulfillment of this obligation that a society can be completely transformed and women are equally responsible for this transformative project. It is on this basis that an eminent jurist like Imām Abū Ḥanīfā<sup>23</sup> states that a woman can also become a *qādi* (*Islamic jurist*).<sup>24</sup>

The Qurʾān also describes men and women as each other's friends. Thus the Qurʾān says, "And the believers, men and women, are friends (*awliya*) one to the other. They enjoin good deeds and forbid evil ones and keep up prayer and pay the poor-rate, and obey Allāh and His Messenger. As for these Allāh will have mercy on them. One can easily see in this verse that both men and women have been given equal status and equal obligations and both will equally be entitled to Allāh's mercy, if they fulfill their obligation and obey Allah and His Messenger. This verse is transformative in nature and is not a mere narrative of what exists in the society. In evolving a methodology for understanding the Qurʾān, such verses play very a important role.

The Qurʾān, in its all-normative pronouncements gives equal status to men and women. It is important to note that the Qurʾān does not refer anywhere to the creation of Eve (*Hawwa*) from the rib of the Adam,<sup>25</sup> a version of the story,

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<sup>22</sup>For the topic of how the Qurʾān treats women, read for instance Aminah Wadud Muhsin, "*Qurʾān and Women: Reading the Sacred Text from a Woman's Perspective*," Oxford University Press, New York, 1<sup>st</sup> Edition, 1999. Read also Muḥammad Mutawallī ash-Sha'rawī "*Makānāt al-Mar'a fī al-Islām*", transl. Abū 'abdillā al-Manṣūr, Gema Insani Press, Jakarta, 1986.

<sup>23</sup>*Imām Abū Ḥanīfā* was born in Kufa in the 80<sup>th</sup> year of the Islamic calendar (hijra). His complete name was Imam Abu Hanifa Nu'man ibn Thabit ibn Zutl. He was a Persian man who lived 52 years in the time of *Banī Umayya* and 18 years in the time of *Banī Abbasiyya*. He was one of the eyewitnesses of the increase and decrease period of Bani Umayya administration. He also witnessed the development and the progress of Bani Abbasiyya. As is known in Islamic history, Bani Umayya chose Damascus, which formerly was under Byzantine Rome, for its government central, whereas *Banī Abbasiyya* choose Baghdad (present Iraq) –which formerly was under Persian Authority. Abu Hanifa was an outstanding scholar. He visited many cities that were centers of education learned from many prominent persons and teachers. Among other things, he learned from the students of 'Umar ibn Khattab, 'Ali ibn Abi Thalib, Ibn Mas'du. Apart from this he also learned from *Zaidiyya*, *Ismā'īliyya* and *Imāmiyya* sects. He mastered not only fiqh knowledge but architecture, business and textiles as well. Therefore, it is no wonder that he was said to have designed the famous Baghdad fortress. It is narrated that to build this fortress Abu Hanifa made comparative studies (researches) in some East Asian cities. Such a journey, at least, enabled him to be a moderate Ulama (scholar) compared to other ulama who lived at that time. Even though Abu Hanifa never wrote a specialized or specific book, his fatwa (verdict) and preaching have been recorded and collected by his students. Among others, was Imām Mālik, who was one of his brilliant students. See for instance H.A.R. Gibb and J.H. Kramers, "*Shorter Encyclopaedia of Islam*", Ithaca: Cornell University Press, 1953, p. 131.

<sup>24</sup>To know more about Imām Abū Ḥanīfā (d. 150 H.) and his opinions (fatawā), see for instance, Muḥammad Jawād al-Mughniyya, "*Al-Fiqh 'alā al-Madhāhib al-khamsa*", Dār al-Jawād, Bayrut. n.d. see also H.A.R. Gibb and J.H. Kramers, *Shorter Encyclopaedia of Islam*, Ithaca: Cornell University Press, 1953, p.131. Compare with Hasbi Ash-Shiddiqi "Pokok-pokok Pegangan Imam Madzhab", Vol. II, Jakarta: P.T. Bulan Bintang, 1974, p.198-9.

<sup>25</sup>The myth that Eve was created from Adam's rib was probably derived from *Isra'īliyyat* stories which filtered into Islamic tradition. This myth is also found in a Hadith, which in my opinion, should be interpreted allegorically.

which could be interpreted as making her secondary to man. According to the Qurʾān, both man and woman were created from *nafsīn wāhidatin*, i.e. from one soul. Thus the Qurʾān says, “O mankind! Be dutiful to your Lord, who created you from a single person (Adam),<sup>26</sup> and from him (Adam) He created his wife [Hawwa (Eve)] , and from them both He created many men and women; and fear Allāh through Whom you demand (your mutual rights), and (do not cut the relations of) the wombs (kinship). Surely, Allāh is Ever an All-Watcher over you. (QS. An-Nisaʾ/4:1)<sup>27</sup>

This is quite an important pronouncement for equality of the genders. Both have been created from one *nafs* (soul, being, entity) and both are each other’s mates.<sup>28</sup> It is important to note that the only word for wife and husband in the Qurʾān is *zawjun*<sup>29</sup> (singular form/*mufradun*) and *azwāj* (plural form/*jamʿun*), i.e. one of the couple, which again is indicative of complete equality. There is

<sup>26</sup>The translation of the phrase “*min nafsīn wāhidatin*” as Adam (single person) in this Qurʾānic Commentary (Al-Hilālī, *et. al.*) clearly indicates how some Qurʾānic Commentators too easily interpret such an allegorical verse with their limited knowledge, without thinking of the (negative) impact that will be caused by their commentaries or interpretations. In the translation of the phrase “*min nafsīn wāhidatin*” most ‘*ulamāʾ*’ (mufasssirs [Qurʾānic Commentators]) are still in disagreement. ‘Abd al-Munʿim Sayyid Ḥassan, for instance, is of the opinion that this verse indicates that Eve was created from the same material from which Adam was created (*min jinsihā*). For more information on the opinion of ‘Abd al-Munʿim Sayyid Ḥassan’s, see his book “*ʿAwḍāʿ al-Marʾa fī al-Qurʾān al-Karīm*”, Dār al-Bayān li al-Nashr wa at-Tawzīʿ. Miṣr: al-Qāhira, 1994. Especially, p. 18-21. I am of the opinion that this verse would be better if it were translated as follows: “O mankind! Be dutiful to your Lord, who created you from a single person (being), and from this single person He created his/its couple, and from them both He created many men and women; and fear Allāh through Whom you demand (your mutual rights), and (do not cut the relations of) the wombs (kinship). Surely, Allāh is Ever an All-Watcher over you. (QS. An-Nisaʾ/4:1). One should not directly interpret *nafsīn wāhidatin* as Adam and *zawjaha* as Eve (Hawwa). Since there is no single verse of the Qurʾān that explains or supports these two interpretations. This verse, in my opinion, could be classified as allegorical verses.

<sup>27</sup>Al-Hilālī, *Op. Cit.* p. 106

<sup>28</sup>For more information on how the Qurʾān depicts the origin of human creation, see also another verse i.e. (35:11) in which God, The Almighty says “*And Allāh did create you (Adam) from dust, then from Nutfāh (male and female discharge semen drops i.e. Adam’s offspring), then He made you pairs (male and female). And no female conceives or gives birth but with His Knowledge. And no aged man is granted a length of life nor is a part cut off from his life (or another man’s life), but is in a Book (Al-Lauh al-Mahfūz). Surely, that is easy for Allāh.* (QS. 35:11). This translation is based on The English Translation of The Meaning and Commentary of The Noble Qurʾān, written by Muhammad Taqī-ud-Dien al-Hilālī and Muhammad Muhsin Khan. King Fahd Complex for The Printing of The Holy Qurʾān, Madinah, K.S.A. 1983. p. 583.

<sup>29</sup>The word *zawja*, indicates (means) *wife* only and is the only known and used word for this in modern Arabic. Whereas in classical Arabic as well as in the Qurʾān the only word used is “*zawj*” to denote both female and male sexes (wife and husband). See for instance how God, The Almighty, pronounced Eve (Adam’s couple) in the Qurʾān sūra al-Baqara verse no. 35 : “*wa qulnā yā Adamu uskun anta wajawjuka al-jannata...*” meaning “And We said:”O Adam! Dwell you and your wife in the Paradise...”. In this verse we can clearly see that God used the word *zawj* denoting Eve (Adam’s wife), but not *zawja*, a word that is commonly and widely used nowadays in Modern Arabic to denote a wife. For more information and details, see for instance the explanation of the word “*zawj*” in Edward William Lane, “*Arabic – English Lexicon*”, in Eight Parts; Book I – Part 3. New York: Frederick Ungar Publishing Co. 1867; 1956, p. 1266-1267. Here it is stated that the word *zawj* primarily signifies a sort of thing of any kind [that is one of a pair or couple]. It may also be used to signify male and female, etc.

no concept of husbanding in the Qur'ān. From the Qur'ānic perspective, therefore, a husband is indicated as *zawj* and a wife is also indicated as *zawj*. Therefore, *zawj* must be viewed as a neutral word which may imply either the masculine or feminine gender. There is no question of a man lording or husbanding over his own mate. However, unfortunately, the Muslims never adopted this culture of sexual equality. They relied more on *Hadīth*, of doubtful authenticity, rather than on the clear and normative pronouncements of the Qur'ān.

One cannot understand the real spirit of the Qur'ān unless one understands its transformative spirit. It subverts the given and provides guidelines for what ought to be. It is precisely for this reason that the Qur'ān, which is the main source of Islamic ethics, lays so much emphasis on justice. Justice is very central to Qur'ānic ethics. Plato and his disciples are unable to reach any consensus on the exact nature of justice. In their society it was the notion of 'might makes right' that seemed to work. But the *Qur'ānic* concept of justice is just the opposite of this. The Qur'ān maintains that justice must be done even if it favors one's enemy or goes against one's closest relatives or against oneself.<sup>30</sup>

Thus the Qur'ān uses two words for justice *'adl* and *qist*, both implying balance in the system which is possible through justice. There are several verses in the Qur'ān referring to justice. One is imperative: *i'dilū* (do justice it is closest to being pious, 5:8). In another verse, another imperative, says, "Surely Allah enjoins justice and the doing of good (to others)..." (16:90). Yet another verse says, "O you who believe, stand out for justice, as witnesses to Allah, even though it be against yourselves, or (your) parents or kin – be he rich or poor, Allah is a Better Protector to both (than you). So follow not the lusts (of your hearts), lest you avoid justice; and if you distort or refuse to give it, verily, Allah is Ever Well-Acquainted with what you do." (4:135).<sup>31</sup>

From these verses one can easily see how important it is to act with justice. It is very central to Qur'ānic ethics. However, society is full of injustices of all kinds, be they distributive injustices or in the form of oppression and exploitation of the weak. Such social systems based on injustice cannot become stable. Oppression and exploitation or concentration of power in a few hands will always lead to instability and conflict and conflict leads to violence. Such unstable systems generate causes for conflict and are un-Qur'ānic and un-

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<sup>30</sup>For the concept of Islamic Justice, see for instance, *Sūrah al-Ma'idah* (The 5<sup>th</sup> sūrah of the Qur'ān), verse no. In which God, The almighty, says: "O you who believe! Stand out firmly for Allāh as just witnesses; and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety; and fear Allāh. Verily, Allāh is Well-Acquainted with what you do" (Q.S. 5 . 8)

<sup>31</sup>Al-Hilālī, et. al. *Op. Cit.* p. 132.

Islamic. Justice is possible only when there is inner integrity of character and fearlessness. This fearlessness, in turn, is possible only when one does not benefit from the status quo. All of us wink at injustices simply because we benefit from the established order.

Thus the Qur'ān lays emphasis on the concept of *īmān*, belief/faith, which, if one goes to the root meaning of the word, implies a feeling of inner security and inner contentedness. This inner contentedness and inner peace is possible if there is only fear of Allah and not fear of any worldly potentate. Worldly rulers are often oppressive, perpetrate injustices and hence are responsible for violence. Islam, which means establishment of peace, desires a social system free of violence by removing all forms of injustices from the world. Thus the Qur'ān is basically subversive to all those systems based on injustice, exploitation and violence.

One who has faith in the Qur'ān can never tolerate any system, which perpetrates injustices on the weaker sections of society. But powerful established interests resist with all their might any attempt to instate a just society and the result is often violence. Thus when the Prophet of Islam and his companions tried to establish a just system through subversion of the powerful establishment, the unbelievers of Mecca, who were all rich traders, resisted their efforts and used violence to oppose them.

Thus there is always tension and conflict in a society between those wanting to transform it and those supporting the status quo. Transformation can hardly be peaceful. But it does not mean that violence is justified on the part of the oppressed. It is usually the oppressors who use violence. The Qur'ān justifies violence only if it is defensive, not offensive. Jihad is nothing more than sincere efforts to promote good and banish evil, not to wage war for transformation. The concept of *jihād* is being grossly misused by some Muslims. In fact by using the slogan of *jihād* those Muslims are generating powerful resources to build powerful establishments – which is something totally anti-*jihād* in spirit. Such a cry for *jihād* is itself supportive of the status quo. The real *jihād* is to establish a whole and integrated social system based on justice, free of all forms of exploitation.

Thus without developing a methodology for understanding the Qur'ān it will never be possible to practice Islamic ethics and morality. The Qur'ān was revealed to the Messenger of Allāh to subvert all those establishments based on exploitation and injustice, and to establish a humanitarian system, compassionate and sensitive to all forms of sufferings of humanity.

Unfortunately the powerful vested interests in the Muslim world are misusing the Qur'ān to reinforce their own oppressive establishments, using misinterpretations against which the Qur'ān has clearly warned. Islamic teachings hold that if *Mutashābihāt* (allegorical) verses conflict with *muḥkamāt* (exact, precise or clear verses) then one must go back to *muḥkamāt* verses.

### B. Introduction to Sūra An-Nisa'

*Sūra an-Nisa* is classified as one of the so-called *as-Sūra al-Madaniyya*. According to Sayyid Quṭb in his tafsir *fī dīlāl l-Qur'ān*, this *sūra* is the longest one after *sūra al-Baqara*. He adds that according to the chronological order of its revelation, this *sūra* was revealed after *sūra al-mumtaḥana*. Based on a *riwāya*, narration, some parts of this *sūra* were revealed in the time of the conquest of Mecca (*fath Makka*), namely the 8<sup>th</sup> A.H., while some other parts of it were revealed in the time of *Hudaibiyya* agreement, i.e. the 6<sup>th</sup> A.H.<sup>32</sup> Moreover, Richard Bell, argues that this *sūra* probably belongs in the main to the years of IV and V A.H., but earlier material has been utilized, partly in revised form and partly as discarded passages on the back of which other deliverances have been written, and additions may have been made at a later time.<sup>33</sup>

According to Sayyid Abū al-A'īlā al-Maudūdī, this *sūra* comprises a number of discourses revealed between the later part of 3 A.H. through to the end of 4 A.H., and possibly even the early part of 5 A.H. He adds in his *tafhīm al-Qur'ān*, that it is hard to determine precisely which verses belong to which discourse, just as it is difficult to fix the exact period of the revelation of those verses. Nevertheless, several of these verses contain allusions to certain injunctions and events, the dates of which can be ascertained with the help of traditions, the so-called hadith.<sup>34</sup>

Based on this evidence we can broadly divide the *sūra* into a number of discourses. The injunctions relating to the inheritance and to the protection of the rights of orphans, for instance, is known to have been revealed after *the Battle of Uḥud*, in which seventy Muslims were martyred. As a result of this situation, the city of *al-Madīna al-Munawwara* was faced with the problem of distributing inheritance and safeguarding the rights and interests of the widows and orphans left behind by the martyrs. Therefore, we can infer that verses 1-28 of this *sūra* were revealed during this period.

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<sup>32</sup> Sayyid Quṭb, "*Tafsīr fī dīlāl-l-Qur'ān*", Dār ash-Shurūq, Bairut, 1982. p. 554.

<sup>33</sup> Richard Bell, "*The Qur'ān*", 1937. p. 66.

<sup>34</sup> Abu al-A'īlā al-Maududy, "*Tafhīm al-Qur'ān*", trans. Zafar Ishāq Anṣārī "*Towards understanding Islam*", 1989, p. 1.

In Muslim tradition, the so-called *ṣalāt al-khawf* (the prayer in a state of insecurity) is mentioned in connection with *the Battle of Dāt al-Riqa'*, which took place in 4 A.H. So the section which contains directives regarding this Prayer (verses 101 ff.) must have been revealed around this time. Likewise, the expulsion of *Banū al-Nadr* from Medina took place in the month of *Rabi' al-Awwal* in the 4<sup>th</sup> year after *Hijriya* (A.H.). Therefore, it could be assumed that the section, which contains the final warning to the Jews: "O you who have been granted the Book! Do believe in what We have (now) revealed, which confirms the revelation which you already possess. Do this before We alter countenances, turning them backward..." (Sūra an-Nisa' 4:47), was revealed shortly before their expulsion. In the same way, the permission to do *tayammum* (symbolic ablution attained through wiping the face and hands with clean earth) in place of ablution with water was granted on the occasion of *the Battle of Banū al-Mustaliq*, in 5 A.H. Therefore, the section which deals with *tayammum* may be attributed to this period (see verses 43 ff.). Finally, it is safe to say that the Qur'ān is a universal resource of Islam which prescribes not only for aspects of vertical worship, *'ibāda*, but also for social, cultural and political life.<sup>35</sup>

### C. Subject Matter of the Study

It is generally thought that Islam treats women unfairly and gender justice is not possible within Islamic law known as *sharī'a* law. This assertion is partly true and partly untrue. It is true as far as the existing *sharī'a* laws are concerned – but untrue in the light of the laws that were codified during the 2nd and 3rd centuries of Islam, when the general perspective on women's rights was very different from today's. The Qur'ānic verses, which are quite fundamental to the Islamic law, were interpreted so as to be in conformity with the views about gender rights prevailing then.

It is important to note that scriptural injunctions are always mediated through prevailing social ethos. Also, and it is more fundamental to the framing of laws based on scriptures, scriptures both reflect the given situation and also transcend it. Moreover, it is the fact that The Qur'ān contains numerous allusions to the course of the Prophet Muḥammad's (pbuh) life, which according to Nagel, can rarely be clearly related to specific, prominent events; while there are numerous additional historical sources on Muḥammad, his time and his life. However, it was not until the eight century and later that these were put down in the form accessible to us today, and even back then they were overgrown by the warring religio-political groups.<sup>36</sup> There cannot be any scripture - revealed or otherwise - which is uni-dimensional, i.e. it reflects only

<sup>35</sup>Nagel, *Der Koran, Op. Cit.* p. 9

<sup>36</sup>Nagel, *Op. Cit.* p. 2.

one given situation. Every scripture tries to go beyond what is given and it faces stiff opposition from those who loose out if the transcendental perspectives are spelled out and enforced. The scriptures condemn prevailing social malaise and provide a new vision. Those who benefit from the new vision embrace the new faith. Those who loose oppose it tooth and nail. But the vested interests and those who want to perpetuate the old order have their own strategies. Soon they find ways and means to hijack the new religion to their own benefit.<sup>37</sup>

This is done, according to Aṣghār ‘Alī Engineer, in a number of ways, namely, 1) They capture political power and religion becomes part of the political establishment and looses its initial revolutionary thrust as it is appropriated by the ruling classes; 2) they convert religion itself into an establishment and a power-structure develops around it. Religion is then used more for distribution of favor than for spiritual enrichment; 3) intellectual resources are used to restore status quo ante and this is done chiefly by interpreting the scriptures in a way, which will rob it of its transcendental thrust. Thus a theology is developed which is supportive of status quo. One must distinguish between what scriptural pronouncements are and what theology is woven around it.<sup>38</sup>

Scriptural pronouncements are divinely inspired and hence transcendental and theological formulations are human and hence often contradict divine intentions. Scriptural pronouncements are an option for the weaker sections whereas theological formulations are weapons in the hands of powerful interests. It is therefore necessary that the theological formulations be continuously challenged by scriptural pronouncements. One must strive to build up creative tension between theological and scriptural. While scripture remains immutable with its transcendental spirit, theology must face changing new challenges and newly emergent situations.

Those who oppose any change in theological formulations and *shari‘a* laws are those who loose their dominant position and the priesthood who monopolize theology and religion for them is instrumental in promoting their interests rather than spiritual sources of inner enrichment. The priesthood, monopolizing theology, project it as divine and immutable. The run of the mill faithful's understanding of religion is mediated through the priesthood and hence they are made to believe that theology as formulated by them or their predecessors

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<sup>37</sup>For more information on Muhammad's life, see, for instance, Muhammad Husayn Haykal *"The Life of Muhammad"*, trans. Isma'il Ragi A. al-Faruqi, 8<sup>th</sup> Edition, American Trust Publications, Washington-USA. 1976. And for the sources on Muhammad's life see for example: W. Montgomery Watt: *"Muhammad at Mecca"*, Oxford, 1953,pp.xff., and Patricia Crone, *"Slave on Horses"*, Cambridge, 1980, pp. 3-17. Etc.

<sup>38</sup> Aṣghar Ali Engineer. *"Islam, Women and Gender Justice"*. Pakistan (2000),p. 2

is divine and hence immutable. Any change will amount to changing the divine will.

In Islam, it is a common belief that the *sharīʿa* is divine and hence immutable. Whenever any measures for gender justice are proposed one meets with this stock argument. It is important to note that *sharīʿa*, though undoubtedly based on the Qurʾān, is a human endeavor to understand the divine will. It is an approach to, rather than divine will itself. The priesthood, i.e. the community of ‘ulamā,’ projects it as a divine end in itself and hence refuses to admit any change. ‘The *sharīʿa* is divine’ and therefore, has become a commonly accepted position. Thus what was thought of women’s rights during the early period of Islamic history has become final and immutable. Even to think of changing it, much less doing so, is interfering with the divine, and hence an unpardonable sin.

As pointed out above, there is a big gap between the scriptural, i.e. the *Qurʾānic* pronouncements, and *sharīʿa* formulations. While the Qurʾānic pronouncements are purely transcendental in spirit, the *sharīʿa* formulations have been influenced by human conditions, as well as human thinking, on all related issues. Women were in a subordinate position in the patriarchal societies and this subordinate relationship was reflected in the *sharīʿa* laws relating to their rights. The transcendental divine spirit was conveniently ignored and the prevailing situation was rationalized through contextual *Qurʾānic* pronouncements. As mentioned above, there is always a creative tension between what is and what ought to be in scriptures. However, this tension is often resolved in favor of the prevalent rather than the emergent and prevalent is eternalized by rationalizing certain divine pronouncements.<sup>39</sup>

Moreover, the historical backgrounds as well as the socio-economical aspects that were involved in the time in which the verses of this *sūrah* were revealed must also be taken into consideration. The ignorance of these influences gave rise to bias and a discriminatory interpretation. However, taking such influences into account, will enable one to understand this *sūrah* more comprehensively as well as more appropriately. As commonly known, the tasks before the Prophet (peace be upon him) at this time may be grouped into three broad categories. First, to develop the newly-organized Islamic society which had come into being in and around Medina as a result of the influx of believers, a society which was attempting to give effect to new principles in moral, social, economic and political spheres of life, and to get rid of the old ways and

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<sup>39</sup>For more details, read for instance Fatma a. Sabbah, “Women in Muslim Unconscious”. Trans. From French “*La Femme dans L’inconscient Musulman*” by Mary Jo Lakeland, New York Pergamont Press, 1984. Read also Mansour Fakih “*Posisi Kaum Perempuan dalam Islam: Tinjauan dari Analisis Gender*” p. 37-65, in “*Membincang Feminisme : Diskursus Gender Perspektif Islam*”. 2<sup>nd</sup> Edition, Risalah Gusti, Surabaya, 2000.

practices of the days of ignorance (*jāhiliyya*). Second, to counter the fierce opposition of the polytheists, Jewish tribes and the hypocrites. Third, to spread the message of Islam in the face of hostility from these opposing forces and to win over the minds and hearts of the people. The various discourses revealed by God at this time deal with these different problems.

The Islamic society at this juncture, thus, required additional directives to those which it had received earlier, and which are embodied in *sūrā* al-Baqara. In the discourses of this *sūrā*, the Muslims are told in much greater detail how to mould their collective life in accordance with the dictates of Islam. They are told how to organize their family life. Regulations are laid down with respect to marriage, and prohibiting union with certain categories of relatives. The pattern of relationships between men and women is enunciated. Furthermore, the rights of orphans are clearly defined. Laws for distribution of inheritance are also promulgated. Directives are issued to ensure that economic activities continue to be based on sound moral principle. Muslims are taught what measures to adopt to solve their family disputes. Then the foundations of a penal code are laid. The drinking of intoxicants is prohibited. Fresh directives are given to ensure purity of the heart as well as righteousness of conduct. Muslims are clearly told what man's attitude should be towards God and towards His creatures. Instructions are given to establish discipline within the Islamic body politic. The moral and religious attitude of the People of the Book (*Ahl-l-Kitāb*) is criticized, thus warning the Muslims against following in the footsteps of the religious communities which preceded them. Likewise, the conduct of hypocrites is strongly criticized, thereby highlighting the requirements of true faith and clearly distinguishing the characteristics of true faith from those of hypocrisy.

The struggle waged by the forces opposed to the Islamic reform movement assumed even more menacing proportions after the Battle of *Uhud*. The reverse suffered by Muslims in that battle had infused a new spirit into the pagan Arab tribes, the neighboring Jews and also the hypocrites (who were an integral part of the Islamic body politic). The result was that the Muslims found themselves confronted by dangers from all sides. In such a circumstance, God urged the Muslims to meet these dangers bravely. He revealed inspiring passages and gave them instructions on how to conduct themselves when faced with armed conflict. In Medina, the hypocrites and those of weak faith were disseminating all kinds of rumors so as to pass on all such rumors to responsible people, who were to prevent their further dissemination unless and until they could be confirmed after proper investigations.

There was another case occasioned by these circumstances. The Muslims often had to go on military expeditions, sometimes with and sometimes without the

Prophet (peace be upon him), and they often traveled by routes where water was unavailable. They were now told that it was permissible for them to resort to *tayammum*<sup>40</sup> in place of both major and minor washing.<sup>41</sup> Likewise, permission was granted to shorten Prayers (*qasar*)<sup>42</sup> while traveling, and instructions were given on how to perform Prayers when danger was imminent. At that time, some Muslims lived outside the Islamic realm, and were scattered throughout Arabia *Jazīra*, living in the midst of pagan tribes. At times they were drawn into the orbit of war and thus suffered harm. This became a matter of great anxiety for Muslims, and the Islamic community was instructed in how to deal with it. At the same time, Muslims living in the midst of non-Muslim tribes were urged to migrate to Medina, the Dār al-Islām (the Domain of Islam).

The attitude of one Jewish tribe in particular, Banū an-Nadr, had become particularly hostile. Its people blatantly violated the agreements they had concluded with the Muslims, and identified openly with the enemies of Islam by giving them support. They engaged in conspiracies and machinations against the Prophet (peace be upon him) and his followers even within the city of Medina. In this *sūra*, therefore, their conduct is severely criticized and they are given a final warning in categorical terms. After this warning they were expelled from Medina.<sup>43</sup>

The hypocrites (*al-Munāfiqūn*) comprised several groups, each of which behaved in a different manner so that it was difficult for Muslims to decide how to deal with them. Because of this, they are classified in this *sūra* into separate categories, and the Muslims are told what treatment should be

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<sup>40</sup> *Tayammum* (Arabic) meaning symbolic ablution attained through wiping the face and hands with clean soil. Tayammum may also be interpreted as putting and striking lightly the hands over clean earth and then passing the palm of each on the back of the other, blowing off the dust and then passing them on the face. This is performed instead of ablution (*Wuḍūʾ*) and taking bath (*Ghusl*) in case of Janaba (The state of a person after having sexual intercourse with his wife or her husband or after having a sexual discharge in a wet dream. A person in such a state should perform *Ghusl* (taking bath) or do Tayammum, if a bath is not possible. (Al-Hilālī, *Op. Cit.*, p. 871 and 888).

<sup>41</sup> See Qurʾān *sūra* An-Nisaʾ (4) verse no. 43 : “...and if you are ill, or on a journey, or one of you comes after answering the call of nature (come back from toilet/WC) , or you have been in contact with women (sexual relations) and you find no water, perform *Tayammum* with clean earth and rub therewith your face and hands. Truly, Allāh is Ever Oft-Pardoning, Oft-Forgiving” (Al-Hilālī, *Op. Cit.* p.115). See also *sūra* *al-Maʿida* verse no. 6.

<sup>42</sup> See Qurʾān *sūra* *an-Nisaʾ* verse no. 101 in which Allāh said: “And when you (Muslims) travel in the land, there is no sin on you if you shorten *Aṣ-Ṣalāh* (obligated prayers) if you fear that the disbelievers may put you in trial (attack you, etc., verily, the disbelievers are ever unto you open enemies” (Al-Hilālī, *Op. Cit.* p. 126)

<sup>43</sup> For more information on the emergence and development of Islamic society, see Tilman Nagel, “*Die Islamische Welt bis 1500: Oldenbourg Grundriss der Geschichte [Band 24]*”. R. Oldenbourg Verlag, München, 1998. See also Tilman Nagel: “*The History of Islamic Theology: from Muhammad to the Present*”, Markus Wiener Publishers, Princeton, USA., 2000.

accorded to each group. They are also told what kind of attitude they should adopt towards the neutral tribes which had entered into agreements with them.

The most important thing, however, was that Muslims be made to realize the necessity of developing blameless moral character. For if they were to triumph in their struggle then this triumph would come about primarily through moral excellence. The Muslims are urged, therefore, to cultivate the highest moral qualities and are reproached severely for any past lapses.

Another aspect of religious duty for The Muslims is also stressed. This is preaching their faith and inviting people to share it with them.<sup>44</sup> In addition to elaborating a blueprint for the moral and social reform envisaged by Islam in contradistinction to non-heavenly doctrines (*Jāhiliyya*), the *sūra* criticizes erroneous religious concepts and the moral perversion and corruption of the Jews, Christians and polytheists, and invites each of them to embrace Islam.

Furthermore, the mutual rights of human beings is also discussed in this *sūra*. To this end, it speaks of the principles on which a sound and stable family life can be established. As clear evidence on the subject, the *sūra* opens by exhorting the believers to fear God and to avoid courting His displeasure, and by urging them to recognize that all human beings have sprung from the same root and that all of them are, therefore, of one another's flesh and blood.

The explanation of the expression „*al-ladhī khalaqakum min nafsin wāhidatin*“; meaning who created you from a single beings (*nafs*) clearly indicates that the creation of the human species began with the creation of one individual. In another place, the Qur'ān specifies that the “*one person*” from whom the human race spread into the world was Adam.<sup>45</sup>

#### D. The Aims of the Study

This study is aimed at discovering the thoughts of Shech ash-Sha'rawī and Shech Muḥammad Ḥasbī aṣ-Ṣiddiqī regarding the verses related to a) the

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<sup>44</sup>As an example, see *Sūra An-Nahl* (the 16<sup>th</sup> Sūra of the Qur'ān), verse no. 125 in which God, The Almighty says: “Invite (mankind, O Muhammad, pbuh.) to the Way of your Lord (i.e) Islam) with wisdom (i.e. with Divine Revelation and the Qur'ān) and fair preaching, and argue with them in a way that is better. Truly, your Lord knows best who has gone astray from His Path, and He is the Best Aware of those who are guided”. Muhammad Taqi-du-Dien al-Hilālī and Muhammad Muhsin Khan. King Fahd Complex for The Printing of The Holy Qur'ān, Madinah, K.S.A. 1983. p. 367.

<sup>45</sup>For Adam being the progenitor of mankind, see for instance, *sūra* 2, verses 30-8 and *sūra* al-A'rāf (7) verse 1, in which Allāh says: “And surely, We created you (your father Adam) and then gave you shape (the noble shape of a human being; then We told the angels; “Prostrate yourselves to Adam”, and they prostrated themselves, except Iblis (Satan), he refused to be of those who prostrated themselves” (QS. 7 : 11), al-Hilālī, *Op. Cit.*, p. 201.

concept of women's creation, b) the concept of leadership in the family, c) the concept of inheritance in Islam, and c) the concept of marriage (polygyny) in Islamic perspective. These issues are chosen because the general assumption is that the juridical aspect of these issues tend to be discriminative towards women. However, this study does not only discuss the above four themes but also tries to prove how the Qur'ān conceptualizes a harmonious relationship between men and women. The Qur'ān, furthermore, as it is well-known, does not merely organize the compatible relationship of gender, the relation between men and women in a society, it manages also a harmonious and compatible relationship between human beings as microcosm, the universe as macrocosm and God as the supreme or divine being which at the same time is regarded as and believed to be the creator of both cosmoses.

Furthermore, the ideas and opinions of Shech ash-Sha'rawī al-Mutawalī and Shech Muḥammad Ḥasbī aṣ-Ṣiddiqī my aim is to analyze and compare these with the opinions of some Muslim feminists and thinkers, such as Amina Wadūd Muḥsin, Asghar Alī Engineer, Rif'at Hassan and Shahrūr. Apart from that, it is also the aim of this study to present a brief view of the fate of women in the time of pre-Islamic Arab civilization (*Jāhiliyya*). It is expected that by knowing and understanding the fate of women in that period, one may easily understand the improvements and reformations regarding women rights that were promoted by the Qur'ān. For instance, the Qur'ān introduced the so-called egalitarian system with regard to social rights such as the right of inheritance. Moreover, this study also aims at showing that the concept of *azwāj* in the Qur'ān is not used specially with regard to humans but also for animals (Q.S. Ash-Shūrā/42:11) and plants (Q.S. Ṭāhā/20:53); and that the word *zawj* does not only indicate man, i.e. husband, but also woman, i.e. wife (Q.S. Al-Baqara/2:35). Apart from this, the Qur'ān also promotes a egalitarian relationship between man and woman before God, for instance, as it is revealed in *sūra al-Hujurat* (49) verse no. 13<sup>46</sup>, *sūra an-Naḥlu* (16) verse no. 97,<sup>47</sup> and in many other *sūras*.

Last but not least, this study is also aimed at analyzing the factors that may give rise to differences of opinions of mufassirs<sup>48</sup> (Qur'ānic commentators),

<sup>46</sup> "O mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allāh is that (believer) who has at-Taqwā [i.e. he/she is one of the Muttaqūn (the pious) ]. Verily, Allāh is All-Knowing, All-Aware". (Q.S. Al-Hujurat / 49:13; al-Hilālī, *Op. Cit.*, p. 700).

<sup>47</sup> "Whoever works righteousness – whether male or female – while he (or she) is a true believer (of Islamic Monotheism) verily, to him/to her We will give a good life (in this world with respect, contentment and lawful provision), and We shall pay them certainly a reward in proportion to the best of what they used to do (i.e. Paradise in the Hereafter)" (Q.S. An-Naḥlu/16:97, al-Hilālī, *Op. Cit.*, p. 362)

<sup>48</sup> *Mufassir* is singular form from *mufassirūn* (subject) or *mufassirīn* (object) meaning Qur'ānic commentators.

feminists and other scholars in interpreting the meaning of the Qur'ān, for instance, in interpreting the phrase *“min nafsin wāhidatin”*. Some Mufasssirs are inclined to interpret this phrase as “Adam”, whereas some others tend to interpret it as the “same material or species”. Such differences may be caused by the use of Arabic dictionaries and may also be influenced by the so-called *Isra'iliyyat* stories, among other things. Moreover, the interpretation (object of reference) of the so-called *ḍamīr* (pronoun) may also lead to different opinions or interpretations among mufasssirs, feminists and other scholars dealing with the Qur'ān, the Ḥadīth and other Islamic Arabic resources.

Hopefully, this study will be able to shed new light and bring a new atmosphere to the interpretation of the Qur'ān. Furthermore, this study is also aimed at contributing some new thoughts to the field of contextualization of Qur'ānic teaching over the course of time, which is constantly moving. Al-Qur'ān must be interpreted both textually and contextually in equal degree, so that it functions effectively as a so-called *hudan* (guidance) and *raḥmatan* (mercy) for the whole person, especially with regard to our search in the new era to empower and to improve women's participation in society.

### E. Methods of Study

This is a library study, which means that the data, both primary and secondary, have been mostly collected and derived from libraries, not from field research or participatory research, interviews, etc. Some data, however, derive also from internet sources, such as the data on Shech Sha'rawī's biography. All collected data was then selected and analyzed. The primary sources are *Tafsīr Ash-Sha'rawī*, a magnum opus of Shech Mutawālī ash-Sha'rawī, and *Tafsīr An-Nūr*, a tafsīr work of Shech Muḥammad Hasbī aṣ-Ṣiddiqī. Apart from these two tafsīrs, this study also uses some other tafsīrs, like tafsir Aṭ-Ṭabarī by Muhammad Ibn Jarir aṭ-Ṭabarī, which is well known as *“Jami' al-bayān 'an ta'wīl al-Qur'ān”*, *“Tafsīr fī Dilāl al-Qur'ān”* of Sayyid Qutb, etc. Moreover, apart from tafsīr sources, in conducting the research of this study I also used many other sources related to the study, including books on the Qur'ān, gender issues, Islamic history, and Arabic lexicon.<sup>49</sup>

The analysis method adopted in this study is aimed at understanding the concept of gender equality more clearly, both according to the above-mentioned two *mufasssirs*, Qur'ānic commentators, and according to Muslim feminists, and in some cases, other scholars whose works are related to this study. If different interpretations are found among them the reader may ask “Why is this?” The answer lies with different methodological backgrounds or

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<sup>49</sup> For more details, see elected Bibliographies (the last chapter) of this dissertation.

other biases, For instance, in the case of the *mufassirs*, viewpoints and judgments could be influenced by the patriarchal bias of the society in which they live, whereas in the case of feminists, their standpoint could possibly be influenced by the so-called feminism bias. The analysis method is needed here because the Qurʾān does not deal with a static situation; but a with dynamic and changing society, which requires knowledge to deal with very complex issues. Therefore, any factors which may directly or indirectly influence certain interpretations regarding women rights, need to be analyzed carefully.

The analytical methods used in this study may be said to be a combination of deductive, inductive and comparative methods using the so-called hermeneutic approach. Hermeneutic here means that the final interpretation of a text (divine scripture) must always be based on the physical form of the text (*lafẓ*), contextual aspects of the verse in which the verse was revealed (*asbāb annuzūl*) or the historical background of the verse. These aspects will be connected with the psychology and inclination or character of the author, for instance, the author of *kutub at-Tafāsir* (Qurʾān Exegesises). Moreover, this study also adopts the so-called theological and philosophical approaches, which means that all interpretations regarding the women in the Qurʾān will be rationally as well philosophically interpreted. In other words, I will do my best to search for objective values and messages among the subjective doctrines of the Qurʾān, which is still allegorical and must be re-actualized, while I will interpret the so-called *muḥkamat* verses or doctrines, as it is stated or revealed by God, The Almighty, who knows best His whole creation.



## Chapter I

### Women Before and After the Coming of Islam

#### 1. Introduction

When studying the fundamental rights and obligations of women in Islam, it must be acknowledged at the very outset that, despite the capacity of Muslim law to adapt itself and to develop according to circumstances, there is no question that women in certain sections of society, in both the capitalist and the communist West, today enjoy a comparatively extreme degree of liberty. Nevertheless, Islam demands that a woman should remain a responsible and reasonable being.

If one wants to compare and contrast women's position according to Islam with that accorded her under other religions or societies, one should take into consideration the whole spectrum of historical and current facts, and not merely solitary practices. The main aim of this chapter is to explore the historical course of women's fate and situation in the time before and after the coming of Islam. I have no intention of apologizing for Islam here nor do I wish to humiliate other religions or societies. All I would like to do is present some brief historical facts regarding women and the issue of gender in these two different societies i.e. before and after the coming of Islam and discuss how Islam has contributed towards the restoration of women's dignity, honor and rights.

History informs us that the plight and condition of women before the emergence of Islam was very miserable. In Roman, Indian and other civilizations of the world, women were constantly subjected to all kinds of humiliations and hardships. They were, for instance, buried alive or were looked upon as a bad omen. They were considered profitable goods, just like cattle or horses. This condition for women prevailed even into the pre-Islamic Arabia.<sup>50</sup> In order to properly understand the reformation of gender issues in Islam - from its advent to the present time - it is important to first discuss briefly and the life and culture of pre-Islamic Arabia. This is relevant because, according to Lapidus, there was a continuity from pre-Islamic Arab culture to the Islamic era in almost all aspects of life, including ideology patriarchy, the economic system, family structure, among others which are still accommodated

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<sup>50</sup> For more information on women's situation in society before Islam, see, for instance, Mustafā as-Sibā'ī "Al-Mar'a bayna al-fiqh wa-l-qānūn". Dār al-warrāq lī an-nashr wa at-tauzī' and Dār as-Salām. 1<sup>st</sup> Edition, 1998. In this book the position of women in society is elaboratively outlined. See also Philip Hitti, *History of the Arabs*. London, McMillan and Co., 1961.

by Islam.<sup>51</sup> This opinion is also supported by many other orientalist scholars, such as Watt,<sup>52</sup> Goldziher<sup>53</sup> and Coulson.<sup>54</sup>

### 1.A. Women in pre-Islamic Arab Society

History tells us that women were mistreated in most of the pre-Islamic Arabian (*Jāhiliyya*) era. Only in certain and well-known families or tribes - such as the women in the Tribe of Quraish, for example, Hindun, the wife of Sufyān and Khadija bint Khuwaylid, who afterwards became one of the Prophet Muḥammad's wives – did women enjoy their rights.<sup>55</sup>

Some conclusions regarding the sorrowful fate faced by women in the time of *jāhiliyya* may be drawn the following historical examples, *Jāhiliyya* society, for instance, did not welcome female newborns so they sometimes buried them alive. This cruel and amoral as well as inhuman custom may be found in the Qur'an in sūra An-Naḥl, verse 58-59). Reporting *Jāhiliyya* habits and traditions, God, The Almighty, said — “And when the news of (the birth of) a female (child) is brought to any of them, his face becomes dark, and he is filled with inward grief. He hides himself from his people because of the evil of that whereof he has been informed. Shall he keep her with dishonor or bury her in the earth? Certainly, evil is their decision.”<sup>56</sup>

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<sup>51</sup>Ira M. Lapidus, “*A History of Islamic Societies*”, Cambridge, New York, etc.: Cambridge University Press, 1988, p. 3

<sup>52</sup>Watt acknowledged the continuity of pre-Islamic Arab traditions or values to Islam, but he preferred to say “the encounter” rather than “the continuity”. See for instance in W. M. Watt, “*Muslim-Christian Encounters Perceptions and Misperceptions*”, London & New York: Routledge, 1991. In his other book, “*Muhammad in Mecca, History in the Qur'an*,” Edinburgh: Edinburgh University Press, 1988, especially on p. 44-45, he discussed that there was intellectual continuity and heredity from pre-Islamic Arabia to Islamic societies.

<sup>53</sup>Like Watt, Goldziher also acknowledged the continuity of pre-Islamic Arab culture to Islam. However, his idea seems less objective than that of Watt. He stated, for instance, that Muḥammad did not introduce and promote new values and a new civilization. Muḥammad, according to him only enriched old traditions and systems. Goldziher, nevertheless, acknowledged that Muhammad was a brilliant man who had the ability to transform old traditions and values into a form of teaching system (*dīn al-Islām*). For more information on Goldziher's opinions in this context, see Ignaz Goldziher, “*Introduction to Islamic Theology and Law*”, (trans.) Andreas and Ruth Hamori from its original German title: “*Vorlesungen über den Islam*”, Princeton, New York: Princeton University Press, 1981, p. 3. This controversial work by Goldziher has been widely and sharply criticized by many other modern orientalists, for instance by Henry Munson (See Henry Munson, “Islam and Revolution in the Middle East”, New Haven & London: Yale University Press, 1998, p. 7).

<sup>54</sup> In his book, “*A History of Islamic Law*”, Coulson has carefully and beautifully explored the development and continuity of the pre-Islamic system to Islam, including among other things, the continuity of family law that is still followed and respected by Islam. (See, Noel J. Coulson, “*A History of Islamic Law*”, [especially Chapter I], Edinburgh: Edinburgh University Press, 1964. In this book Coulson seems to show that Islamic teachings that are brought by Muḥammad (pbuh) are not new teachings or improvisations but mostly a continuation and complement of the family law of Pre-Islamic Arabia.

<sup>55</sup> El-Bahnassawi, *Op. Cit.* p. 19-21

<sup>56</sup>Op. Cit. Al-Hilali, p. 355

Some of them buried their female children due to economic reason, i.e. fear of poverty, while some others did so because of shame as recorded by the Qur'ān verses above. Such a brutal and inhuman tradition is also condemned by the Qur'ān in sūra at-Takwīr, namely, "And when the female (infant) buried alive (as the pagan Arabs used to do) is questioned. For what sin, was she killed? (sūra At-Takwīr verse 8-9).<sup>57</sup> And they kept on doing this horrible thing until the Qur'ān banned that in sūra al-An'ām verse 151 and sūra al-Isra' verse 31 : "...kill not your children because of poverty ! We provide sustenance for you and for them..."(VI : 151).<sup>58</sup> "And kill not you children for fear of poverty! We shall provide sustenance for them as well as for you. Surely, the killing of them is a great sin" (XVII : 31).<sup>59</sup>

Apart from this, women were not allowed to inherit neither the daughter from her father nor the wife from her husband nor the mother from her son. For the Arabs left inheritance only to those who carried the sword and defended the tribe. When her husband died, a woman was not allowed to leave the family's possession, for as soon as he died one of his kin threw his clothes over her and she was inherited by him and became his property. She could not leave unless she paid ransom for herself. Moreover, if a woman was divorced, she was not allowed to leave, but was kept as his property, just to spite her. In contrast, a man was allowed any number of wives he wished. To marry a girl, at that time, meant to possess her. This society knew only the patriarchal system. As a consequence, the maternal relatives were of no importance, only the paternal family prevailed and held importance.<sup>60</sup>

Of all the sorry fates of woman described above, it could safely be said that female infanticide was the worst and most dangerous custom humans have ever had. If this practice had continued, it would surely have threatened the continuity of human existence. Therefore, it is no wonder that the atrocious practice of female infanticide became the ultimate metaphor for women's oppression in pre-Islamic Arabia. As appalling as it is, however, female infanticide should not be the sole basis for assessing the status of women in the society before Islam. Arabia was a vastly diverse, tribal society, and women's rights varied according to the prevailing customs and traditions of the tribes. To claim that Arab women were universally inferior to men, and had absolutely no rights before Islam is too simplistic, and does not do justice to the women of this period. Their status, therefore, deserves a more careful analysis.

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<sup>57</sup>Ibid. p. 818

<sup>58</sup>Ibid. p. 196.

<sup>59</sup>Ibid. p. 372

<sup>60</sup>For more information on this topic please see El-Bahnassawi, *Op. Cit.* p. 19-21. See also Fatima Mernissi, "Women and Islam: an Historical and Theological Enquiry". London: Basil Blackwell Ltd. Oxford, 1991. R.A. Nicholson, *A Literary History of The Arabs*. Cambridge, Cambridge University Press, reprinted 1966.

It must first be noted in this context that much of the information about the pre-Islamic Arabian society is not accepted by all scholars in the field. In many cases, the factual information and evidence presented by some scholars have been refuted or contradicted by others. This has to do with the sources of information about this period in Arab history, known as the age of ignorance (*Jāhiliyya*). Some writers tend to rely on the Qurʾān and Ḥadīth to arrive at their conclusions about pre-Islamic Arabia.<sup>61</sup> But their conclusions are not always accurate, for they are inclined to take what is mentioned in the Qurʾān or Ḥadīth as what was commonly practiced in the society, which may not necessarily be true. The Qurʾān and Ḥadīth may address certain issues because of their moral importance or far-reaching implications, regardless of the frequency of their occurrence.

Hence, to get a true sense of pre-Islamic Arab society, one has to consider other sources. Since the Arabs had no fully developed a system of writing, the sources for this period are limited to oral traditions, legends, proverbs and above all to poems. The oldest poems of which there is any record were composed in about 500 AD. "In those days, poetry, rooted in the life of a people, was no luxury for the cultured few, but the sole medium of expression."<sup>62</sup> As such, it has offered researchers glimpses into many aspects of the pre-Islamic society, from the tribal relations to the ideals of Arab virtue to the status of women. These poems, however, were not immune to error and corruption, since they were not recorded in writing until two to four hundred years later, during the second and third centuries of the *Hijra*.<sup>63</sup> Consequently, obtaining accurate, factual information about this era has become a challenging task. However, some general conclusions can be made, which are presented in this chapter.

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<sup>61</sup>Pre-Islamic Arabia and the Arab world cannot actually be separated from the history of classical Mesopotamia that was located close to the Arab Peninsula. Mesopotamia is acknowledged as a pivotal culture in the history of human civilization. History informs us that Mesopotamia was very influential at that time (some historians say that the Mesopotamian civilization lasted from about 3500 to 2400 B.C), not for its neighbors, but also for the whole civilized world. (For more information on pre-Islamic Arabia and the Arabs, see for instance, Ismaʿīl R. al-Farūqī & Louis Lamyāʾ al-Farūqī, *The Cultural Atlas of Islam*, New York: Macmillan Publishing Company, 1986, p. 94-95, and Ira M. Lapidus, *A History of Islamic Societies*, Cambridge, New York, etc. Cambridge University Press, 1988, p. 4-5.

<sup>62</sup>Philip Hitti, *History of the Arabs*. London, MacMillan and Co., 1961, p. 72

<sup>63</sup>*Hijra* literally means "migration". This term is used for several meanings as follows 1) the migration of Muslim from an enemy land to a secure place for religious causes, 2) the first Muslims migration from Mecca to Abyssinia (present day Ethiopia) and later to al-Madīna, 3) the Prophet's migration journey from Mecca to Medīna, and 4) the Islamic calendar year (system) which started from the Prophet's migration journey from Mecca to Madīna. The *Hijra* aimed in this context is the last ones (no. 4)

### 1.A. 1. The Diversity of Arabian Society

One of the few facts that is universally agreed upon is the diversity of the Arabian society prior to Islam. Arabia was comprised of diverse communities with different customs, languages and lifestyles. As the social and cultural norms varied from place to place, so did women's rights. To better understand this diversity and its impact on women, a brief overview of the pre-Islamic Arab society is in order.

Generally speaking, the Arab peninsula was divided into two regions, the arid area of the north and the rain-fed area of the south. The southern region was blessed with resources of soil and climate. Because of its fertile land, its proximity to the sea and its strategic location on the commerce routes, the south had enjoyed throughout its earlier history a developed form of political life and an advanced culture. As a confederation of states, the region was heavily populated, and governed by different kingdoms at different times in its history. It was, as a result, greatly influenced by foreign cultures and religions such as Christianity, Zoroastrianism and Judaism. The people of the southern region were not Arabs, but Sabians or Himyarites of Semitic descent, and spoke a Semitic language of their own.<sup>64</sup> The northern region, on the other hand, was inhabited, primarily, by two groups: the Bedouins (nomads) and the settled tribes. The Bedouins were tough, resourceful and as shepherds, constantly on the move. On the outskirts of the deserts, there was a ring of oases where the tribes had settled. Most of the important settlements were in western Arabia, such as Najrān, Mecca, Yathrib (present day Madīna) and Ṭāif. The settled tribes relied on agriculture or commerce for their livelihood. Their spoken language was Arabic.

The inhabitants of north and south, however, were constantly interacting with each other. There were Arabs who lived in the south and there were Sabian communities in the north. In fact, it was the south that helped urbanize the northwest by opening up the deserts to trade and shifting the world commerce route to western Arabia.<sup>65</sup> This, in turn, created among the Arabs of the north, a

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<sup>64</sup>For more details on Arab history before Islam, see for instance, R.A. Nicholson, *A Literary History of The Arabs*. Cambridge, Cambridge University Press, reprinted 1966. See and compare also with P.M. Holt, et al, ed., *The Cambridge History of Islam*, Volume 1. Cambridge, Cambridge University Press, 1970. And Philip Hitti, *History of the Arabs*. London, McMillan and Co., 1961.

<sup>65</sup>For more on the Arab trade tradition, see De Lacy O'Leary, "Arabia Before Muhammad", New York: Kegan Paul, Trench, Trubner & Co., 1927, p. 182. See also Philip K. Hitti, "History of The Arabs", New York: St. Martin's Press, 1970, pp. 14-40. Whereas for the Arab's agriculture, see A.L. Udavitch, "Aspect of Continuity in the Agricultural History of the Pre-Modern Middle East" in A.L. Udavitch (ed.), "The Islamic Middle East, to-1900 Studies in Economic and Social History", Princeton & New York: Darwin Press, 1980.

new type of settlement, the Caravan City, and a new type of community, the community of traders.

In the sixth century, with the outbreak of international wars and the weakening of major powers that controlled the south, the region began to disintegrate and experienced a breakdown of its political and economic structure. At the same time, Mecca emerged as a new economic and social force in Arabia. Its geographical position on the spice route, half-way between Yathrib and Najran, the strongholds of Judaism and Christianity, respectively, made Mecca a caravan station and a holy city at the same time. The religious life was based on idolatry and polytheism; the object of worship was a trio of goddesses, al-Lāta, al-ʿUzza, and Manat, considered to be daughters of a deity called Allah. Mecca's status as a holy city brought the nomads and the sedentary people together. During some months of the year, known as the Sacred Months, the Arabs would flock to Mecca and the neighboring region. This further promoted the supremacy of Mecca, and helped unify the Arabs. The perfection of classical Arabic and the art of poetry by the Bedouins also contributed to Arab unity. The Bedouins of central Arabia, who for centuries had been associated with foreign powers or Arab clients of foreign powers, were now drawn to the Arabs of Mecca, who were independent of foreign rule and whose indigenous Arab culture the Bedouins could relate to.<sup>66</sup> As the dominant power in Arabia in the century before Islam, Mecca, as well as other tribes in the north, deserve the most attention when examining the status of women.<sup>67</sup>

### 1.A. 2. The Impact of the Tribal System on Women

One cannot fairly address women's position in pre-Islamic Arabia without an understanding of the tribal system, for it was the tribal structure and customs that had the greatest impact on women's rights. The tribe was the main unit of society before Islam. Each tribe consisted of a group of kindred clans; every clan was made up of members of a (*ḥayy*) which was an encampment of tents; each tent represented a family. The bond of blood connected together all members of the same tribe, who submitted to the authority of one chief (*shech*); the tribe's chief was usually selected by the clan elders from one of the prominent families, and acted as an arbitrator to the internal conflicts. "*Banū*" (children of) was the title with which they prefixed their joint names. The fact that certain clans prefixed their names with feminine names is perhaps an indication of an ancient matriarchal culture that existed in Arabia long before Islam. Group solidarity (*ʿaṣabiyya*) was the spirit of the tribe. It signified unconditional loyalty to fellow tribesmen. "Be loyal to thy tribe," was the

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<sup>66</sup> P.M. Holt, et al, ed., *The Cambridge History of Islam*, Volume 1. Cambridge, Cambridge University Press, 1970, p. 23.

<sup>67</sup> Nicholson, 1966, *Op. Cit.*, pp. 1-25

motto of the time. "The clan's claim upon its members was strong enough to make a husband give up his wife."<sup>68</sup>

The tribe was automatically considered as a unit, and regarded every other tribe as an enemy, unless they had forged alliances to protect one another. There was no centralized infrastructure to protect people and their property. In order to survive, every individual had to be affiliated with a tribe. Although some form of customary arbitration existed between different tribes, both Bedouins as well as the settled populations of Mecca and Madīna often resorted to warfare as a means of settling disputes and maintaining order.

Laws and customs in this tribal society varied from one area to another. For this reason, we find different accounts of women's status during the days of Jāhiliyya. On the one hand, there are indications that women held high positions in the society and exerted great influence. They freely chose their husbands, had the right to divorce, and could return to their own people if they were not happy or well-treated. In some cases, they even proposed marriage. They were regarded as equals, not as slaves and were the inspiration of many poets and warriors. An example of a brave woman from this era is Fukayha, who protected a man seeking refuge in her tent while being pursued by the enemy. She courageously covered him with her smock, and with her sword drawn, prevented his pursuers from capturing him until her brothers came to his defense, thereby saving his life.<sup>69</sup>

Many women had the gift of poetry, which they often dedicated to the dead. The fact that a hero's mother and sisters were deemed most worthy of mourning and praising him is cited as a proof of the high character and position of women in pre-Islamic Arabia.<sup>70</sup> But Arabia before Islam was a society where there were many contradictory and injustice law systems practised; and it tended that the strong dominated the weak. It seems reasonable to expect that a natural byproduct of such a society would be the oppression of women. In fact, alongside the examples of strong and independent women, there are numerous reports of women having an inferior status. Fathers who did not value their daughters as much as they valued their sons, for instance, practiced female infanticide. In areas such as marriage, divorce and inheritance, women were often deprived of their basic rights to choose their husbands freely, to divorce if ill-treated or to inherit from their families. Even the poetry praising women focused primarily on their physical attributes; seldom was there any appreciation of moral beauty,<sup>71</sup> indicating that women were more the subject of

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<sup>68</sup> Hitti, *Op. Cit.* p. 27

<sup>69</sup> R.A. Nicholson, (1966), *Op. Cit.* p.86-87

<sup>70</sup> R.A. Nicholson, (1966), *Ibid.* p.88.

<sup>71</sup> Nicholson, *Ibid.* p. 88

lust than respect.<sup>72</sup> We will now address the specific issues related to women in this society.

### 1.A. 3. Pre-Islamic Arab and Female Infanticide

There is no doubt that Arabs committed infanticide before Islam. It was not a new thing nor was it limited to one group of tribes. Young girls were usually the victims of this dreadful practice, however, young boys may have also been killed once there were no more girls left. It was said proverbially, "The dispatch of daughters is a kindness" and "The burial of daughters is a noble deed."<sup>73</sup> In Arabia, as among other primitive people, child-murder was carried out in such a way that no blood was shed, the infant was buried alive. Often the grave was ready by the side of the bed on which the daughter was born.<sup>74</sup> Although the practice of infanticide had once been general, it had nearly died out by the time of The Prophet, except among a few tribes, such as the Tamīm.

Female infanticide was usually prompted by one of two reasons: fear of poverty or fear of disgrace. The first reason is associated with the frequent famines caused by lack of rain and the fear of poverty that would result from providing for girls who were viewed as less productive than boys. Fathers were afraid that they would have useless mouths to feed, since daughters were considered mere "ornaments," as pointed out in the Qur'ān: "And if one of them is informed of the news of (the birth of a girl) that which he sets forth as a parable to the Most Gracious (Allāh), his face becomes dark, and he is filled with grief! (17). (Like they then for Allāh) a creature who is brought up in adornments (wearing silk and gold ornaments, i.e. women), and who in dispute cannot make herself clear? (18). And they make the angels who themselves are slaves of the Most Gracious (Allāh) females. Did they witness their creation? Their testimony will be recorded, and they will be questioned. (19); [Q.S. 43:17-19].<sup>75</sup>

The Qur'ān admonishes the Arabs against killing their children for fear of poverty and promises sustenance for them: "Hence, do not kill your children for fear of poverty: it is we who shall provide sustenance for them as well as for you. Verily, killing them is a great sin. (17:31). The second reason for infanticide was a perverted sense of pride on the part of the fathers who wanted to avoid shame and disgrace, should their daughters be captured by the enemy in war, a common occurrence at that time. The murder of female children for

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<sup>72</sup> Nicholson, *Ibid.* p. 88

<sup>73</sup> *Ibid.* p. 90

<sup>74</sup> W. Robertson Smith, *Kinship & Marriage in Early Arabia*. London, Adam and Charles Black, 1903, p. 293

<sup>75</sup> Al-Hilālī, *Op. Cit.* p. 662.

fear of disgrace began with Qa'is bin Assam, a leader of the *Tamīm* tribe, as related in the following story.<sup>76</sup>

It is quoted by Smith that: "The *Yashkorite Musharmaraj* raided the Sa'ad and carried off, among other women, the daughter of a sister of Qais, who was then married to the son of her captor. As Qais came to ransom her, she refused to leave her husband. Qais was so indignant that he killed all his girls by burying them alive and never again allowed a daughter to live. One daughter born in his absence was sent by the mother to her own kin and on Qais's return he was told by his wife that she had been delivered of a dead child. Years passed till the girl grew up and came one day to visit her mother. "I came in," so Qais himself had told the story to Muhammad, "and saw the girl. Her mother had plaited her hair, and put rings in the side-locks, and strung them with sea-shells and put on her a chain of cowries, and given her a necklace of dried dates. I said, 'Who is this pretty girl?' and her mother wept and said, 'She is your daughter,'" and told me how she had saved her life. So I waited till the mother ceased to be anxious about her, then I led her out one day and dug a grave and laid her in it, she crying, 'Father, what are you doing with me?' Then I covered her up with the earth, and she still cried, 'Father, are you going to bury me? Are you going to leave me alone and go away?' but I went on filling in the earth till I could hear her cries no longer; and that is the only time that I felt pity when I buried a daughter." It is reported that Qais's example found imitators until every chief destroyed his daughters for fear they might cause him shame.<sup>77</sup>

It seems reasonable to conclude that the murder of a daughter to avoid shame, under the horrible circumstances described in this story, is altogether different from the ordinary type of infanticide practiced on newborn infants in primitive nations. This suggests that the two motives for infanticide were unrelated. The scarcity of food during famines had perhaps more to do with the origin of infanticide than family pride, since the nomads of Arabia suffered constantly from hunger during most of the year. The only persons who had enough to eat were great men, and it was them who, following Qais's precedent, killed their daughters out of pride.<sup>78</sup> To the poor people, daughters were a burden, and killing them was a natural means of survival, as it was to other uncivilized people.

In reality, however, the infanticide of children, especially female children, was not limited to Arabia. It was and continues to be practiced in many different cultures. "The ancient Greeks destroyed weak, deformed or unwanted children; the Chinese wanted many sons and few daughters and did not let some infants,

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<sup>76</sup>Smith, *Ibid.* p.292

<sup>77</sup> *Ibid.* p. 292

<sup>78</sup> Smith, *Ibid.*, p. 294

particularly daughters survive. Japanese farmers spoke of infanticide as "thinning out" as they did with their rice fields. In India, many daughters were not allowed to live. Eskimos left babies out in the snow, while in the Brazilian jungle, undesired infants were left under the trees. In London, in the 1860s, dead infants were a common sight in parks and ditches. In 19th century Florence, children were abandoned or sent to wet nurses who neglected them, while during the same period in France, thousands of infants were sent to wet nurses in the countryside, never to return. In some parts of Africa and New Guinea, an infant is buried with its mother if the mother dies in childbirth or soon after."<sup>79</sup>

Indeed, infanticide has been practiced for various reasons ranging from population control to maintenance of the social structure. It has been so common that an anthropologist has called it "the most widely used method of population control during much of human history."<sup>80</sup> Today, in many countries the female infant mortality rate is higher than that of boys. This usually is the case in cultures where the cost of raising daughters is high, either due to lower prestige or the need to accumulate a large dowry which is paid to the husband upon marriage (as in India), or where males are more valued than females. In China, for instance, female babies are sometimes drowned, and mothers of daughters are sometimes beaten. The reason can be found in the government's population control policy which does not allow a couple to have more than one child. Since boys can pass on the family name and are capable of generating more income, the girls become dispensable. Historically speaking, the rules and norms devaluing women and providing the motive for female infanticide stem from warfare, which has always valued men more as fighters.

#### **1.A. 4. The Concept of Marriage in Pre-Islamic Arab**

It is commonly found in the tribal society that the tribe was the main entity and focus of concern. As members of the tribe, men worked hard to earn their living, and supported their tribe by providing it with all the labor that it needed. Marrying women, for the most part, had the purpose of increasing the number of the tribe's members and in turn, its power. Thus the family was overshadowed by the tribe, and its formation was left to personal discretion, unless a marriage might hurt the tribe in one way or another. Because of the emphasis on the tribe and the variation of customs, marriage was a flexible, loose institution with no strict, uniform rules. Based on literary sources as well as the forbidden marriages mentioned in the Qur'ān and Hadith, it is likely that

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<sup>79</sup>For more information on such stories, see Glen Hausfater, et al, ed. *Infanticide*. New York, Aldine Publishing Company, 1984, especially on p. 439).

<sup>80</sup> Hausfater, *Ibid.*, p. 440

the following forms of marriage existed in pre-Islamic Arabia at one time or another:

- a) *Marriage by agreement* - This was usually an agreement between the man and the woman's family. If the husband was from another tribe, the woman often left her family and found a permanent home in her husband's tribe. The tribe which received the woman kept her children, unless there was a special contract to restore the offspring of the marriage to the mother's people. The children were, therefore, of the tribe's kin and not of the mother's. In some other tribes, it was customary that the woman did not leave her own tribe but either married someone within the tribe or a married a stranger who agreed to stay with her family. In this case, the children belonged to the mother's tribe and grew up under their protection. The women of these tribes enjoyed more freedom, and had the right to dismiss their husbands at will. "If they lived in a tent they turned it around, so that if the door faced east, it now faced west, and when the man saw this, he knew that he was dismissed and did not enter."<sup>81</sup> Marriage on these terms were out of the question if the woman did not remain with her own tribe.
- b) *Marriage by capture* - This was a universal practice before Islam. In times of war, women were often captured and taken to the slave market of a trading place such as Mecca and sold into marriage or slavery. It was Islam that made women immune from attack or capture in war time. In a marriage by capture, the woman followed her husband, and bore children who belonged to him. She became his property and completely lost her freedom. Her husband had absolute authority over her, including the exclusive right to divorce. Accordingly, in this kind of marriage, which has been classified as a "marriage of dominion" (*ba'al*), the husband was called the woman's lord or owner, not just in Arabia but also among the Hebrews.
- c) *Marriage by purchase* - In this marriage, the woman's family gave her away for a price, also called the dowry (*mahr*), which usually consisted of camels and horses. It replaced marriage by capture when the tribes began developing friendly relations, but it brought the woman practically into the same oppressive conditions as a captive wife. The emergence of this type of marriage perhaps contributed to the decline of female infanticide. Selling a daughter for a large dowry became much more profitable than burying her in the ground.<sup>82</sup> It was a point of honor not to give away a woman in an unequal match. "If you cannot find an equal match, the best

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<sup>81</sup> Smith, *Op. Cit.* p. 80

<sup>82</sup>In the context of marriage by purchase as such, see also, 'Azizah Al-Hibri, "A Study of Islamic Herstory: Or How Did We Ever Get Into This Mess?", Women's Studies International Forum. Oxford, Pergamon Press, 1982, particularly on page 209

marriage for them is the grave."<sup>83</sup> The Arabs, therefore, were not inclined to sell their daughters too cheaply, and required substantial compensation for their loss.

- d) *Marriage by inheritance* - This was a widespread custom throughout Arabia, including Madīna and Mecca, whereby the heir of the deceased inherited his wife. He could then keep her as a wife, give her away in marriage for a dowry or forbid her from remarriage altogether. It is related in Ṭabari's commentary: "In the Jāhiliyya when a man's father or brother or son died and left a widow, the dead man's heir, if he came at once and threw his garment over her, had the right to marry her under the dowry of her deceased husband or to give her in marriage and take her dowry. But if she anticipated him and went off to her own people, then the disposal of her hand belonged to herself."<sup>84</sup> The marital rights, therefore, were rights of property, which could then be inherited and sold, if the heir so pleased. This type of marriage, which was abolished under Islam, was also common among the Semites.
- e) *Temporary "Muṭ'a" marriage* - This was a purely personal contract founded on consent between a man and a woman without any intervention on the part of the woman's family. There was no need for witnesses. In this type of marriage, the woman did not leave her home, her people gave up no rights, which they had over her, and the children of the marriage did not belong to the husband, nor were they entitled to an inheritance. Another legend of ancient Arabia, 'Umm Kharija, was said to have contracted marriages in more than twenty tribes, and lived among her sons. This indicates that the children of the marriage did not follow their respective fathers. "For this marriage to take place, all that was needed was that the man should say "*suiitor*" and that she should reply "*I wed.*" and the marriage was straightway accomplished without a witness."<sup>85</sup> This marriage was practiced mostly by strangers and travelers, and in return for a price payable by the man to the woman. Because of this price, the woman could not dismiss her husband for the length of time that she had agreed upon for the marriage. This type of marriage is still practised till today in certain places and societies like the shi'a sect in Iran.

Furthermore, there were also other types of marriage or cohabitation such as secret cohabitation, which has been frequently described in Arabic poetry. In this case, the woman only received occasional visits from the man she loved. The man often belonged to a hostile tribe and visited his lover in secret. Although the poets usually boasted of forbidden love affairs, the relations were usually well-known and not a cause of shame or punishment for the woman;

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<sup>83</sup>Smith, *Op. Cit.*, p. 97

<sup>84</sup>Smith, *Ibid.*, p.105

<sup>85</sup>Smith, *Ibid.* p. 86.

the secrecy was simply a matter of etiquette. Marriage by exchange was another form of marriage where a man could exchange his wife or daughter for another man's wife or daughter without having to pay a dowry. Polygyny (marrying more than one wife) was also commonly practiced, not just by the Arabs but Jews and Christians as well. There are also indications that polyandry (marrying more than one husband) practised, which had its roots in an ancient, defunct matriarchal culture. Wife-lending was a practice whereby husbands allowed their wives to live with "men of distinction" to produce noble offspring. The husband, who abstained while his wife lived with the other man, would then be socially considered the father of the child. In some tribes, service marriage was common. When a man was unable to pay the dowry, he agreed to serve the girl's father or kin for a period of time sufficient to earn the bride price. In experimental cohabitation, allowed in some tribes, men could live with young women before marriage. If they liked each other, they would enter into a marriage agreement. Otherwise, there was no commitment on either side.

A man could also have as many concubines as he could afford. Keeping concubines coexisted with polygyny among the Semites for two basic reasons. Childless wives preferred their husband's living with slave girls than marrying another free woman. When the slave gave birth, the child was identified with the wife of her master. The second reason was that polygyny was costly and it was more economical to keep concubines instead.<sup>86</sup>

Women of Mecca were in a relatively better position than that of women in Madīna, although marriages by capture and purchase were also practiced in Mecca. Bedouin women, on the other hand, enjoyed more freedom and asserted themselves more strongly than women of the sedentary tribes. The reason for this was perhaps due to the conditions of nomadic life, which "made the strict seclusion of women impossible, and so it allowed for the development of a more independent female character."<sup>87</sup> Although the Bedouin woman lived in a polygynous family and under a marriage of dominion, she could freely choose a husband and leave him if not treated well. It can be concluded then that marriage in pre-Islamic Arabia was defined by the prevailing custom of the tribes, and influenced by the Jewish and Christian traditions. What preserved any sense of dignity for women under the humiliating conditions of most marriages was the weight attached to the bond of blood. In Arabia a woman did not change her kin on marriage and continued to have a claim on the help and protection of her own people.

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<sup>86</sup>Hammudah Abd al-ʿAṭī, *The Family Structure in Islam*. American Trust Publications, 1977, p. 98-102).

<sup>87</sup>Smith, *Op. Cit.*, p. 122

Although the marriage agreement often gave her husband complete control over her, a woman's tribal affiliations set her apart from the slaves who had no helpers. A man was encouraged not to marry a woman from his own tribe so that she would have no kin nearby to take her side, thereby preventing ugly family feuds.<sup>88</sup> The advantage of kinship naturally disappeared if the husband took his wife to a remote region. In this case, she was no longer a free woman. In one incident, the Jews of Madīna ventured to insult an Arab woman married to a citizen of Madīna, because she was of a strange kin, who had no one to protect her.<sup>89</sup> This is why under some marriage agreements the husbands were prevented from carrying their wives away to strange places.

Among all the different forms of marriage and cohabitation practiced in pre-Islamic Arabia mentioned above, only marriage by agreement slightly resembles the form of marriage permitted under Islam. But what sets the Islamic marriage apart from the pre-Islamic practices is that Islam acknowledged the woman as a human entity with rights of her own. Marriage, therefore, became a contract between a woman and the man she had chosen to marry, and the dowry became a gift to her, rather than to her father or bother.

#### **1.A. 5. The Concept of Divorce in Pre-Islamic Arabia**

As marriage was often an arrangement between the husband and the woman's father, so was divorce. To cancel the marriage and get his daughter back, the father had to return the dowry or purchase price. But if a husband did not get the dowry back, the woman could not be free because the husband had purchased the exclusive right, similar to the right of property, to use the woman as a wife. Upon divorce, a divorced woman could also be claimed by her ex-husband's heirs, just as she would be upon his death. While Islamic law forbade remarriage to a woman who was divorced in pregnancy, in pre-Islamic Arabia, a pregnant divorced woman could be taken by another man under agreement with her former husband.

#### **1.A. 6. The Concept of Inheritance in Pre-Islamic Arabia**

Before the coming of Islam, women were usually excluded from inheriting from their families. The reason for this inequity again has to do with the tribal structure of the society where the strength of each tribe depended on the ability of its members to participate in war. This resulted in inheritance being based on

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<sup>88</sup> Marriage in one's own group or tribe is called in ethnological terminology as endogamy, whereas marriage in other group or tribe is well known as exogamy.

<sup>89</sup>Smith, *Ibid.*, p. 124

the principle of "comradeship in arms." Since men were physically stronger and better fighters, it led to the exclusion from inheritance of women, minors of both sexes, and invalids, as well as preference of the paternal to the maternal lines.<sup>90</sup>

If a woman did have the right of inheritance, it was usually among the tribes where there were still traces of an ancient matriarchal culture, which dictated that, the woman remain with her tribe after marriage. In this case, whatever she inherited would stay within the tribe and pass on to her children who belonged to her kin. In other types of marriage, where the woman left her tribe, her rights of inheritance were reduced as much as possible, since her inheritance would fall into the hands of another tribe. In places such as Madīna, where marriage by purchase was the rule, women fared much worse. A woman could not inherit because she herself was part of her husband's estate to be inherited. In fact, when Islam mandated that sisters and daughters were entitled to a share of inheritance, men of Madīna protested against the rule. Mecca had more advanced laws with regard to inheritance, perhaps because it had been influenced by other civilizations through its commercial contacts with Palestine and Persia, and some Meccans having lived in Roman cities like Gaza. It was in Mecca that Khadija, for instance, led a perfectly independent life as a wealthy widow engaged in a lucrative caravan trade. Her estate included real property because she gave her daughter Zaynāb a house. It can be concluded then that Meccan women could hold property before Islam. Furthermore, because Mecca was considered a holy city and as a result, immune from invasion, the argument used in Madīna, that no one should inherit who could not fight and defend property, no longer applied.<sup>91</sup>

### 1.B. Women in the Time of the Advent of Islam

In most tribes of pre-Islamic Arabia, it has been shown, women were deprived of their basic rights, such as the right to choose a husband, to divorce, and to inherit from their family. In some others, they had a better position. They could marry and divorce at will, engage in trade and hold property. What dictated the status of women, therefore, was the tribal customs and traditions. In the absence of a central government, it was the tribe that served as the highest legal authority. As the supreme bond of the land, the paternal/tribal bond overshadowed all others.<sup>92</sup>

<sup>90</sup>Hugh Kennedy, *The Prophet and the Age of Caliphates*. New York, Longman Inc., 1986, p.18

<sup>91</sup> See also, Smith, *Op. Cit.* pp. 80-200.

<sup>92</sup>For more details on the transition period between the *Jāhiliyya* time and the advent of Islam, see for instance; John L. Esposito, *Islam: The Straight Path*, 3<sup>rd</sup> Edition. New York, Oxford: Oxford University Press, 1998. P. 1-5 and p. 32-40. See also, Tilman Nagel, "The History of Islamic Theology, i.e. Preface p.ix-xii and also p.1-11.

The advent of Islam shifted the focus from the tribe to the individual, balanced by the concept of community and family, and instituted a system in which everyone was equal, regardless of his/her gender, race, age or wealth. Under Islam, it was the moral and religious principles, not tribal affiliations that defined women's rights. Islam acknowledged women as free human beings with full rights of their own. With freedom must come responsibilities and obligations. This has led some to argue that women were more restricted after Islam vis-a-vis Jāhiliyya, which may in fact be true in the few tribes that were not as oppressive to women as others. However, Islam improved the conditions of all women, regardless of which tribe they belonged to. It restored women's dignity and elevated their status, on the whole, to be equal to that of men.

Woman's status in Islam is one of the most controversial and serious issues of our time, not only among Muslim women and those who represent them in the area of women's rights in the Islamic world, but also among fundamentalist Muslims. The reader may find himself confused owing to the large number of books that treat this subject, for the most part, superficially and partially. Some cover Islam's achievements for women,<sup>93</sup> maintaining that it was Islam that gave the woman her rights and honor,<sup>94</sup> while others blame all the disadvantages in the position of Muslim women on Islam.<sup>95</sup> Despite these considerations, it is not possible to cite Qur'ānic references when treating women's position in the *Sharī'a* (Islamic law). The Qur'ān often remains silent when it comes to certain topics, even if the topics have to do with the heart of the *Sharī'a*.<sup>96</sup> There are also matters that the Qur'ān touches upon without describing them in detail.<sup>97</sup>

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<sup>93</sup>See for instance, Qasim Amin, "*Tahrīr al-mar'a*", (Cairo, n.p., 1928), p.9. Muḥammad Rashīd Ridā, "*Nida' li al-jins al-laṭīf*" (Cairo, n.p., 1932), p.111. Muḥammad 'Alī as-Ṣābūnī, "*Tafsīr ayat al-Qur'ān*", (Beirut, n.p., 1981), 2:52,53,169-174. Muḥammad Husein Haikal, *Hayatu Muhammad*, Cairo, 1986. Muḥammad Rashīd Ridha, *Nida' li al-jins al-laṭīf* (Cairo, 1932), p.111. Muḥammad Husein Haikal, *Hayatu Muḥammad*, 17th ed. (Cairo, 1986), p.336. 'Abbās Maḥmūd al-'Aqqad, "*al-Mar'a fī al-Qur'ān*" (Beirut, 1985), p.12. Many contemporary writers depend on superficial comparisons between legislations instituted by the Islamic Sharia and the position of women in the pre-Islamic times, or between the Islamic Sharia and women under Roman law as a proof that woman's position in Islam is much better than under those regimes or laws (Subḥi Ṣālīh, "*an-Nuzūm al-Islāmiyya*", Dār al-Fikr: Beirut, 1965, p.51. Sayyid Amīr 'Alī, *The Spirit of Islam* (Delhi, n.d.), p.222. Muḥammad Husein Haikal, p.354. 'Abdalla Shihata, "*al-Da'wa al-Islāmiyya wa al-i'lām ad-dīnī*", Cairo, 1978, p.130).

<sup>94</sup>Subḥi Ṣālīh, "*an-Nuzūm al-Islāmiyya*", Dār al-Fikr: Beirut, 1965, p. 442

<sup>95</sup>The classic example of the mistakes that result from a lack of knowledge of Islam in this respect is a book by John Laffin entitled *Dagger of Islam*, where the author mentions female circumcision as a command given by the Qur'ān, yet the Qur'ān does not suggest circumcision at all – not even male circumcision!

<sup>96</sup>Female circumcision as practiced in some Islamic countries or countries with a majority Muslim population, – such as in Nigeria, Pakistan, Indonesia, etc. is a good example of this.

<sup>97</sup>Almost all subjects cited from the Qur'ān fall into this category. Thus, a Muslim must check Muhammad's sayings, which have been narrated orally and later written down from the beginning of the third century A.H., to know what the Qur'ān definitely meant. It is worthy of

Furthermore, Islam encourages each individual to marry and establish a family. By building a family it is hoped that one may enjoy a so-called *mawadda waraḥma* life, meaning a life which is full of affection and mercy.<sup>98</sup> While polygyny is allowed in Islam, it is only under certain exceptional conditions. To practice polygyny is not an easy thing and many requirements must be met.<sup>99</sup> As the Creator of the universe and all it contains, including human beings, God knows best that in a family or an interaction between a man and woman (a wife and a husband) problems and conflicts will probably arise. Therefore, He provides polygyny as an emergency measure as one possible way to solve certain problems. Furthermore, Islam also directs that a wife and husband should have the most intimate and loving relationship. The Qur'an states: "They are your garment, and you are their garment. (QS. al-Baqara/2:187)

It is not allowed in Islam to marry a woman by coercion. On the contrary, Islam gives women the right to choose whom she would like to marry, as is indicated by the following Ḥadīth i.e. The Prophet said: "A previously married woman shall not be married till she gives her consent, nor a virgin be married till her consent is sought. It was asked how her consent should be sought. The Prophet p.b.u.h. said: "if she remains silent then this is her consent, but if she declines, it means that there shall be no compulsion on her to marry". (Bukhārī & Muslim)<sup>100</sup>

Divorce is a disliked act in Islam and God hates it. It is allowed only if it is impossible to live together. A divorce from the Islamic point of view is only permissible twice. After that the parties should either stay together on equitable terms or separate in a friendly manner. This is in accordance with God's revelation in sūra al-Baqara verse no. 299 i.e. as follows: "The divorce is twice, after that, either you retain her on reasonable terms or release her with kindness. And it is not lawful for you (men) to take back (from your wives) any of your *mahr* (bridal-money given by the husband to his wife at the time of marriage), which you have given them, except when both parties fear that they would be unable to keep the limits ordained by Allah (e.g. to deal with each

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note that the jurists and the narrators of Hadith have sifted and modified the Hadith according to the circumstances (Ignaz Goldziher, *Vorlesungen über den Islam* (Heidelberg, 1910), p.40f,102,240).

<sup>98</sup> God, The Almighty said in sūra ar-Rūm verse no. 21 as follows: "And among His Signs is this, that He created you wives from among yourselves, that you may find repose in them, and He has put between you affection and mercy. Verily, in that are indeed signs for a people who reflect. (XXX:31). Al-Hilālī. Op. Cit. p. 542

<sup>99</sup> For more information on polygyny see chapter five of this dissertation in which the concept of polygyny from the Islamic point of view is specifically discussed.

<sup>100</sup> Muslim, Ibn al-Hajjāj "aṣ-Ṣaḥīḥ al-Muslim". (Reprint of the Istanbul edition) 2 vols. Cairo, 1334 A.H. p. 112.

other on a fair basis). Then if you fear that they would not be able to keep the limits ordained by Allah, there is no sin on either of them if she gives back (the *mahr* or a part of it) for her *al-khulūʿ* (divorce)<sup>101</sup>...” (QS. Al-Baqara /2: 229).<sup>102</sup>

Islam gives women every opportunity to demand certain rights from men, just as men demand certain rights from women. The Qurʾān thus states: "And they (women) have rights (over their husbands as regards living expenses) similar (to those of their husbands) over them (as regards obedience and respect) to what is reasonable, but men have a degree (of responsibility) over them. And Allāh is All-Mighty and All-Wise" (QS. Al-Baqara /2: 228).<sup>103</sup> Islam also decrees women a right of which they were deprived both before Islam and after it, namely the right of independent ownership. According to Islamic Law a woman's right to her money, real estate, or other property is fully acknowledged. This right undergoes no change, whether she is single or married. She retains her full rights to buy, sell, mortgage or lease any or all her properties. It is nowhere suggested in the law that a woman is a minor simply because she is female.

To put a long story short, Islam gave women a new status, a status of dignity, honor and respect. Islam views that the development of the spiritual and the physical aspects of one's personality are similarly important. And the best, harmonious and ideal life according to Islam, therefore, is the life, which based on a balance state, which equally combines between physical and spiritual as well as between profane and religious (ritual) aspect of life. In other words, Islam encourages its people (*umma*) to live in a happy life both in this worldly life (al-ḥayāh al-dunyawiyyah) and the life in the day after (al-ḥayāh al/ukhrawiyyah) as mentioned in the Qurʾān sūra al-Qaṣaṣ / 28: 77.<sup>104</sup> This is the basic reason why Muslim women are more peaceful and contented compared to non-Muslim women. They are able to fulfill their duties in whatever role is assigned to them. They are capable of both taking care of their homes and doing their jobs without neglecting one or the other. They always aim to take the middle way. Islam, which is not just a religion but a complete way of life, provides complete guidance to women in personal as well as social life and provides them with human dignity, equality and justice. Moreover, Islam respects and views women as responsible and reasonable human beings.

### 1. B. 1. Women Issues in the Qurʾān

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<sup>101</sup> *Al-Khulūʿ* means the parting of a wife from her husband by giving him a certain compensation.

<sup>102</sup> Al-Hilālī, Ibid. p. 49-50

<sup>103</sup> Ibid. p. 49

<sup>104</sup> "But seek, with that (wealth) which Allāh has bestowed on you, the home (happy life) of the Hereafter, and forget not your portion of lawful enjoyment in this world; and do good as Allāh has been good to you, and seek not mischief in the land. Verily, Allāh likes not the Mufsidīn (those who commit great crimes and sins, oppressors, tyrants, mischief/makers, corrupters, terrorisms)." Al-Qurʾān 28: 77, al-Hilālī *et. al. Op. Cit.* p. 526.

The Qur'ān views women as an important part of the whole cosmos. Therefore, it is not surprising that the Qur'ān contains a special *sūra* called *an-Nisa'*, women. Nevertheless, issues or verses concerning women are not only to be found in this *sūra* of the Qur'ān but also in others, such as in *sūra Al-Baqara*, *al-Ma'ida*, *An-Nūr*, *al-Aḥzāb*, *al-Mujādala*, *al-Mumtaḥana*, *at-Taḥrīm* and *aṭ-Ṭalāq*, etc. Nevertheless, the *Sūra An-Nisa'* in the Qur'ān discusses more issues and has more verses regarding women than any other *sūra*. Therefore, according to Maḥmud Shaltut, a former Al-Azhar Syech, *sūra an-Nisa'* is also called *an-Nisa' al-Kubrā*, the biggest *an-Nisa'*, while *sūra aṭ-Ṭalāq* is known as *an-Nisa' aṣ-Ṣughra*, the small *an-Nisa'*.<sup>105</sup>

There are many verses and issues in the Qur'ān that may be viewed as related to women. The number of verses touching on women's issues in the Qur'ān is no smaller than that concerning men; and even outnumber the verses related men's special issues. This is because the Qur'ān often uses general verses with gender-neutral words, like the verses using *jama' mudhakkar salīm* or the plural masculine form *āmanū*, which actually means believing men and women. One example is verse no. 183, namely the verse containing the instructions for fasting in the month of Ramaḍān. For more details on this please see the following translation of the verse "O you who believe! Observing *Aṣ-Ṣawm* (the fasting) is prescribed for you as it was prescribed for those before you, that you may become *al-Muttaqīn*"<sup>106</sup>.<sup>107</sup> All Qur'ānic commentators and Islamic scholars are in agreement that the instructions for fasting in the month of Ramaḍān are obligatory not only for believing men (*mu'minīn*) but also for believing women (*mu'mināt*). In other words, "*jama' muzakkar salīm*" indicates not only the masculine form but also includes the feminine form. This implies indeed that there is no superiority or preference in favor of one creation, *makhlūq* (i.e. men) over women or *visē versa*. And they, who perform it, will be classified among the so-called *muttaqīn*.<sup>108</sup>

In *sūra al-Baqara* no. 221, furthermore, the Qur'ān discusses the legal status of inter-religious marriages, which in this context meant marriage between Muslim men or women and a non-Muslim, *unbeliever*. Allah, the Almighty, says: "And do not marry *al-Mushrikāt* (idolatresses), etc. till they believe

<sup>105</sup>Maḥmūd Shaltut "*Tafsīr al-Qur'ān al-Karīm*", Transl. Herry Noer Ali, (Bandung: Diponegoro, 1990). First Edition, p. 323.

<sup>106</sup>*Al-Muttaqīn* means the pious believers in Islamic Monotheism, who fear Allāh much and abstain from all kinds of sins and evil deeds which He has forbidden.

<sup>107</sup>The translation of Qur'ānic verses in this dissertation will consistently use the English translation of The Noble Qur'ān (1982), Muhammad Taqiuddin Al-Hilālī at al. "*The Translation of the Meaning of the Noble Qur'ān...*" (1982). Madinah, KSA.

<sup>108</sup>*Muttaqīn* from the Islamic point of view is the highest position that one may reach and it differentiated or classified one's position before God. See, for instance, *Sūra al-Ḥujarat*, verse 13, etc.

(worship Allah alone). And indeed a slave woman who believes is better than a (free) *Mushrika* (idolatress), even though she pleases you. And give not (your daughters) in marriage to *al-Mushrik*, a non-believer man, till they believe (in Allah Alone) and verily, a believing slave is better than a (free) *Mushrik* (idolater), even though he pleases you. Those (*al-Mushrikūn*)<sup>109</sup> invite you to the Fire, but Allah invites (you) to Paradise and Forgiveness by His Leave, and makes His āyāt (proofs, evidences, verses, lessons, signs, revelation, etc.) clear to mankind that they may remember.<sup>110</sup>

From the above translated verse, it is clear how the Qurʾān introduces a regulation or sets a law. Moreover, the prohibition against marrying a nonbeliever does not only apply to women but also to men. It, therefore, seems to be fair enough concerning the concept of gender equality.

Islam also gives women the right to release themselves from a marriage if it does not please them or takes them into a dangerous situation. This freedom is indeed a revolution introduced by Islam and the Qurʾān, and especially contrast with *Jāhiliyya* tradition. It is well known that in *Jāhiliyya*, or the time of ignorance, women had no right to ask for a divorce or to release themselves from a marriage or from their husbands, even if they were unhappy or in danger. They could only pray and hope for things to improve or just waits and sees without having any chance to complain against or fight it.

Moreover, the Qurʾān introduced a new form of husband-and-wife relationship, shifting from the possessive form to a balanced and fair form. It is well known that in the Judeo-Christian tradition women were blamed for God throwing Adam (and mankind) out of Paradise. This stereotype is indeed rejected not only by the Qurʾān but also by the Ḥadīth. In my opinion, there is no single Qurʾān verse or Ḥadīth that curses Eve or even indicates that she was guilty of persuading Adam to eat the forbidden fruit (*khuldi* fruit). It is also important to note in this context that there is no single verse in the Qurʾān that mentions Eve by name; Eve is only mentioned, for instance as Adam's couple (wife) like in the case of surā al-Baqara/ 2: 35.<sup>111</sup> This is in agreement with the Qurʾān many verses may be found confirming that there is no inherited sin in Islam and therefore, no person is responsible for any sin except his or her own and no bearers of burdens shall bear the burden of another.<sup>112</sup>

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<sup>109</sup> *Al-mushrikūn* is the Arabic plural form of *Mušrik*, meaning polytheists, pagans, idolaters, and disbelievers in the Oneness of Allāh and His Messenger Muhammad (pbuh). See for instance; Al-Hilālī, *et.al* 1982, op. Cit. p. 48.

<sup>110</sup> Al-Hilālī, *Ibid.* p. 47-48.

<sup>111</sup> Allāh says: "And We said: "O Adam! Dwell you and your wife in the Paradise and eat both of you freely with pleasure and delight, of things therein as wherever you will, but come not near this tree or you both will be of the *Zālimūn* (wrong doers).

<sup>112</sup> See, for instance, sūra al-Anʿām verse 164 (6:164), sūra al-Isra' verse 15 (17:15). Read also sūra al-Fāṭir verse 18 (35:18), sūra az-Zumar verse 7 (39:7), sūra An-Najm verse 38 (53:38).

Ironically, the blame and curses heaped upon Eve as the initial cause for the expulsion of Adam from Paradise caused some thinkers and scholars – especially those who lived in ancient times – to question the status of women. They called into question whether women were humans or animals if they are human; is their status the same as men’s or are they the equivalent of a slave? Let us examine how women were regarded in ancient Greece. In the ancient Greek civilization, a woman was forced to marry without her consent; her consent was not regarded as necessary. As a result, the parents could make her submit to their wishes. She was supposed to accept a husband and lord, chosen by her parents, even though he was a complete stranger to her, and she had to obey.<sup>113</sup>

Greek women, as mentioned above, were always looked down upon as inferiors, and were expected to blindly obey male kinsmen, e.g. their fathers, brothers or, to some extent, their uncles, among others. During the golden era of Greek civilization, a chaste woman was a rare thing. Greek women observed some sort of *Purda*. They had *Harimlek* (women’s apartments), something like a house of prostitution. At that time the status of women could be classified into three disastrous groups. First, there were the prostitutes, who were for men’s satisfaction only. Secondly, the mistresses, whose main duty was to look after the body and health of their lords, massaging them, etc., and finally, the wives, whose task was to bear and bring up children and to look after them in the same way as nannies nowadays do.<sup>114</sup>

The Qur’ān revolutionized the position of women, from an object or chattel of society, that is of men, to a member of society, with an influential and essential role to play. This also holds true not only with regard to rights of inheritance but also to a woman’s position in the family. In sūra al-Baqara, for example, we find how the Qur’ān wonderfully states that woman and man are like clothes or a garment, *libās*. *Libās* in this context may be interpreted as protection or cover but it must also be interpreted as an equivalent-gender form, which means that both man and woman have the same function to protect and to live with each other at a level and status of equality, i.e. *hunna libāsun l-*

<sup>113</sup>See, for instance, Salim El-Bahnassawi “Die Stellung der Frau zwischen Islam und Weltlicher Gesetzgebung”. Aminah Saleh-Ronnweber transl. SKD Bavaria Verlag du Hnadel GmbH. 1998, p. 12-30.

<sup>114</sup>For more information on women’s status before Islam, see, for instance, Said bin Abdullah Seif l- Hatmy “*Women in Islam: A Comparative Study*”, 7<sup>th</sup> Edition, Al-Nahda Printing Press, Oman. 2001. Read also, Samir Islambuty: *Al-Mar’ah, Mafāhimu yanbaghi an tushahhih, Al-Awā’il Press, 1st Edition, Damascus, 1999*. Musthafa Sarba’i, “*Al-Mar-ah baina al-Fiqh wa al-Qanūn*”. Maktabah Darussalam, 1<sup>st</sup> Edition, Cairo, 1998. Etc. See also Salim El-Bahnassawi “*Die Stellung der Frauen zwischen Islam und Weltlicher Gesetzgebung*”, SKD Bavaria Verlag und Hnadel GmbH, Muenchen, 1998.

*lakum wa antum libāsun l-lahunna*, which means they (women) are clothes for you and you (men) are clothes for them.

Moreover, the Qurʾān has something further to say about women in *sūra al-Maʿidah* “food”. Here the Qurʾān explains that it is allowed to marry the so-called *ahl al-kitāb* women or the women of people of the scripture (Jews and Christians) who keep their dignity, i.e. decency, proper behavior, etc. Allowing such a marriage indicates that the Qurʾān sees no difference between chaste women among the believers and chaste women from those who were given the scripture. In this case the Qurʾān pays attention not to the question of whether a woman is among the believers, *muʾminūn*, or the people of the scripture, *ahl al-kitāb*. The most important thing here is her decency.<sup>115</sup>

Women’s issues are also elucidated by the Qurʾān in *sūra an-Nūr*<sup>116</sup> and *sūra al-Aḥzāb*. In *sūra al-Aḥzāb*, Qurʾān explains women’s matters and solves many family problems. Furthermore, the Qurʾān presents the lives of the Prophet’s wives as living models for pious wives, i.e. for women to become like the wives of the Prophet, and to create happy families.<sup>117</sup> The *sūra al-Mujādala* contains yet another example of how the Qurʾān appreciates women and even makes a woman’s opinion the basis for deciding or making the law. This involves the process and background of the so-called *zihār* matter in marriage law. As is quoted in most Qurʾānic exegesis, ʿAus bin as-Šamit said to his wife, Khawla bint Thaʿlaba, “you look like my mother’s back”.<sup>118</sup> According to the custom of *Jāhiliyya*, the ignorant ones, if a husband says this to his wife, it is not lawful for him to sleep with her (his wife) again.

After that ʿAus came to his wife and asked her to sleep with him, but Khawla rejected him saying: “By Allah who masters Khawla, you will never sleep with me again, because you said like that i.e. *zihār*<sup>119</sup> words, before the decision of Allāh and His Messenger is declared. Afterwards, Khawla came to the Prophet (pbuh) and said to him: “O God’s Messenger (Rasūlullāh), verily, ʿAus ibn al-Samit has married me as I was still very young, virgin and he loved me. But now, as I get old and my stomach is getting flabby, he regards me as his mother and leaves me behind without responsibility and expense. So, if you find any

<sup>115</sup> For more information on this case, see also, the Qurʾān commentary of *sūra al-Maidah* verse no. 5.

<sup>116</sup> See, for example, *sūra an-Nūr* verse 31-33, etc.

<sup>117</sup> For more detail on this information, read *sūra al-Aḥzāb* verse no. 30 to 59.

<sup>118</sup> For more details on the background of the revelation of these four verses, see for instance, Muḥammad ʿAlī aṣ-Šabūnī, “*Ṣaḥīḥat al-Tafāsīr*”, Vol. III. Cairo: Dār Aṣ-Šabūnī li ṭ-Ṭabāʿa wa n-Naṣhar wa at-Tauzīʿ, 1976, p. 333-36.

<sup>119</sup> *Zihār* in Islamic jurisprudence is known as the saying of a husband to his wife: “You are to me like the back of my mother” (i.e. unlawful for me to approach). Such a thing is extremely forbidden in Islam.

lightness for me, please say it O Rasulullāh! Prophet Muhammad (pbuh) said: “for the time being I am not yet asked to do things related to your case”. I am, however, of the opinion that you are unlawful for him (‘Aus)”<sup>120</sup>

Hearing such words from the Prophet (pbuh), Khawla, uninterruptedly protested the Prophet’s opinion while saying that her husband had not said *talaq*, the divorce word. She furthermore said “How could he be forbidden to me while I still have small children? And if he takes them I will surely miss them but if I let them live with me, they will be hungry”. Finally, Khawla faced the sky and prayed: O God, I verily complain to You about this matter”. Suddenly, as Khawla was lifting her face to the sky, the first four verses of *sūra al-Mujādala* were revealed as follows:

“Indeed Allāh has heard her statement (*Khawla bint Ta’laba*) that disputes with you (O Muhammad pbuh) concerning her husband (‘Aus bin as-Samit) and complains to Allah. And Allah hears the argument between you both. Verily, Allah is All-Hearer. All-Seer (1) “Those among you who make their wives unlawful to them by (*zihār*) (by saying to them “you are like my mother’s back,”) they cannot be their mothers. None can be their mothers except those who gave them birth. And verily, they utter an ill word and a lie. And verily, Allah is Oft-Pardoning, Oft-Forgiving (2). “And Those who make unlawful to them, their wives, by *zihār* and wish to free or liberate themselves from what they uttered, (the penalty) in that case is the freeing of a slave before they touch each other. That is an admonition to you (so that you may not repeat such an ill thing). And Allah is All-Aware of what you do (3). “And he who finds not (the money for freeing a slave) must fast two successive months before they both touch each other. And he who is unable to do so, should feed sixty *miskīn* (the poor). That is in order that you may have perfect Faith in Allah and His Messenger. These are the limits set by Allah. And for *al-kāfirūn*, disbelievers, there is a painful torment (4).<sup>121</sup>

The story of Khawla is not an isolated case or the only interesting statement that refers to women interests in the Qur’ān. There are many other stories that are documented by the Qur’ān. Among others is the case of emigration. In this case The Qur’ān suggests examining every emigrant, both believers and. This verse is also talks about rights, obligations and the freedom for everyone to express an opinion without consideration of sex or status - and without

<sup>120</sup> Abī al-Fida’ Ismā’īl bin Katsir al-Qurashī al-Dimashqa, “*Tafsīr Qur’ān al-‘adhīm*“, Third Edition, Vol. IV. Maktabah al-‘Ashriyyah. Shayda Bairut, 2000. p. 286-290.

<sup>121</sup> Al-Hilālī, Muhammad Taqī-ud-Dīn and Muhammad Muhsin Khan. “The Noble Qur’ān: *English Translation of The Meanings and Commentary*” King Fahd Complex for The Printing of The Holy Qur’ān, Madinah, K.S.A. 1983. p. 745

favoring either certain sex.<sup>122</sup> Furthermore in *Sūra at-Taḥrīm*, the Qurʾān presents a picture reflecting the interaction and incidents among the Prophet's wives (Ḥafsa and ʿAisha, etc.). This is aimed at giving a model of values, exhortations and laws that are also valid for all Muslim wives in all times and places.

From the above brief descriptions, it is clear that there are many verses in the Qurʾān that discuss women issues. A particularly detailed and discussion, however, is contained in *sūra an-Nisaʾ*, and this *sūra* is therefore well known as *an-Nisaʾ al-Kubrā*, and *sūra at-Ṭalaq* is called *sūra an-Nisaʾ al-Ṣughra*. It is interesting to note here that there is no *sūra* that is called *sūra ar-Rijāl*, but there is a *sūra an-Nisaʾ*. Therefore, it is not true to say that that the Qurʾān discriminates against or disregards women.

In summary, women appear in the Qurʾān in three aspects, namely, a) as a biological and social being, b) as a believer, and c) as a character in the Biblical salvation narrative.<sup>123</sup>

It is well known that, apart from the wife of Muhammad's uncle Abū Lahab, and Zaināb, one of Muhammad's wives to whom the Qurʾān alludes,<sup>124</sup> the Virgin Mary, i.e. Jesus' mother, is the most important female character in the Qurʾān. The nineteenth *sūra* of the Qurʾān is named after her, the only female name the Qurʾān mentions. The other women whose stories are narrated in the Qurʾān are never mentioned by name, rather they were called the wives of their respective husbands. Among these are Eve,<sup>125</sup> the wife of Imran (*sūra Al Imran* 3:35), the wife of the governor (*sūra Yūsuf* 12:30), Pharaoh's wife (*Sūra al-Qaṣās* 28:9), Luth's wife (*sūra at-Taḥrīm* 66:10), Abraham's wife (*sūra Hūd* 11:71), and Noah's wife (*sūra at-Taḥrīm* 66:10).

What the Qurʾān says about women as a biological being can be considered objectively, and not as diminishing any of her rights, though the prevailing theme in this respect is "Men are the managers of women for that God has preferred in bounty one of them over another, and for that they have expended of their property" (*sūra an-Nisaʾ* 4:34). The Qurʾān pictures Mary's mother as being disappointed over the fact that she gave birth to a "female": "Lord, I have given birth to her, a female - (And God knew very well what she had given

<sup>122</sup>For more information on this issue please read the Qurʾān, *sūra al-Mumtaḥana*, verse no. 10 – 12.

<sup>123</sup> Johann Christof Bürgel, *Allmacht und Mächtigkeit im Islam* (München, 1991). p. 286

<sup>124</sup> In *Sūra al-Masad* 111 (which is also called the *Sūra* of Abū Lahāb) Abu Lahab and his wife are cursed. There is a reference to Zainab in *Sūra at-Taḥrīm* 66:2

<sup>125</sup>Adam's wife (Eve) has been known in Islamic literature as "Hawwa". The Qurʾān, however, does not use the term "Hawwa" for Eve but she is named by the Qurʾān as "Adam's wife". See for instance: *Sūra al-Baqara* 2:35; *al-Aʿrāf* 7:19; *Ṭā Ha* 20:117.

birth to; the male is not as the female)" (sūra Al 'Imran 3:36). We find in such Qur'ānic verses Muhammad's attempt to project the Bedouin concept of the woman onto a Biblical episode.<sup>126</sup>

With regard to creation, no distinction in rank is found between man and woman. The Qur'ān informs us that Adam was the first man, as the Bible also says. God The All Mighty says: "And that He (Allāh) creates the pairs, male and female", (sūra an-Najm 53:45).<sup>127</sup> This verse sounds the same message as another verse in sūra al-Ḥujarat in which Allāh says: "O mankind, We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allāh is that (believer) who has *At-Taqwā* [the most pious amongst you]. And fear Allāh! Verily, Allāh is the One Who forgives and accepts repentance, Most Merciful" (sūra al-Ḥujurat 49:13).<sup>128</sup> These verses clearly shows how God, the Almighty, addresses His commands, interdictions and statutes to both sexes. And as a result He means to respect both of them (man and woman) justly, depending on the level of their good deeds (*'amal ṣāliḥ*).<sup>129</sup> From the above brief picture, one may clearly see how women are viewed by the Qur'ān. Among other points, woman are acknowledged as the same believing creatures (religious being) as men, and not as troublemakers to man who must be cursed. Therefore, God, the Almighty, gives women the same rights and opportunities with regard to Him. Apart from this, there are also many Qur'ānic verses which directly or indirectly build the foundation for women's social rights, including, legislative and commercial rights. According to Mahmud Shaltut, Islam acknowledges and gives women rights and status. Shaltut added that such a status had never been enjoyed by women under any divine law, nor in any society that people set up for themselves."<sup>130</sup> Moreover, Shaltut said that "Islam has granted women all that is good, and protected her from all that is evil. The only thing it denied her was the liberty that false culture, i.e. the western culture, has pushed her into. That liberty causes the Western woman, whenever she retreats to her human conscience, to weep tears of blood over her forfeited respect, misused honor, and lost happiness."<sup>131</sup> To promote Qur'ānic messages

<sup>126</sup> This problem, according to Paret, is encountered in the Qur'ānic verses that some orientalist call "sections of the history of salvation". Muḥammad never intended to let his companions know about the history of the prophets in an objective way, since he searched the stories of the prophets looking for himself, his private affairs and circumstances, and found them (See, Rudi Paret, "*Muhammad und der Qur'ān*", Stuttgart, 1985, p.100.

<sup>127</sup> Al-Hilālī, *Op. Cit.* p. 722

<sup>128</sup> Al-Hilālī, *Ibid.* p. 700.

<sup>129</sup> See for instance the Qur'ān, Sūra at-Tawba 9:71,72; al-Aḥzāb 33:35; and al-Burūj 85:10. Regarding this matter, Maḥmūd Shaltut said that "Since the Qur'ān imposes devotional commandments on both male and female, some contemporary scholars claim that Islam puts men and women on the same footing". (See, Mahmud Shaltut, *al-Islām 'aqīda wa sharī'a* (Beirut, 1990), p.12).

<sup>130</sup> Maḥmūd Shaltut, „*al-Islām, 'aqīda wa sharī'a*," Beirut, 1990, p.218.

<sup>131</sup> *Ibid.* p. 219.

correctly and appropriately, a *mufassir* (Qur'ān commentator) should really know and understand the spirit behind the revelation of the Qur'ānic verses, i.e. the socio-historical or even psychological aspects of the verses; so that he or she will be able to interpret them both textually and contextually.

### 1. B. 2. How Does the Qur'ān, i.e. Islam, Restore Women's Position?

Today women enjoy a better position than they once did. They are respected and honored, like men. There are no longer people who question the status of women as human beings and there is no longer a question of debating the origin of women. Women are the same as men with regard to souls, values, rights, and humanity. This has come to be understood, according to Ahmad Satori, due to Islamic teaching, which was successful in destroying *jāhiliyya*, or ignorant custom.<sup>132</sup> In the time of *jāhiliyya*, women were treated as nothing more than goods or objects of pleasure. They had no rights and lived under men's oppression.

The Qur'ān reformed women's position through six revolutionary steps. First, the Qur'ān makes clear that the status of women is like the status of men; both are equal creature of God. This is may be found, among other places, in sūra al-Ḥujurāt, verse 13 in which God, the Almighty says: "O mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know another. Verily, the most honorable of you with Allah is that (believer) who has At-Taqwā [i.e. he is one of the *Muttaqīn* (the pious)]. Verily, Allah is All-Knowing, All-Aware."<sup>133</sup> This verse shows how God views women and men with no discrimination. According to this verse it is only the so-called "*Taqwā*" whose position is distinguished from others before God. We cannot find in this verse anything that states that men are better than women.

Second, the Qur'ān declares that men and women are created from the same material, i.e. soil, and a single person i.e. *nafsin wāḥidatin*. Such a declaration can be seen both in Sūra an-Nisa' verse 1<sup>134</sup> and Sūra al-A'raf verse 189, in which God says: "It is He who has created you from a single person, and then He has created from this single person<sup>135</sup> – which some 'ulama refer to Adam – his wife (Eve), in order that he might enjoy the pleasure of living with her..."<sup>136</sup>

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<sup>132</sup>Ismail, Ahmad Satori, "*Fiqh Perempuan*", in "Membincang Feminisme: Diskursus Gender Perspektif Islam", Risalah Gusti, Surabaya 2000. p. 134.

<sup>133</sup> Alhilali, Op. Cit. p. 700.

<sup>134</sup> In this verse Allāh, The Almighty says: "O mankind! Be dutiful to your Lord, who created you from a single person, and from him He created his wife, and from them both He created many men and women...(an-Nisa' (4) verse no. 1)

<sup>135</sup>For more information on this issue, please see chapter V of this dissertation.

<sup>136</sup>Al-Hilālī, et. al. Op. Cit. p. 228

Third, the Qurʾān acknowledges woman's existence as it acknowledges man's existence. In Islam, both women and men are given the same rights and opportunity to enjoy a happy and harmonious life, both in this world (*fī ad-Dunyā*) and in the afterlife (*fī al-Ākhira*). To achieve such an ideal life, however, one has to follow all God's rules, that is, believing in His Existence, doing good deeds (*āmanu wa ʿamilu aṣ-ṣālihāti*), etc. This is in agreement with God's word in sūra an-Nahl verse no. 97, namely "Whoever works righteousness – whether male or female - while he (or she) is a true believer (of Islamic Monotheism) verily, to him We will give a good life (in this world, with respect, contentment and lawful provision), and We shall pay them certainly a reward in proportion to the best of what they used to do (i.e. Paradise in the Hereafter) (16:97).<sup>137</sup>

Fourth, the Qurʾān shows that the creation process was the same for both female and male. Both were created in the same way. Therefore, Islam does not bestow more privileges on a man than on a woman. Both men and women have their own duties and specialties - as well as rights. God, the Almighty says: "Does man think that he will be left neglected (without being punished or rewarded for the obligatory duties enjoined by his Lord Allāh on him)? Then he became an *ʿalaqa* (a clot); then (Allāh) shaped and fashioned (him) in due proportion. And made of him two sexes, male and female."<sup>138</sup> (75:37-39)

Fifth, the Qurʾān informs us that all deeds, *ʿamal*, of mankind will be rewarded justly and proportionally. And there is no difference between *ʿamal* that is performed by a man and that by a woman. Both men and women derive from the same source, i.e. material and were created in the same process. God will accept their prayers without any discrimination if they pray to Him. God says: "So their Lord accepted of them (their supplication and answered them), "Never will I allow to be lost the work of any of you, be he male or female. You are (members) one of another..." (3:105).<sup>139</sup>

Sixth, Islam, that is, the Qurʾān introduces the idea that woman is the partner of man and man is also the partner of woman. This partnership is wonderfully expressed by God in the Qurʾān sūra al-Baqara verse no. 187 with regard to *libās* (garment, clothes, etc.) which means clothes or garment. God, The

<sup>137</sup>Ibid. p. 362.

<sup>138</sup>Ibid. p. 802. Compare this verse with another verse of sūra al-Mu'minūn. verse no. 12-14, in which God says: "And indeed We created man (Adam) out of an extract of clay (water and earth). Thereafter We made him (the offspring Adam) as a *Nutfā* (mix drops of the male sexual discharge and lodged it) in a safe lodging (womb of the woman). Then We made the *Nutfā* into a clot (a piece of thick coagulated blood), then We made the clot into a little lump of flesh and bones, then We clothed the bones with flesh, and We brought it forth as another creation. So Blessed is Allāh, the Best of creators. Ibid. p. 455-456

<sup>139</sup>Ibid. p. 105.

Almighty says: "It is made lawful for you to have sexual relations with your wives on the night of *aṣ-Ṣāwm* (the fasts). They are *libās* [i.e. body cover, or screen, or *sakan* (i.e. you enjoy the pleasure of living with them – as in verse 7:189) Tafsīr aṭ-Ṭabarī], for you and you are the same for them. Allah knows that you used to deceive yourselves, so He turned to you (accepted your repentance) and forgave you..."(2:38)<sup>140</sup>

### 1.B. 3. The Concept of Marriage from the Islamic Point of View

The Qur'ān views marriage as a desirable thing. God, The Almighty, says in sūra An-Nūr (the 24<sup>th</sup> sūra of the Qur'ān) : "And marry those among you who are single (i.e. a man who has no wife and the woman who has no husband) and (also marry) the *Ṣāliḥūn* ([plural form from *Ṣāliḥ*] meaning pious, fit and capable ones) of your (male) slaves and maid-servants (female slaves). If they are poor, Allāh will enrich them out of His Bounty. And Allah is All-Sufficient for His creatures' need, All-Knowing (about the state of the people). (QS. an-Nur/24:32).<sup>141</sup> Marriage is part of the religious tradition (*sunna*) of the Prophet Muhammad, as he said: "Wedlock [*nikāḥ*] is my tradition in religion; whoever does not apply my law has no part with me. Marry, because I will vie the nations in number by you. Whoever has the ability to marry, let him marry, and whoever has not the ability, let him resort to fasting; for fasting is as good as castration."<sup>142</sup> The Prophet said also that Marriage is half of the faith: "When the servant marries, he completes half of his religion; so let him fear God in the remaining half."<sup>143</sup> According to the jurists it is an obligation when one has a strong desire; namely one is guilty if he has a desire for a certain woman, is financially able to fulfill it (in marriage), but does not marry. He has committed a cardinal sin.<sup>144</sup>

Moreover, Muhammad has prohibited celibacy.<sup>145</sup> In Hadith we read: "There will be none in paradise but have two wives; he will be able to see their legs

<sup>140</sup> *Ibid.* p. 38.

<sup>141</sup> Al-Hilālī, *Ibid.*, p. 471

<sup>142</sup> Ibn Māja, *Bāb an-Nikah*. in 'Ala' ud-Dīn Muttaqī al-Hindī. *Kanz al-'ummāl*. 35 vols. Hyderabad, 1974, 21:194

<sup>143</sup> *Kanz al-'ummāl*, *Ibid.* 21:193.

<sup>144</sup> Al-Kasanī, 'Ala' ud-Dīn Abū Bakr. "*Bada'ī al-sana'ī fī tartīb ash-shar'ī*. 6 vols. Beirut, 1986. 2:228.

<sup>145</sup> al-Bukhārī, *Kitāb an-Nikah* 2. Another tradition says, "Uthman Ibn Maz'ūn wanted to castrate himself and be a hermit in the land. The Messenger of God said to him, 'Do you not have me as a good example? I have intercourse with women, eat meat, fast, and breakfast. Fasting is the castration of my nation. There is none among my nation who castrates or is castrated himself'" (Ibn Sa'd, *aṭ-Ṭabaqāt al-kubrā* (Beirut: Dar Sader, n.d.), 3:394).

even if they are behind seventy garments."<sup>146</sup> In Musnad of Ahmad Ibn Hanbal<sup>147</sup>, it says, "Our tradition [*sunna*] is wedlock. The most evil among you are those who are celibate, and the vilest among your dead are those who are celibate."<sup>148</sup> Muhammad once asked a man named 'Akaf whether he was married or not. The man replied, "No, by God." He asked, "Do you have a concubine?" The man answered, "No." Muhammad asked, "Are you well off?" He said, "Yes." Muhammad said again, "You are, then, a brother of the devils. And if you are a Christian, you are also their brother."<sup>149</sup> But if you are one of us, our life-style is giving in marriage."<sup>150</sup> Muhammad aroused men's interest in marriage because women bring blessings and wealth: "Marry women because they bring possessions"<sup>151</sup> and "Two prostrations by a married man are better than seventy by someone who is single."<sup>152</sup>

The history of religions tells us that marriage is not only the law of Muhammad, but the law of all the prophets, as well. This historical account is in agreement with a Ḥadīth in which the Prophet (p.b.u.h.) said: "Whoever

<sup>146</sup> Ibn Qutayba states, "Tāwus narrated that the Messenger of God said, There is no restraint or bridle in Islam, nor is there monasticism, celibacy, or hermitage" (Ibn Qutayba. "Uyūn al-akhbār", 4 vols. Cairo, 1934-1949, 4:18).

<sup>147</sup> Imām Aḥmad ibn Ḥambal was born in Bagdad in Rabi' al-Awal 241 H/November 780 M. His complete name is Abū 'Abdullah ibn Muḥammad ibn Ḥanbal ibn Ḥilāl ibn Asad ibn Idris ibn 'Abdullah ibn Ḥassān al-Shaibānī al-Marwazī al-Baghdādī. He was not only known as an outstanding fiqh (Islamic jurisprudence) 'ulama (Arabic. Plural form of 'ālim means scholar) but also as an important and prominent Hadith (Muslim tradition) 'ulama'. His *magnum opus* 'Musnad Aḥmad ibn Ḥanbal' is one of the best Hadith books in the field of Hadith, and contains thousand of Hadiths. Moreover, his expertise in the field of Fiqh is highly extraordinary, demonstrated by the fact that he has more than sixty thousand (60,000) fatawā (verdicts) in this field. His home town, Bagdad, which was one of the most important centers of Islamic civilization and knowledge history, helped him to become a matured and famous scholar. He was known as a scholar of genius, who was able to combine *al-wahy* (the revelation of God) with *al-'aql* (logic/ration). Most of his fiqh works, however, were compiled by his students. For detailed information see H.A.R. Gibb. *Op. Cit.*, p. 20-21. See also Hasbi Aş-Şiddiqi, *Op. Cit.*, p. 265-87

<sup>148</sup> Muslim, *Janna* 14; al-Darimi, *Raqa'iq* 108; Ahmad Ibn Hanbal 2:230,247,507

<sup>149</sup> Ahmad Ibn Hanbal, 5:163.

<sup>150</sup> Ibn 'Abd al-Barr, *Usd al-ghaba fi ma'rifat al-Sahaba*, Egyptian ed. (Tehran, 1969), 4:3. 'Uyūn al-akhbar, 4:18. Islam denounces celibacy and monasticism because they are a departure from the tradition of Muhammad. The Qur'ā says: "And monasticism they initiated-- We did not prescribe it for them-- only seeking the good pleasure of God" (Sūra al-Ḥadīd 57:27). The Hadith says: "When this affair of 'Uthman Ibn Maz'un, who showed no interest in women, was published, the Messenger of God sent for him. He said, 'Uthman, I have not been commanded with monasticism; have you rejected my tradition?' He replied, 'No, Messenger of God.' He said, It is my *sunna* to pray and sleep, to fast and breakfast, to marry and divorce. Whoever rejects my tradition has no part with me" (ad-Dārimī, *Nikah* 3). Sa'id al-Khudrī narrated that a man came [to him] and said, "Instruct me!" He said, "I had asked the Messenger of God before you, and he said, 'I instruct you to fear God; this is the head [beginning] of everything, and you must fight, for this is the monasticism of Islam'" (Ahmad Ibn Ḥanbal, 3:82,266). "Castration and the building of churches are forbidden in Islam" (*Kanz al-'ummal*, 21:194).

<sup>151</sup> *Kanz al-'ummal*, 21:196

<sup>152</sup> *Ibid.* 21:197.

embraces my religion, and the religion of David, Solomon, and Abraham, let him marry so long as he can; otherwise let him fight for the cause of God. If he is martyred [dies in war], God will wed him to the wide-eyed fairy. The only exception to this is that if he attends to his parents or if he is under binding obligation to people."<sup>153</sup> So the one who does not marry exposes himself to the curse of God and the angels: "The curse of God and of angels and of all the people is upon anyone who lives in celibacy-- there is no celibacy after John, the son of Zakariyya."<sup>154</sup>

One of the most important reason for marrying is the getting of children, Jābir narrated, "While we were returning with the Messenger of God from a certain incursion, I started driving my camel fast, as it was a lazy one. A rider came behind me... Behold the rider was the Prophet himself. He said, 'Why are you in such haste?' I replied, 'I am newly married.' He asked, 'Did you marry a virgin or matron [a previously married woman]?' I answered, 'She is a matron.' He said, 'Then, [seek to beget] children! Children, O Jābir.'<sup>155</sup>

It seems that in oriental societies it is a tradition and a part of their history to despise and suspect celibates! Anyone who does not marry exposes himself to all sorts of accusations. Ibrāhīm Ibn Masarra narrated, "Tāwus said to me, 'Get married or else I will say to you what 'Umar said to Abū al-Zawā'id: "The only thing that keeps you from marrying is impotence or lasciviousness."<sup>156</sup>

Last but not least, it could be safely said that Islam encourages a man and woman to marry and at the same time discourages celibacy, because celibacy will usually lead him/her to adultery and the like. Therefore, it is not surprising that the so-called „marriage institution“ is very respectable and sacred in Islam<sup>157</sup>, whereas divorce is sharply condemned and cursed by Islam; it is one of the allowable or permissible things that is indeed cursed and hated by Allāh. Divorce, therefore, must be viewed as the last step and solution to a family conflict or crisis.

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<sup>153</sup> ibid. 21:200

<sup>154</sup> ibid. 21:200

<sup>155</sup> al-Bukhārī, *Nikah* 121

<sup>156</sup> See *Uyūn al-akhbār*, 4:18. A single man, as Muhammad thought, is exposed to fornication and immorality, and he cannot be delivered from this destiny except by fasting, if he were poor, or marriage. The Hadith says, "The Messenger of God saw a woman (and was apparently excited) so he had intercourse with Zainab, his wife, while she was dyeing a rawhide. After he fulfilled his desire, he went out to his friends and said, 'Woman comes in the shape of a devil and leaves in the shape of a devil. Any of you who sees a woman, let him have intercourse with his wife. This will repel that which is in his soul'" (Muslim, *Nikāh* :10; al-Tirmidī, *Raḍa'*: 9; ad-Dārimi, *Nikāh* 31; Aḥmad Ibn Ḥanbal 3:33,341,348,391).

<sup>157</sup> The sentence "in Islam" stated in this context must be differentiated from Islamic society. In Islam here means in Islamic Perspective i.e. based on Shari'a Islāmiyya. If it is understood as "Islamic society or community", it will accordingly be biased because the family institution is not respected as such in all Islamic Society as a whole.





## Chapter II

### MUFASSIRS : Their Lives and Works

This chapter will briefly present the lives and works of two *mufassirs*, Shech Muḥammad Mutawālī ash-Sha‘rawī and Shech Ḥasbī aṣ-Ṣiddiqī. By presenting a short biography of these Qur’ān commentators, it is expected that one may easily understand their thoughts. Unlike for Ḥasbī aṣ-Ṣiddiqī, there is almost no resource material - neither books nor internet material - to be found with a biography of ash-Sha‘rawī.<sup>158</sup> This, among other things, is because ash-Sha‘rawī rarely wrote or talked about his personal life and reputation. It probably reflects that he was a humble and simple person as was said by the many people who knew him. Moreover, studies on ash-Sha‘rawī’s biography are also very rare.

#### 2.1. Biographical Sketch of Shech Muḥammad Mutawālī ash-Sha‘rawī

*Shech Muḥammad Mutawālī ash-Sha‘rawī* was born in *Daqadus, Egypt*, on 5<sup>th</sup> April, 1911. *Daqadus* is located in Daqahliyya Province, i.e. approximately 17 miles from Northern Cairo, Egypt. He came from a middle class family that was known in the village of Daqadus for its devotion to Islam. Sa‘īd Abū al-‘Ainain says that he even heard that one day *Shech ash-Sha‘rawī* stated that he was a descendant of Ḥasan and Ḥusīn, Prophet Muḥammad’s grandchildren. This means that he is one of the Prophet’s offspring.<sup>159</sup> From the time of Shech ash-Sha‘rawī’s birth, his father had high aspirations for him. In his childhood he went through the process of memorizing the holy Qur’ān in the village’s *Kuttāb*, He finally memorized all thirty juzs i.e. the whole Qur’ān when he was just 11 years old.<sup>160</sup> When he finished the memorization his fellow villagers called him *Shech Amīn*, and this became *Shech Muḥammad Mutawālī ash-Sha‘rawī*’s nickname during his childhood.<sup>161</sup>

In the year 1926, he attended primary Azharite education in the *Zaqaziq* institute of religious education. Whenever he returned to his village, his Qur’ān tutor encouraged him to teach Islamic knowledge in the village’s mosque. This was Shech ash-Sha‘rawī’s first public speaking. In 1930, *Shech ash-Sha‘rawī*’s

<sup>158</sup>Fortunately, my professor, Tilman Nagel, allowed me to borrow a book on ash-Sha‘rawī’s entitled “*anā min sulālatin...ahl l-bayt*” which is written by Sa‘īd Abū al-‘aynayn; no publication year. Even though the book does not contain detailed information on his biography, it is still useful as was additional information that I could gather through the Internet. This book actually talks about his spiritual experiences, such as his dream in which he said that he saw Prophet Ibrahim, etc. (p. 195-205), or his *ziyāra*, visit to the cemetery of saints and pious people during his 18 years of teaching at the faculty of šari‘a in Mecca (p. 155-193). See also p. 195-204.

<sup>159</sup>Sa‘īd Abū al-‘aynayn “*anā min sulālatin...ahl l-bayt*”, p. 5-11

<sup>160</sup>For more information, see : [www.forsan.net/tarafet/sharawi.htm](http://www.forsan.net/tarafet/sharawi.htm)

<sup>161</sup><http://www.ims.uwindsor.ca/Azhar/biography/schooar/Shaarawi.html>.

village *Daqadus* protested against the Egyptian government of that time and the villagers refused to participate in the parliamentary elections. This led to a confrontation with the police and the village was put under curfew. The curfew coincided with the memorial of the Egyptian leader *Sa'd Zakhlūl*, and the young *Shech ash-Sha'rawī* recited a poem in public in remembrance of *Sa'd Zakhlūl*, despite the police presence.<sup>162</sup>

In 1936, *Shech Sha'rawī* traveled to Cairo to enroll in the Faculty of Arabic Language in al-Azhar University. There were several teachers and preachers who influenced *Shech ash-Sha'rawī*'s development. Scholars who contributed to the shaping of *Shech ash-Sha'rawī*'s knowledge during his Azharite undergraduate years include *Shech Aḥmad Yūsuf Nagatī*, *Shech Aḥmad 'Imara*, *Shech Ibrāhīm Hamrush*, who is described by *Shech ash-Sha'rawī* as the Arabic language genius of his time, as well as *Shech Muḥammad Mustafā al-Maraḡī*. *Shech ash-Sha'rawī* also mentions other non-Azharites whose knowledge contributed to his own, such as *Shech Hassan al-Banna* who had a unique style of lecturing. *Shech ash-Sha'rawī* admired the poetry of *Aḥmad Shawqī*, who is known in Egypt and the Arab world as the prince of poets.<sup>163</sup>

In the mid-thirties *Shech ash-Sha'rawī* led a student movement in al-Azhar whose objective was to gain al-Azhar's independence. The movement was known as al-Maraḡī's *movement* since its members called for the return of *Shech Muḥammad Mustafā al-Maraḡī* to the position of al-Azhar's Grand Imam. This objective opposed the will of Egypt's rulers. As the young *Shech* was one of the movement's leaders, he was detained for a month in the jail of *al-Zaqaziq*. In the end, the movement succeeded and *Imām al-Maraḡī* regained his position.

*Shech ash-Sha'rawī* graduated from the Faculty of Arabic Language in 1941 and in 1943 he obtained a specialized degree from the same faculty. *Shech ash-Sha'rawī* started his Azharite teaching work in *Ṭanṭa's* institute of religious studies. He was then transferred to equivalent institutes in *al-Zaqaziq* and *Alexandria*. In 1950, he began his long career of teaching outside Egypt. He was sent by al-Azhar to Saudi Arabia to teach at King Abd al-Aziz as-Su'ūd University in Mecca. He then returned to Egypt in the early sixties and worked in several Azharite positions.<sup>164</sup>

In the mid-sixties Algeria won its independence after a long war against French occupation. One of the highest priorities of the newly independent Algeria was to re-Arabize the country, which had deteriorated during the years of

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<sup>162</sup>Ibid.

<sup>163</sup> Sa'īd Abū al-'Ainayn. Op. Cit. p. 169-171.

<sup>164</sup>Ibid. p. 169-175.

colonization by the French language. In 1966, al-Azhar sent a delegation of Arabic language specialists to Algeria, whose president was *Shech ash-Sha'rawi*. In 1970, Shech ash-Sha'rawi worked for the second time at King Abd al-Aziz University in Saudi Arabia. In 1975 he finally returned to Egypt. In that year he had an immense impact on the Egyptian population when he appeared in the weekly television program *nūr 'ala nūr*. His lecturing style was very different from traditional Azharites and he always conveyed ideas using a method that was understandable to everyone. From that time *Shech ash-Sha'rawi's* fame skyrocketed. Sharawī, who had moderate views of Islam, was considered Egypt's top preacher. His books, tapes and videos are still popular all over the Muslim world and he was given awards by several Arab Gulf countries.

*Shech ash-Sha'rawī* retired from his Azharite career in 1976. In the same year he was appointed by president Anwār Sadat as a minister of *waqf*, a position he occupied for two years. In 1980 he began his famous Friday lessons on Egyptian television. His talks on Qur'ān interpretation (*Tafsīr*) attracted audiences of sizes probably unparalleled by any contemporary Azharite. The religious lectures of Sha'rawī on Egyptian television on Fridays were popular particularly for the simple way in which he conveyed Islamic principles and his speaking in a colloquial dialect of Arabic. Sha'rawī's teachings and dictums won him wide acclaim in the Muslim world. Apart from these, his religious writings are also popular with people from all classes and backgrounds; and are among the best-selling books in Egypt. Shortly before his death, *the Akhbār al-Yawm* publishing house that prints them said that his books had been sold some 700.000 copies. One can imagine how many of his books have been sold by now.

In 1976, he received the Merit Model of First Degree and in 1978 he was awarded the King Faisal Prize. He then also obtained an honorary doctorate in Arts from Manşūra and Manufiyya Universities in 1978. Finally, he was chosen as „The Islamic Personality“ of the year 1418 H, by the Dubai International Holy Quran Awards. Finally, he was honored with the Shech Zayīd Model of first degree.<sup>165</sup>

*Shech Muḥammad Mutawālī ash-Sha'rawī* died on June 16<sup>th</sup>, 1998 of a heart attack. Sha'rawī's funeral was held at his village of *Dakamis* in *Qalyoubia* province, 200 km north of Cairo, and was attended by thousands of people. Women dressed in black cried, and clouds of dust drifted through the hot afternoon air. He is survived by three sons, *Sami*, *Abdurrahim* and *Ahmad*, and by two daughters, *Fatima* and *Ṣaliha*.<sup>166</sup>

<sup>165</sup>[www.forsan.net/tarafet/sharawi.htm](http://www.forsan.net/tarafet/sharawi.htm)

<sup>166</sup>[www.khayma.com/alsharawi](http://www.khayma.com/alsharawi).

## 2. 2. Sha'rawī's Works:

*Shech ash-Sha'rawī* is one of the most productive authors that University al-Azhar has ever had. He wrote a large number books and articles, including:<sup>167</sup>

- Tafsīr al-Sha'rawī (Qur'ānic Interpretation of the Qur'ān).<sup>168</sup>
- Mu'jizat al-Qur'ān (The Miracles of the Qur'ān)
- 'Aqīdah Al-Muslim (The Muslim Belief)
- Silsila Fatawā (Series of Legislations)
- Al-Isrā' wa l-Mi'rāj (Isra' and Mi'raj)
- Mi'atu suāl wa jawāb fī al-Fiqh Al-Islām (A Hundred Questions and Answers in Islamic Jurisprudence).
- Al-Qaḍā' wa l-Qadr (Destiny and Fate).
- Labbaika l-lāhumma labbaik (Kitab on Hajj).
- Al-Ḥajj al-Mabrūr (The Accepted Pilgrimage)
- Asrāru bismillāhirrahmānirrahīm (The Secrets of Bismillāhirrahmānirrahīm).
- Aṭ-Ṭarīqu ilā l-lāh (The Way to Allah)
- Hādhā huwa al-Islām (This is Islam)
- Al-mar'atu kamā arādahā l-lāhu (The Will of Allah Regarding Women).
- Naẓarāt fī al-Qur'ān (Thoughts on the Qur'ān)
- Al-Muntakhab fī tafsīr al-Qur'ān al-karīm (Selected Qur'ānic Commentaries)
- Min faiḍi l-Qur'ān (Some of the Greatness of the Qur'ān)
- 'Alā mā'idati al-fikr al-Islāmī (On the [dinner] Table of Islamic Thought)
- Aṣ-Ṣalātu wa arkānu al-Islāmī (Prayer/Ṣalāt and Islamic Principles).
- Ash-Shūrā wa at-Tasyrī' fī al-Islām (Discussion and Legislation in Islam)
- Al-Islām wa al-mar'ah, 'aqīda wa manhaj (Islam and Women, Faith and Methods)
- Al-Islām wa al-fikr al-mu'āṣir (Islam and Contemporary Thought).

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<sup>167</sup>[www.khayma.com/alsharawi](http://www.khayma.com/alsharawi).

<sup>168</sup>Tafsīr ash-Sha'rawī, though not directly composed by him, could be regarded as his *Magnum Opus*. This Tafsīr, however, in some cases is hard to understand, especially for those not familiar with spoken Arabic. Reading through this tafsīr one can recognize the genius of ash-Sha'rawī's use of the Arabic language. Also the way he interpreted and analyzed Qur'ānic verses shows that his interest in language is quite dominant. I finally find that ash-Sha'rawī is not only an outstanding mufassir and linguist but also an outstanding thinker and 'ulama', who masters not only religious but also secular knowledge such as biology, genetics, physics, geography, etc. Last, but no means least, he was also a productive poet and a preacher with an audience of millions.

### 2.3. Sha'rawī's Shortcomings

As a human being, Sha'rawī is not a man without shortcomings. One of these is the problem of bibliography. For instance, in his *Magnum Opus*, „*Tafsīr ash-Sha'rawī*“ he often quoted the opinion of others, e.g. Gregor Mandel, but he did not mention the source of the quotation. One can hardly find any footnotes or references in his works.<sup>169</sup> This makes it difficult to trace the original sources of the information he mentions or to refer to them for further studies and research. Moreover, though he is described as a moderate ‘Ulama’ (Islamic Scholars), in some cases he was very strict, and seems to be a little contradictory, for instance; with regard to body-part transplantation. In this case Sha'rawī said that he opposed the transplantation of human organs; because, according to him, such an act could be viewed as an attempt to change God's will by making a human being live longer than he or she was destined to. He also angered feminists and human rights activists by supporting female circumcision and by ruling that women should not be appointed to top government positions or become judges. Sha'rawī was also one of many ‘Ulamā’ who condemned the paying of interest on bank deposits.<sup>170</sup>

### 2. 4. Biographical Sketch of Hasbi aṣ-Ṣiddiqī<sup>171</sup>

Hasbi aṣ-Ṣiddiqī, whose complete name is Muhammad Hasbi aṣ-Ṣiddiqī, was born in Lhok Seumawe-North Aceh, Indonesia, on March 10, 1904. His *laqab* „aṣ-Ṣiddiqī“, derived from the name of the first caliph of Islam, Abu Bakr aṣ-Ṣiddiqī. Based on his family's traditional account, he was the thirty-seventh descendant of Abu Bakr aṣ-Ṣiddiqī.<sup>172</sup> His father, Muḥammad Husin, was an ‘ālim (Islamic scholar). Like his father, his mother, ‘Amra bint ‘Abd l-‘Azīz,

<sup>169</sup>His *Tafsīr*, i.e. *Tafsīr Ash-Sha'rawī*, is enough proof of such a shortcoming by Sha'rawī in the matter of bibliography.

<sup>170</sup>[www.forsan.net](http://www.forsan.net). *Op. Cit.*

<sup>171</sup>Most of the information on Ṣiddiqī's biography gathered in this dissertation is based, among other things, on the experiences and narrations of his son, Nourouzzaman Ṣiddiqī which is recorded in his books, namely; a) “Muhammad Hasbi Aṣ-Ṣiddiqī dalam Perspektif Sejarah Pemikiran Islam di Indonesia”, Ph. D. diss., IAIN Sunan Kalijaga, 1987. b) “Jeram-jeram Peradaban Muslim”. Pustaka Pelajar, Yogyakarta, 1996. and c) “Fiqh Indonesia: Penggagas dan Gagasanannya”. Pustaka Pelajar, Yogyakarta, 1997. Moreover, I traced the sources on Hasbi's bibliography also through Yudian Wahyudi's M.A. thesis entitled “Hasbi's Theory of Ijtihād in the context of Indonesian Fiqh”. Institute of Islamic Studies, McGill University, Montreal – Canada, 1993. etc.

<sup>172</sup>His line of descent or *silsilat al-dhahāb* is as follows: Abu Bakr al-shiddiq, Muhammad Qasim, Ja'far, Yazid, Hasan, ‘Ali, Yusuf, Abd al-Khaliq, ‘Arifin, Muhammad, Abd al-‘Aziz, Sham, Amir Kilāl, Baha' al-Din, ‘Ala al-Din, Ya'qub, Marwa Jud al-Din Muhammad Zahid, Darwish, Khawajiki, Mu'ayyid al-Din, Ahmad al-Farr, Muhammad al-Ma'shum (Faqir Muhammad), sayf al-Din, Ahmad Diya' al-Din, Fatimi, Muhammad Tawfiqi, Muhammad Salih, Shati', ‘Abd al-Rahman, Muhammad Su'du, Muhammad Husayn, Muhammad Hasbi aṣ-Ṣiddiqī. “Djalal, „Tafsir an-Nur,“ 187 and 586. See also, Ṣiddiqī, „Hasbi aṣ-Ṣiddiqī,“ 500.

also came from a religious family. Although hailing from a family which had an opportunity to acquire a Western education provided by the Dutch, his education was apparently chaotic. It was neither systematic nor regular because his father did not wish to have his son enrolled in a Dutch school because of his apprehensions about the Dutch policy to convert Indonesian Muslims from their religion.<sup>173</sup> His father even forbade him to learn the Latin alphabet because it was the unbeliever's (*kafir*, Acehnese *kaphé*) language (*kafir*)<sup>174</sup>, and therefore, he was illiterate in the Western alphabet. Instead, to sharpen his Islamic spirit his father sent him to an Islamic Boarding School (*pesantren*).<sup>175</sup>

From 1912 to 1915, he went to the *pesantren* of Teungku Chik<sup>176</sup> Piyeung, of Teungku Chik of Blang Kabu Geudong, and Teungku Chik of Blang Manyak Samakurok, respectively, spending only a year teaching. Afterwards, Şiddiqī spent two more years at Teungku Chik Idris of Tunjungan Samalanga, which was known as one of the best *pesantren* specializing in *fiqh*, and the *Pesantren* of Teungku Chik in Hasan Krueng Kale. In 1920, he received a certificate from the latter, allowing him to open his own *pesantren*. Şiddiqī's father's prohibition against learning the Latin alphabet found its echo in Aceh, where the *pesantrens* were extremely anti-Dutch. However, realizing the

<sup>173</sup>For Dutch policy, see for instance Robert van Neil, „From Netherlands East Indies to Republic of Indonesia, 1900-1945,” in *The Development of Indonesian Society From The Coming of Islam to The Present Day*, ed. Harry Aveling (New York: St. Martin Press, 1980), 106. See Also, Hamid al-Gadri, „Politik Belanda Terhadap Islam dan Keturunan Arab di Indonesia” (Jakarta: Haji Masagung, 1988), 56-57.

<sup>174</sup>Aş-Şiddiqī „Hasbi Aş-Şiddiqī,” 158. This also happened to others, who lived around that time, for instance Harun Nasution, who said: “My grandparents always asked me not to learn Dutch, because it is a language of the *kafir* (unbeliever) and Arabic was very encouraged because it is believed that Arabic would be the language of Heaven. And if you answered in Dutch, you would enter Hell.” Harun Nasution, “Menyeru Pemikiran Rasional”, in *Refleksi Pembaharuan Pemikiran Islam: 70 Tahun Harun Nasution*, ed. Panitia Penerbitan Buku dan seminar 70 Tahun Harun Nasution Bekerjasama dengan Lembaga Studi Agama dan Filsafat (Jakarta: Lembaga Studi Agama dan Filsafat, 1985), 5.

<sup>175</sup> According to Zamakhsyari Dhofier, *Pesantren* as a traditional boarding school, has five basic elements, namely, pondok or asram (Urdu), mosque; santri (student); teaching of Islamic classical books, and kiyai (the teacher and at the same time functioning as leader. Zamakhsyari Dhofier, “Tradisi Pesantren: Studi tentang Pandangan Hidup Kiyai, 4<sup>th</sup> edition (Jakarta: LP3ES, 45; and B. Lewis et al., Eds. “The Encyclopaedia of Islam” sv. “Islam in Indonesia” by C.A.O. van Nieuwenhuijze (Leiden: E. J. Brill, 1971), III: 1227. Moreover, Ismail Yakub said that the *pesantren* was the only place of public education before the school system existed. Ismail Yakub “Gambaran Pendidikan di Aceh Sesudah Perang Aceh-Belanda Sampai Sekarang”. In *Bunga Rampai Tentang Aceh*, ed. Ismail Suny (Jakarta: Brata Karya Aksara, 1980), 322. According to Pustaka Azet, *Lexicon Islam*, s.v. “Pesantren”, 589. There are two kinds of *pesantren*: (a) that of *salafī*, a *pesantren* that still maintains the teaching of classical Islamic textbooks as the core of *pesantren* education; (b) that of *khalafī*, a *pesantren* that has included secular subjects in the *madaris* it develops. Hasbi belonged to the first category of the *pesantren*.

<sup>176</sup> Teungku Chik is Teungku Besar (Great Teungku) which is called Tuengku di Bale, while Teungku Rongkang is a senior santri (student of *pesantren*) who teaches at the *pesantren*. Yakub, „Gambaran Pendidikan”, 325. In Acehnese terminology Teungku, abbreviated „Tgk.” is different from Teuku, abbreviated „T”. The first, referred to means „Alim, and the latter means the Acehnese aristocracy. See for instance Boland, „The struggle of Islam” p. 69; and Sjamsuddin, „The Republican Revolt”, p. 338.

disadvantages of being unfamiliar with the Latin alphabet, Şiddiqī asked his friend Teuku Muhammad, who came from Acehnese aristocracy (Ulee Balang), to teach it to him.<sup>177</sup>

Returning from Krueng Mane, Şiddiqī met Al-Kalīlī, who had just moved from Singapore to Lhok Seumawe. Al-Kalīlī was one of the founders of the al-Imam (a modernist) journal in 1906, and in 1920 he founded The Islam Menjadi Bersatu (Islam Becomes United), a modernist organization, in Kutaraja (now known as Banda Aceh). From Al-Kalīlī Hasbi lent some of the works used by modernists such as Ibn Taimiya's *Fatawa Ibn Taimiya* and *Majmu'āt al-Rasā'il*, as well as Ibn al-Qayyim's *Zad al-Ma'ad*, *I'lam al-Muwaqqin*, *Bada'i' al-Fawa'id* and *Shifa' al-'Ali*. Al-Kalīlī was the one who suggested to Şiddiqī that he deepen his understanding of modernist thoughts at Al-Irşād school in Surabaya (East Java), and he also accompanied Şiddiqī on the way to Surabaya in 1926.<sup>178</sup> After finishing his studies at Al-Irşād in Surabaya in 1927, Şiddiqī joined the Islam Menjadi Bersatu. In 1928 he was appointed the principal of a new Al-Irsyad school, which the Netherlands East Indies government had closed on the basis of the Teacher Ordinance of 1905.<sup>179</sup>

In 1929, Şiddiqī was appointed the principal of the al-Huda school, founded in Krueng Mane in the same year. In 1931, he was elected a leader of the Lhok Seumawe branch of the Jong Islamiten Bond<sup>180</sup>, an organization to which he had helped found in his area. Şiddiqī moved from Lhok Seumawe to Kutaraja (now known as Banda Aceh) in 1933, where he joined the executive board of the *Nadī l-Islāhī l-Islāmi* (Club of Islamic Reform), which was founded in 1932 with T.M. Usman as its leader. The Union of All Aceh Islamic Teachers<sup>181</sup>, elected Aş-Şiddiqī its leader after its foundation in 1936.

<sup>177</sup> Aş-Şiddiqī, „Hasbi aş-Şiddiqī“, 158.

<sup>178</sup> R.H.A. Soenarjo, „*Pidato Promotor Pada Upacara Pengerahan Derajat Doktor Honoris Causa*“, IAIN Sunan Kalijaga, 1975; 2; Şiddiqī, Hasbi Aş-Şiddiqī,“ 161-161; and Noer „Gerakan Modern Islam, 77.

<sup>179</sup> Staatblad 1905: 550, and was renewed in 1925.

<sup>180</sup> Some members of Jong Java (founded on March 7, 1915) such as Agus Salim, Syamsurizal, and Kasman Singodimejo were not satisfied with this organization, which was secular. They felt that although ethnically divided, Indonesia had a Muslim majority. Consequently, they founded the Islamiten Bond in January 1925, following the seventh Congress of the Jong Java (Jogyakarta from December 20 to 25, 1924), to unite Indonesia by emphasizing Islam as the unifying factor. They worried about the disintegration of Indonesia for ethnic reasons, a process they feared had begun with the emergence of some local ethnic-oriented youth organizations, such as Jong Sumatra (founded on December 9, 1917) and Jong Ambon (founded in 1918). For more information on this history, see for instance “*Peranan Ummat Islam dalam Pembentukan dan Pembangunan Negara Berdasarkan Pancasila & UUD'45* (Bandung: Angkasa, 1985), 17-18; and Marwati Djoened Poesponegoro and Nugroho Notokusanto, “*Sejarah Nasional Indonesia*”, 4<sup>th</sup> edition (Jakarta, Balai Pustaka, 1990), V: 191.

<sup>181</sup> This organization was established with the aim of developing the quality of religious schools and moving towards their perfection step by step. “*Penjajaran (Brochure)*” no. 2 tanggal 20 October, 1936 quoted in Yakub, “*Gambaran Pendidikan*”, p. 352.

Besides teaching both at Jadam Montasik in 1937 and at the Iskandar Muda school in Lam Pakue' in 1940, he founded the *Dār al-ʿIrḫān* School in 1940<sup>182</sup>. He was a member of the Muhammadiyah from 1933 and after his election as the leader of the *Kutaraja* branch, he was appointed, the Muhammadiyah Consul (Leader) of Aceh for the period of 1943-1946.<sup>183</sup> The move of Şiddiqī from Lhok Seumawe to Kutaraja was based much more on political and security reasons rather than otherwise. By moving from Lhok Seumawe to Kutaraja, he aimed to escape from the Dutch who controlled his actions in the Jong Islamiten Bond.<sup>184</sup> Nevertheless, Yakub is of the opinion that Şiddiqī moved to Kutaraja because of the reaction of traditional Ulama towards his article "Penoetop Moeloet" (the lid of the Mouth). In this article, Şiddiqī considered as *bid'a* (innovation) some religious practices of Traditionalist Muslims such as *talqīn* i.e. reciting and repeating certain holy words, etc. for the deceased, reciting *uṣallī* (I pray) in the beginning of the prayer, and *kenduri*<sup>185</sup> or *selamatan*.<sup>186</sup>

Şiddiqī, who was neither a member of the All Aceh Union of Ulama (PUSA)<sup>187</sup> nor a member of the Fujiwara movement,<sup>188</sup> was appointed to some important positions by the Japanese after their defeat of the Dutch: he was made a member of the Islamic Court; Vice Leader of the Islamic Council for the Aid of Greater East Asia; and a representative at the Pan Sumatra and Malay Ulama's Meeting in Singapore.<sup>189</sup> In accordance with the Aceh Syu Rei no. 7, issued on

<sup>182</sup> Aş-Şiddiqī, "Hasbi Ash Shiddieqy, p. 218.

<sup>183</sup> Ibid., 171-175; Muttaqin. "*Pola Ijtihad Hukum*" 88-89; and MT. Arifin, "*Muhammadiyah Potret yang Berubah*" (Surakarta: Institute Gelanggang Pemikiran Filsafat Sosial Budaya dan Kependidikan Surakarta, 1990), p. 168.

<sup>184</sup> Aş-Şiddiqī, „Hasbi Aş-Şiddiqī“, p. 172-173.

<sup>185</sup> *Kenduri* or *selamatan* according to Howard M. Federspiel is a Javanese word which derives from Arabic. *Selamatan* in his "*Persatuan Islam: Islam Reform in Twentieth Century Indonesia*", New York: Cornell University, 1970, p. 224.

<sup>186</sup> Yakub, „Gambaran Pendidikan“, p. 339

<sup>187</sup> PUSA (Persatuan Ulama-Ulama Seluruh Aceh), was founded in 1358 (A.D. 1939) as an orthodox counterbalance against the reformist teachings of Muhammadiyah. The members of P.U.S.A [PUSA] joined in the fight for independence, but when the fight was won they turned against the Indonesian Republic and tried to secede from it. P.A. Husen Djajadiningrat, "*Islam in Indonesia*", in *Islam The Straight Path: Islam Interpreted by Muslims* (Delhi: Montilal Banardsidas, 1958), 401. See also, Harry J. Benda, "*South-East Asia in the Twentieth Century*", in *The Cambridge History of Islam*, ed. P.M. Holt, Ann K.S. Lambton, and Bernard Lewis (Cambridge University Press, 1970), II:198.

<sup>188</sup> *Fujiwara* was an intelligence agency of the Japanese. The Fujiwara-Kikan movement was then founded with the aim of organizing the Acehnese popular resistance against the Dutch and at the same time welcoming the coming of the Japanese army, which was portrayed as liberating the Acehnese belonging to the All Aceh Union of Ulama, which was joined to the F-Kikan movement devoted to hastening the fall of the Dutch administration in Penang, Aceh. See, for instance, Yakub, "*Gambaran Pendidikan*", 335; and Taufik Abdullah, Ed., *Sejarah Umat Islam Indonesia* (Jakarta Majelis Ulama Indonesia, 1991), 274.

<sup>189</sup> Shiddiqi, 'Hasbi Ash Shiddieqy,' 185-186.

May 17, he was appointed a People's Representative at the Assembly of Sumatra.<sup>190</sup>

The dictum that “a revolution often devours its own children” can be applied to Şiddiqī's experience in the early days of Indonesian Independence. Beginning in March 1946, he was imprisoned for more than a year in both Lembah Burnitolang and Takengon,<sup>191</sup> without a valid reason and without a trial, by the so-called Social Revolutionary Movement in Aceh.<sup>192</sup> Furthermore, for another year his movement was restricted to particular geographical areas. Not long after regaining his freedom from the both of the above jails, he joined the Consultative Political Party of Indonesian Muslims which is well known as *Majlis Syura Muslimin Indonesia*, and then he became the leader of its Regent (Kabupaten) Aceh branch. Upon his return from presenting a paper at the Congress of Indonesian Muslims in Yogyakarta, entitled “Manual of the Muslim Struggle on the Question of the State”,<sup>193</sup> Şiddiqī founded a Lhok Seumawe branch of Persatuan Islam (Islamic Unity) in 1951. At the invitation of the Minister of Religious Affairs of Indonesia, he went to Yogyakarta to be a lecturer at the State Institute of Islamic Higher Education.<sup>194</sup> He was sworn in as a member of the Constituent Assembly, representing the Masyumi on November 10, 1956.<sup>195</sup>

As a government official, Şiddiqī held some important positions. Among others, he was the principal of the preparatory school for the State Institute of Islamic Higher Education, after he had begun his teaching career at the Teacher's School for Islamic Judges. In accordance with decree no. 35/1960 of the Minister of Religion of the Indonesian Republic, he was then appointed Dean of the Faculty of *Shari'a* at The Sunan Kalijaga IAIN (State Institute for Islamic Studies), Yogyakarta, where he served until 1974. He served as the

<sup>190</sup> Ibid., 187.

<sup>191</sup> According to Şiddiqī, after having been arrested here, he wrote a preliminary draft of *Al-Islam* (1404 pages). Şiddiqī; “Hasbi Ash Shiddieqy,” 200. In addition, according to Hasbi himself, he wrote *Perbendaharaan (Kumpulan) Dzikir dan Do'a* (Jakarta: Bulan Bintang, 1956), xxiv; idem, *Pedoman Shalat*, 3rd edition (Jakarta: Bulan Bintang, 1957), 18.

<sup>192</sup> There were two social revolutions in Sumatra: that of east Sumatra led by Karim DP, a leftist, which took place in March 1946, and that of the Aceh social Revolutionary Movement. The latter, which was directed from Idi and was led by Husein Mujahid (a former Youth Leader of PUSA and a representative member at the meeting with the highest Commander of the Japanese Military in Shonanto (Singapore), took place from the middle of December, 1945 to January of 1946. The latter represented a virtual “civil war” between the two main groups of Acehnese people: the Ulama (teungku) and the aristocratic (ulecbalang) groups.

<sup>193</sup> Tgk. Mohd. Hasbi Ashshiddiqī, “Pedoman Perdjuaan Umat Islam Mengenai Soal Kenegaraan” in *Buah Kongres Muslimin Indonesia 20-25 December 1949*, cd. P.P.K.M.I. (Yogyakarta: Badan Usaha & Penerbitan Muslimin Indonesia, 1950), 217-225.

<sup>194</sup> Thaib Thahir Abdul Muin, “*Pidato Promotor pada Pemberian Gelar Doktor Honoris Causa oleh Universitas Islam Bandung*” (UNISBA) kepada Prof. T.M. Hasbi Aş-Şiddiqī (Bandung: UNISBA, 1975), p. 6.

<sup>195</sup> Şiddiqī, “*Hasbi Aş-Şiddiqī*”, p. 85-86

Dean of the Faculty of Shari'a, a branch of the Yogyakarta IAIN in Aceh, which was founded in 1962.

Apart from all this, he served as one of the vice-rectors of the State Institute for Islamic Studies (IAIN) Yogyakarta, namely as Vice-Rector III, responsible for students and alumni. He was then appointed the director of postgraduate courses in Islamic law for lecturers at the Indonesian IAINs. This program lasted from July 15 to October 10, 1971.<sup>196</sup> Based on Decree no. B. IV. I/3792, July 30, 1962 by the Minister of Religious Affairs, he was then appointed as professor of *al-Siyāsa al-Shar'iyya* at IAIN Walisongo, Semarang, Central Java. Besides being the professor at IAIN Walisongo, he also made many contributions to the development of private Islamic Universities. During this time he was also the Rector of Cokroaminoto University, which is also situated in Surakarta.<sup>197</sup> Moreover, Şiddiqī lectured at the Indonesian Islamic University in Yogyakarta from 1964 onwards, right up until the year of his death in 1975, when he was still actively teaching and had been appointed the Dean of the *Shari'a* Faculty (Islamic Jurisprudence Faculty) of Sultan Agung University in Semarang.<sup>198</sup>

In addition, he was also appointed Vice-Chairman of the Executive Committee for the Translation of the Holy Qur'ān, which succeeded in accomplishing its task on March 1, 1971.<sup>199</sup> These many activities demonstrate Şiddiqī's contribution to academic life, and show that he was far from being an "ivory tower" scholar. Such facts encouraged not only A. Hasymy, who was a prominent Acehnese, but also many other people to consider Şiddiqī as one of the Acehnese heroes of Indonesian independence.<sup>200</sup>

Şiddiqī devoted much of his energy to the mass media. Benefiting from his experience as both a vice-editor of and a writer for *Socara Atjeh* (The Voice of Aceh) in 1933, he not only led *Al-Islam*, a monthly magazine of Islamic law published in Kutaraja, but was also the author of many articles in it. He published in *Pedoman Islam* (Manual of Islam, Medan) using as his nom de plume "Dewan Tafsir" for a column in the same magazine. From 1940, he wrote the column „Iman dan Islam“ in the *Pandji Islam* (Banner of Islam,

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<sup>196</sup> For more information on this course, see for instance: Hasbi „*Kumpulan Soal Jawab dalam Post Graduates Course Jurusan Ilmu Fiqh Dosen-dosen IAIN*“; Jakarta: Bulan Bintang, p. 1971), p. 5. See also, Muttaqien, „*Pola Ijtihad Hukum*“, p. 94; and Junaidi, „*Hasbi Mujtahid*“, p. 66

<sup>197</sup> Sunarjo, „*Pidato Promotor*“, p. 2-3.

<sup>198</sup> Şiddiqī, „*Hasbi Aş-Şiddiqī*“, p. 232.

<sup>199</sup> For more information on this, see for instance; R.H.A. Soenarjo, „*Kata Pengantar Ketua Yayasan Penyelenggaraan Penerjemahan/Penafsir al-Qur'ān*“, in „*Al-Qur'ān dan Terjemahannya*“ (Jakarta: 1978/1979), 9. See also, Şiddiqī, „*Hasbi Aş-Şiddiqī*“, p. 556.

<sup>200</sup> A. Hasymy, „*Peranan Umat Islam dalam Perang Aceh dan Perjuangan Kemerdekaan Indonesia*“ (Jakarta: Bulan Bintang, 1976), p. 68.

Medan) and wrote the “Moeda Pahlawan Empat Poeloe” (Youth of Forty Heroes) in the “Pandoes Islam” (Guide to Islam) column for the *lasykar Islam* (The Army of Islam) magazine (Medan). Şiddiqī also wrote a number of articles in other magazines, including *Hikmah* (Wisdom), *Panji Masyarakat* (the Banner of Society), *Suara Muhammadiyah* (the Voice of the Muhammadiyah), *al-Jamī‘ah* (a journal of the Sunan Kalijaga IAIN), and *Sinar Darussalam* (the Light of Aceh Dār as-Salām).<sup>201</sup> The only opportunity he had to put forward his ideas outside of Indonesia was when he presented his paper in Arabic entitled “The Attitude of Islam towards Knowledge (*‘ilm*)” at the International Islamic Colloquium held by the University of the Punjab in Lahore, from December 29, 1957, to January 8, 1958.<sup>202</sup> On January 5, 1958 the Himpunan Pengarang Islam (Association of Islamic Authors) chose, on the basis of all meetings held from November to the end of December 29, 1957, the ten most popular of one hundred Islamic Indonesian authors, that Şiddiqī ranked number seven.<sup>203</sup> Şiddiqī received many honors. Among others, he obtained in 1960 the Professorship of Hadith science (*‘ilm al-Hadith*) at the Institute for Islamic Studies (IAIN) Sunan Kalijaga, Yogyakarta.

Şiddiqī’s works can generally be classified into four fields, beginning first with the field of the Qur’ān. On this subject, he wrote his *magnum opus*, namely *Tafsir An-Nūr*. This tafsir proves that Şiddiqī was a very venerable scholar, at least for his times in Indonesia in the field of the Holy Qur’ān. Therefore, the comment of Anthony H. John is not exaggerated in which he remarks that of Indonesian scholars of the Qur’ān, Hasbi aṣ-Şiddiqī (d. 1975) was one of the most venerated and best known on the national scene”.<sup>204</sup> His second area of expertise was in the field of Hadith. The recognition of Mr. Federspiel, a senior lecturer at the Institute of Islamic Studies at McGill University, Montreal, 1993, may serve as a proof of this. Federspiel says that Muhammad Hasbi aṣ-Şiddiqī was perhaps best known for his work in translating and compiling a collection of Hadith in Bahasa Indonesia, namely “2002 Mutiara Hadieths”<sup>205</sup>, a six-volume Hadith in a collection of books which were published by Bulan Bintang Press Djakarta in 1954.

Thirdly, he was active in the field of *‘ilm al-kalam* (Islamic Theology) and finally, in the field of Fiqh. In this field, his book *Pedoman Shalat* (the manual of prayer), for instance, is widely and most used and followed by Indonesian Muslims. Examining Şiddiqī’s works, it could be said that the purpose of his

<sup>201</sup> Shiddiqi, „*Hasbi Ash Shiddicqy*,“ 555-556.

<sup>202</sup> *Ibid.*, 85-86.

<sup>203</sup> Tamar Djaja, „*Sepuluh Orang Pengarang Islam terkemuka Sekarang*,“ in *Riwayat Hidup*, 161.

<sup>204</sup> Anthony H. Johns, „*Islam in The Malay World*,“ in „*Islam in Asia*“, ed. Raphael Israeli and Anthony H. Johns (Jerusalem: Magnes Press, The Hebrew University, 1984), p. 155.

<sup>205</sup> Federspiel, Howard M. „*Persatuan Islam: Islamic Reform in Twentieth Century Indonesia*“. New York: Cornell University, 1970. p.17.

writings, with their great size, wide range, and comprehensive insights,<sup>206</sup> was to introduce the reformation in Islamic teachings to Indonesian Muslims in the Indonesian language, since most of the people did not know Arabic. This may be found in his frequent remarks in which he stressed that his works were intended to meet a lack of Islamic literature in Indonesia.<sup>207</sup>

According to his son, Nuruzzaman aṣ-Ṣiddiqī, Hasbi aṣ-Ṣiddiqī, started writing in the thirties. His first work is a booklet, which he named *Penoetoeop Moeloet*. In 1933 he was appointed deputy editor of *Socara Atjeh* and in this year he wrote many articles. He later led the monthly magazine on Islamic law (Islamic Fiqh) in 1937, which was called *al-Ahkām*. He wrote all articles in this magazine, which was published by *Oesaha Penoentut* in Kutaraja.<sup>208</sup> In 1939 Muhammad Hasbi aṣ-Ṣiddiqī held an important position as a permanent writer for the monthly magazine *Pedoman Islam*, which was published in Medan, North Sumatra. He wrote two columns in this magazine, namely, *Ilmoe Moeshthalah Ahli Hadits* and later, after the eighth volume, *Sejarah Hadits-hadits Tasjri*. It was interesting to note that he used a pseudonym name for both columns. For the first column he used his pseudonym *Ibnoel Hoesein* while for the second column he used *Aboe Zoeharah*.<sup>209</sup>

From 1940 onwards, Ṣiddiqī wrote many articles for *Pandji Islam* magazine, which was published in Medan and for *Aliran Moeda* magazine, which was published in Bandung. Aliran Moeda was then changed to *Lasjkar Islam*. In *Pandji Islam* he wrote a column which named “*Iman dan Islam*” and in *Aliran Moeda/Lasjkar Islam* he maintained a column called “*Pandoe Islam*” which was entitled “*Moeda Pahlawan Empat Poeloch*”. Nourouzzaman Ṣiddiqī adds that besides actively writing for the above-mentioned permanent columns, he also wrote many other articles in the above-mentioned magazines. One of the most important articles by Ṣiddiqī was his polemical article *vis-a-vis* Soekarno, Indonesia’s first President, which was placed in *Pandji Islam* and “*Mengoepas Faham Soekarno tentang Memoedakan Pengertian Islam*” which was published in *Lasykar Islam*.<sup>210</sup>

<sup>206</sup> Syafi’i Ma’arif, „*Islam dan Masalah Kenegaraan*“, p. 78 and 168; see also, Djaja, „*Sepuluh Orang*“, p. 162.

<sup>207</sup> For more information, see for instance, Hasbi, „*Pedoman Hukum Sjar’i Jang Berkembang dalam, Alam Islamy Sunny*“, (Jakarta: Pustaka Islam, 1956).

<sup>208</sup> *Kutaraja* is the former name for recent *Banda Aceh*, the capital city of Aceh Province which is situated in North Sumatra or the westernmost part of Indonesia.

<sup>209</sup> For more information on this subject, see Nourouzzaman Ṣiddiqī “*Fiqh Indonesia: Penggagas dan Gagasanya*”. Vol. I, 1997. Pustaka Pelajar Yogyakarta. p.p. 53-55.

<sup>210</sup> Nourouzzaman Ṣiddiqī “*Fiqh Indonesia: Penggagas dan Gagasanya*”. Vol. I. 1997. Pustaka Pelajar Yogyakarta., p. 54.

Şiddiqī was not only active in a good and free era but also in a disastrous period. He was captured in Burnitelong valley in Central Aceh by Amīr Ḥusīn al-Mujāhid groups,<sup>211</sup> but he was still able to produce a draft or text for his popular work, “Pedoman Dzikir dan Doa”. In this bitter time he wrote the text of Al-Islam which was then published in 1951. This work indicates not only that Şiddiqī was a very productive but also a very hardworking writer, as can be seen from the length of this book, which consists of 1404 pages and is divided into 2 volumes. After being released from Bernitelong captivity, he faced house arrest in Lhokseumawe. And again, though in such a miserable situation, he was still productive. At this time he wrote his Pedoman Shalat which is very famous and used extensively - not alone in Indonesia, Malaysia and other Malay speaking countries. This book consists of 590 pages and was printed by the publisher Bulan Bintang and went into the thirteenth edition in 1984.

In 1951, Şiddiqī moved to Jogjakarta. His Jogjakarta time was his most fertile period of writing. In this city he completed in 1961 the draft for his *magnum opus*, *Tafsir an-Nūr*, which consists of 30 volumes. Afterwards, in 1968, he finished the text for his Mutiara Hadith, which consists of 8 volumes and in 1971 he wrote the text for his *Koleksi Hadith Hukum*, which consists of 11 volumes, only the first six volumes of which have been published. Apart from writing books, both single and sets of volumes, he was also active in writing many articles in magazines/journals and newspapers, including *Hikmah*, *Panji Masyarakat*, *Suara Muhammadiyah*, *al-Djami’ah* and *Sinar Darussalam* magazine/journal. In 1963, he was appointed as the deputy director of the Qur’ān Translation Institution.<sup>212</sup> On October 29, 1975, he was awarded the Doctor Honoris Causa in the field of Shari’a law from IAIN Sunan Kalijaga.<sup>213</sup> In the same year, 1975, he also received another Doctor Honoris Causa in the field of Islamic law from Bandung Islamic University (UNISBA). Not more than two months after receiving this last honor, Şiddiqī died in Jakarta Islamic Hospital while preparing to undertake the pilgrimage (*hajj*). He was then buried in the cemetery complex of the Syarif Hidayatullah IAIN on December 10, 1975.<sup>214</sup> Finally, it may safely be concluded that Şiddiqī works could be classified into five fields, namely *Qur’anic* knowledge,<sup>215</sup> *Hadīth*,<sup>216</sup> *kalam*, *fiqh*, and

<sup>211</sup> *Ibid.* p. 49-50

<sup>212</sup> *Ibid.* 55.

<sup>213</sup> Junaidi, „*Hasbi Mujahid*“; p.66; in Muttaqin “*Pola Ijtihad Hukum*“, p. 94-95.

<sup>214</sup> *Ibid.*

<sup>215</sup> To this classification, Anthony H. Johns states: “of Indonesian scholars of the Qur’ān, Ḥasbi Aş-Şiddiqī (d. 1975) is one of the most venerated and best known on the national scene”. Anthony H. Johns, “Islam in the Malay World” in *Islam in Asia*, ed. Raphael Israeli and Anthony H. Johns. (Jerusalem: Magnes Press, The Hebrew University, 1984, p. 155.

<sup>216</sup> For this, see for instance Federspiel’s remarks on Ḥasbi, in which he says: “Muhammad Ḥasbi Aş-Şiddiqī is perhaps better known for his work on translating and compiling a collection of

general sciences as well. The purpose of Siddiqī's works, with their great size, wide range, and comprehensive insights,<sup>217</sup> was to introduce reformist Islamic teachings to Indonesian Muslims in the Indonesian language since most of the people did not know Arabic.<sup>218</sup>

## 2. 5. Şiddiqī's Works

Şiddiqī's work, however, can be generally divided into two forms, namely, a) books and b) articles. These two kinds of writing may also be classified into five fields, namely al-Qur'ān, Ḥadīth, Fiqh, 'ilm al-Kalām (*tawhīd*) and general sciences.

### 2. 5. A. Books

#### 2. 5. A. 1. Al-Qur'ān

1. Mu'jizāt al-Qur'ān (Arabic: Mu'jizāt al-Qur'ān). Jakarta: Bulan Bintang, 1966. 56 pp. The book was originally a speech given at the first Lustrum of the Sunan Kalijaga IAIN held on June 3, 1965.
2. Tafsīr al-Qur'ān al-Majīd „*An-Nur*“ (Arabic: Tafsīr Al-Qur'ān al-Majīd „al-Nūr“). 30 Volumes. Jakarta: Bulan Bintang, 1956-1973; 1956; 65; 76. Every volume contains about 3000-360 pp. The system of interpretation follows al-Marāghī paragraph by paragraph (qiṭ'a). The method of interpretation is a combination of that of al-Riwāya (ma'thūr) and bi al-Dirāya (ma'qūl). The book also bears Asbāb al-Nuzūl (the occasions of Qur'ānic revelation).
3. Beberapa Rangkaian Ajaṭ (Some series of the Qur'ānic Verses). Bandung: al-Maarif, n.d. (1952). This book is intended as a lesson for beginners. 44 pp.
4. Sejarah dan Pengantar Ilmu al-Qur'ān/Tafsir (History and Introduction to the Qur'ānic Science/Exegesis). Jakarta: Bulan Bintang, 1954; '55; '61; '65; '72; '74; '77; '80. 308 pp. The book is a revision of a previous work entitled “Sejarah dan Pengantar Ilmu Tafsir (History and Introduction to the Science of Exegesis).
5. Tafsir al-Bayan (Arabic: Tafsīr al-Bayān). 4 Volumes in a paperback and 2 volumes in hardcover. Bandung: al-Maarif, 1966. 1674 pp. This is primarily a translation with several explanatory annotations, in the manner

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Hadith into Bahasa Indonesia, 2002 Mutiara Hadith (Jakarta: Bulan Bintang, 1954), 6 Volumes”. Howard Federspiel, *Persatuan Islam*, p. 17, note 24.

<sup>217</sup> Ma'arif, “Islam dan Masalah Kenegaraan”, 78 and 168; and Djaja, “Sepuluh Orang,” p. 162.

<sup>218</sup>Şiddiqī often stresses in his introduction that his works are intended to meet a lack of Islamic literature in Indonesia. See for instance, Şiddiqī, *Pedoman Hukum Sjar'i yang Berkembang dalam 'alam Islāmī Sunnī* (Jakarta: Pustaka Islam, 1956), I:12

of Tafsir Departement Agama (The Tafsir of the Department of Religious Affairs of the Indonesian Republic).

6. Ilmu-ilmu al-Qur'ān: Media Pokok dalam Menafsirkan al-Qur'ān (The Sciences of the Qur'ān: The Major Media in Interpreting al-Qur'ān). Jakarta: Bulan Bintang, 1972. 319 pp.

### 2.5.A.2. Hadith

1. 2002 Mutiara Hadith (2002 Pearls of Hadith). 8 Volumes, Jakarta: Bulan Bintang, 1954-1980. Volume I: 1954; '55, '61; '75; 540 pp. Volume II: 1956; '75; '81; 588 pp. Volume III: 1962; '77; 668 pp. Volume IV: 1977; 692 pp. Volume V: 1977; 672 pp. Volume VI: 1979; 628 pp. Volume VII: 1980; 584 pp. Volume VIII has not been published.
2. Ridjalul Hadits (Arabic: Rijāl al-Hadith; The Exponents of Hadith). Yogyakarta: Matahari Masa, 1970, 121 pp.
3. Pokok-pokok Ilmu Dirayah Hadits (Fundamentals of Hadīth Research Science). 2 Volumes. Jakarta: Bulan Bintang, Volume I: 1958; '61; '67; '76; '81; 410 pp. Volume II: 1958; '61; '67; '76; '81. 427 pp.
4. Sejarah Perkembangan Hadits (The History of the Development of Hadīth). Jakarta: Bulan Bintang, 1973. 187 pp.
5. Beberapa Rangkuman Hadits (Some Collections of Muslim Traditions). Bandung: al-Ma'arif, 1952, 45 pp.
6. Koleksi Hadits-hadits Hukum; ahkamun Nabawiyah (A Collection of Legal Hadīth; Ahkām Nabawiyah). 11 Volumes. Bandung: Al-Ma'arif, 1970-1976. Volume I: 1970; '72; '81. 380 pp. Volume II: 1972. 400 pp. Volume III: 1972; '81. 493 pp. Volume IV: 1972. 379 pp. Volume V: 1976. 368 pp. Volume VI: 1976. 307 pp. Although the drafts of volumes VII to XI have already been completed, they have not yet been published.
7. Sejarah dan Pengantar Ilmu Hadits (History and Introduction to the Science of Hadith). Jakarta: Bulan Bintang, 1954; '55; '65; '74; '77; '80. 420 pp.
8. Problematika Hadits Sebagai Dasar Pembinaan Hukum Islam (The Problem of Hadith as a Basis for the Development of Islamic Law). Jakarta: Bulan Bintang, 1964. The book actually was a speech delivered at the Dies Natalis of the Sunan Kalijaga IAIN of Jogjakarta held on December 4, 1962.

### 2.5. A. 3 Fiqh

1. Pedoman Shalat (The Manual of Prayer). Jakarta: Bulan Bintang, 1951. 592 pp. The first publication of the book was published by Islamiya, Medan - North Sumatera, in 1950.

2. Sejarah Peradilan Islam (The History of Islamic Court). Jakarta: Bulan Bintang, 1950, 92 pp.
3. Hukum-hukum fiqh Islam (Laws of Islamic Jurisprudence). Jakarta: Bulan Bintang, 1952, 677 pp. The first publication of this book was undertaken by Pustaka Islam Jakarta, and entitled Hukum Sjar'iy yang Berkembang dalam Kalangan Sunni (Islamic Law as Developed Among the Sunnites). The book deals with all four Sunnite schools of thought i.e. mazhab.
4. Tuntunan Qurban (A Guide to Sacrifice). Jakarta: Bulan Bintang, 1950. 68 pp.
5. Pedoman Zakat (The Manual of Alms). Jakarta: Bulan Bintang, 1953. 316 pp.
6. Pedoman Puasa (The Manual of Fasting). Jakarta: Bulan Bintang, 1954. 384 pp.
7. Kuliah Ibadah (Lecture on Worship). Jakarta: Bulan Bintang, 1954. 272 pages.
8. Pengantar Hukum Islam (introduction to Islamic Law), 2 Volumes. Jakarta 1953. 288 pp.
9. Al-Ahkam (Arabic: al-Aḥkam; laws; Muslim Manual). 4 Volumes. Medan: Islamiyah, 1953. 250 pp.
10. Ichtisar Tuntunan Zakat & Fitrah (A Summary Guide of Zakā and Fitra). Jakarta: Bulan Bintang, 1958. 64 pp.
11. Pemindahan Darah (Blood Transfusion) Dipandang dari sudut Hukum Agama Islam (Blood Transfusion Seen from Islamic Law). Jakarta: BulanBintang, 1954. 22 pp. This book was originally a speech delivered at the third Dies Natalis of PTAIN held on September 26, 1954.
12. Sjari'at Islam Mendjawab Tantangan Zaman (Islamic Law and its Responses to the Challenges of Time). Yogyakarta: IAIN Sunan Kalijaga, 1961. The second edition was published by Bulan Bintang, Jakarta, 1966. 46 pp. This book was originally a speech delivered at the Dies Natalis of IAIN Sunan Kalijaga , Yogyakarta, held in Rabi'ul al-Awwal 1381/1961.
13. Poligami Menurut Sjari'at Islam (Polygamy according to Islamic Law). Jakarta; Bulan Bintang, (?). 40 pp. This book was originally a speech delivered at the Dies Natalis of Sunan Kalijaga IAIN, Yogyakarta.
14. Peradilan dan Hukum Acara Islam (The Islamic Court and Procedural Law). Bandung: Al-Maarif. 1964. 156 pp.
15. Pengantar Ilmu Fiqh (Introduction to Islamic Law). Jakarta: Bulan Bintang, 1967. 227 pp.
16. Zakat Sebagai Salah Satu Unsur Pembina Masyarakat Sedjahtera (Alms as One Element of the Establishment of A Prosperous Society). Yogyakarta: Matahari Masa Press, 1969. 71 pp. This book was originally a speech delivered at the ninth Dies Natalis of the Sunan Kalijaga held on May 19, 1969. The second edition of this book was undertaken by Tintamas Press,

- Jakarta, 1976, under the title “Beberapa Permasalahan Zakat” (Some Problems of Zakā).
17. Baitil Mal; Sumber-sumber dan Penggunaan Keuangan Negara Menurut Adjaran Islam (Bait al-Māl; State Source and Monetary Usage According to Islamic Teachings). Yogyakarta; Matahari Masa Press, 1968. 48 pp.
  18. Sejarah Pertumbuhan dan Perkembangan Hukum Islam (The History of the Development of Islamic Law). Jakarta: Bulan Bintang, 1971. 292 pp.
  19. Asas Hukum Tatanegara Menurut Sjari’at Islam (The Foundation of Civil Responsibility According to Islamic Law). Yogyakarta: Matahari Masa Press, 1969. 88 pp.
  20. Ushul Fiqh: Sekitar Ijtihad Bir Ra’ji dan Djalan-djalannya (Arabic: Uṣūl al-Fiqh on Ijtihad bi al-Ra’y and Its Methods). Yogyakarta: IAIN Sunankalijaga, n.d. 32. Pp.
  21. Hukum Antar Golongan dalam Fiqh Islam (Law on Ethnic Groups in Islam). Jakarta: Bulan Bintang, 1971. 163 pp.
  22. Perbedaan Mathla’ Tidak Mengharuskan Kita Berlainan pada Mulai Berpuasa (Differences in Maṭla’ Should Not Result in Different Opinions on the Beginning of Fasting [in Ramadhan Month]). Yogyakarta: Jadjnah Ta’lif wan Nasjr Fakultas Sjari’ah IAIN Sunankalijaga, 1971. 35 pp.
  23. Beberapa Problematika Hukum Islam (Some Problems of Islamic Law). Yogyakarta: Lembaga Hukum Indonesia, 1972. 40 pp. The second edition of this book was published by Tintamas, Jakarta in 1975, entitled: "Beberapa Permasalahan Hukum Islam" (Some Problems of Islamic Law). 40 pp.
  24. Ilmu Kenegaraan dalam Fiqh Islam (The Science of State in Islamic Law). Jakarta: Bulan Bintang, 1971. 139 pp.
  25. Sebab-sebab Perbedaan Faham Para Ulama dalam Menetapkan Hukum Islam (The Causes of the Differences Among the ‘Ulamā’, Islamic Scholars, in Determining Islamic Law). Yogyakarta: IAIN Sunan Kalijaga, n.d. 19 pp.
  26. Kumpulan Soal Jawab (An Anthology of Questions and Answers). Jakarta: Bulan Bintang, 1973. 108 pp.
  27. Pidana Mati dalam Sjari’at Islam (Death Penalty in Islamic Law). Yogyakarta: Lembaga Penerbitan IAIN Sunankalijaga, n.d. 40 pp. This book was originally a speech that was delivered at the Dies Natalis of Sunan Kalijaga IAIN held in September 1968.
  28. Pengantar Fiqh Mu’amalat, Series I (Introduction to the Fiqh Mu’amala). Volume I. Jakarta: Bulan Bintang, 1974, 215 pp.
  29. Pokok-pokok Pegangan Imam-imam Mazhab dalam Membina Hukum Islam (Basic Reasoning of the Madhāhib Imāms in Developing Islamic Law). 2 volumes. Jakarta: Bulan Bintang, volume I, 1973. 224 pp. Volume II, 1974. 336 pp.

30. Falsafah Hukum Islam (The Philosophy of Islamic Law). Jakarta: Bulan Bintang, 1975. 488 pp.
31. Fiqih Islam Mempunyai Daya Elastisitas, Lengkap, Bulat dan Tuntas (Islamic Law is Elastic, Final, and Complete). Jakarta: Bulan Bintang, 1975. 168 pp.
32. Fakta-fakta Keagungan Syari'at Islam (Facts of the Greatness of Islamic Law). Jakarta: Tintamas, 1974. 54 pp. The first edition of this book was published by Pudjangga Islam, Jakarta, n. d.
33. Ruang Lingkup Ijtihad Para Ulama dalam Membina Hukum Islam (The 'Ulamā's Scope of Ijtihād in Developing Islamic Law). Bandung: Unisba, 1975. 40 pp. Ṣiddiqī's speech as a laureate for receiving the title of Doctor Honoris Causa from the Universitas Islam Bandung, Unisba, (Bandung Islamic University) held on March 22, 1975.
34. Pengantar Ilmu Perbandingan Madzhab (Introduction to the Science of Comparative Madhhabs). Jakarta: Bulan Bintang, 1975, 92 pp.
35. Pedoman Haji (The Manual of Pilgrimage). Jakarta: Bulan Bintang, 1976. 262 pp.<sup>219</sup>
36. Dinamika dan Elastisitas Hukum Islam (The Dynamics and Elasticity of Islamic Law). Jakarta: Tintamas, 1976. 40 pp.

#### **2.5. A. 4. 'Ilm Al-Kalām (Tawhīd; Islamic Theology)**

1. Peladjaran Tauhid (Lesson on Islamic Theology). Medan: Fa. Madju, n.d. (1954?). 56 pp.
2. Sedjarahdan Pengantar Ilmu Tauhid/Kalam (History and Introduction to Islamic Theology). Jakarta: Bulan Bintang, 1973. 208 pp.
3. Sendi Akidah dalam Kehidupan Manusia dan Perpautannya dengan Agama (The Function of Belief in Human Life and Its Relation to Religion). Kudus: Menara Kudus, n.d. (1973?). 41 pp.
4. Hakikat Islam dan Unsur-unsur Agama (The Essence of Islam and the Religious Elements). Kudus: Menara Kudus, 1977. 117 pp.
5. Sendi 'Aqidah Islam (Foundation of Islamic Belief). Jakarta: Publicita, 1974. 52 pp.

#### **2.5. A. 5. General Sciences**

1. Pedoman Berumah Tangga (The Manual of Family Life). Medan: Fa. Madju. N.d. (1950?). The book was published six times. 80 pages.

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<sup>219</sup>It is remarkable that he wrote a manual on pilgrimage but he himself had never performed his pilgrimage. As I mentioned above, he died as he was preparing to undertake the pilgrimage (*hajj*). Ṣiddiqī died in Jakarta Islamic Hospital in 1975 . He was buried in the cemetery complex of the Syarif Hidayatullah IAIN on December 10, 1975.

2. Al-Islam (Islam). 2 Volumes. Jakarta: Bulan Bintang, Volume I: 1952. 652 pp. Volume II: 1952. 746 pp. The first edition was published by Islamiyya, Medan, in 1950. This book deals with sixty-nine of the faith's frameworks (kerangka).
3. Dasar-dasar Ideology Islam (The Basis of Islamic Ideology). Medan: Saiful (?). 1953. 181 pp.
4. Pelajaran Sendi Islam (Lesson on the Foundation of Islam). Medan: Pustaka Madju, n.d. 67 pp.
5. Sedjarah Peradilan Islam (History of Islamic Court). Jakarta: Bulan Bintang, 1952. 91 pp.
6. Sedjarah Islam: Pemerintahan Amawiyah Timur (The History of Islam: The Reign of the Eastern Umayyads). Yogyakarta: Serikat Siswa PHIN, 1953/1954.
7. Sedjarah Islam; Pemerintahan Abbasiyah (The History of Islam) (The Reign of the Abbasids). Yogyakarta: Serikat Siswa PHIN, 1953/1954.
8. Problematika Bulan Ramadhan (Problems of the Fasting Month). Kudus: Menara Kudus, n.d. 59 pp.
9. Lapangan Perjoeangan Wanita Islam (The Field of Struggle for Muslim Women). Kudus: Menara Kudus, n.d. 40 pp.
10. Lembaga Pribadi (Personal Institution). Medan: Fa. Madju, n.d. (1956). 175 pp.
11. Etc.

### 2.5. B. Articles

1. Mengoepas Faham Soekarno tentang Memoedakan Pengertian Islam (Discussing Soekarno's Concept of Rejuvenating Islamic Understanding). *Lasjkar Islam*. *Boendelan Tahoen Pertama* (1940): 159-64, 239-51.
2. Kewajiban Kembali Kepada Al-Qur'an dan As-Sunnah (The Necessity of Going Back to the Qur'an and the Sunna). *Ibid.* [*Lasjkar Islam*]: 205-11.
3. Islam Memboetochi Pemoeda (Islam Needs the Young). *Aliran Islam*, Th.I. No. 1 (April 1940): 6:11.
4. Sejarah Hadits-hadits Tasjri' (The History of the Legal Tradition). *Pedoman Islam*. *Boendelan Tahoen Kedoca*. (1940): 80:8; 140-45; 223-27; 242-46; 295-300, 349-52; 481-82; 554-60.
5. Menghidupkan Hukum Islam dalam Masyarakat (To Give Life to Islamic Law in Society), *Aliran Islam*, Th. I, No. 1 (November 1948) and No. 2 (December 1948): 100-4.
6. Moeda Pahlawan Empat Poeloch (The Youth of the Forty Heroes). *Ibid.* [*Aliran Islam*]: 72:8.
7. Maksoed-maksoed dan Toejoecan al-Qur'an (The Meaning and Purpose of the Qur'an). *Pandji Islam*: 8406-07; 8457-59, 8478-79; 8578-79; 8645-46; 8666-67.

8. Tugas Hidup Pribadi Muslim Terhadap Dirinya (The Duty of A Muslim to Himself). *Aliran Islam*: Th IV. 25 (June 1951): 1450-57.
9. Maulid Nabi Sepanjang 'Ilmu Fiqh dan Tarich (The Birth of the Prophet According to Islamic Law and History). *Panji Islam*, n.d. : 7979-81.
10. Choetbah 'Idul Adlha (Speech of 'idul Al-Aḏḥā). *Panji Islam*, n.d. 7725-28.
11. Pemeliharaan Anak-anak Jatim dalam Islam (The Care of Orphan Children in Islam). *Lustrum II Rumah Penjantun Muhammadiyah Kutaradja* (formerly Banda Aceh). 28 February 1943-1953: 5-9.
12. Kedudukan Keadilan dalam Pembangunan Masyarakat (The Position of Justice in the Development of Society). *Asj-Sjir'ah*: Gema Fakultas Sjari'ah, No. 5 (1967): 1-6
13. Hukum Pidana Mati dalam Sjari'at Islam (The Death Penalty in Islamic Law). *Sinar Darussalam*, No. 6 (September 1968): 41-52; and No. 7 (October 1968): 52-61.
14. Mengapa Saya Menyalahi Jumhur dan Mewajibkan Jum'at Juga atas Orang yang Tidak ke Mesjid? (Why I Disagree With the Majority of 'Ulāmā' and Suggest that A Muslim Who Does Not Come to the Mosque Perform Friday Prayer?). *Al-Djāmi'ah* , Th. XIII, No. 7 (1974): 10-38.
15. Data-data Keuniversalan Syari'at Islam (Some Data of The Universality of Islamic Law). *Ibid.* (*Al-Djami'ah*), Th. XIII, No. 9 (1975): 1-23.
16. Selang Pandang Tentang Nikah dan Talak dalam Sjari'ah Islam (A Look at Marriage and Divorce in Islam). *Suara Muhammadiyah*, Th. 50, No. 1-2 (1970): 8, 32.
17. Ulama dan Sardjana (Islamic Scholar and Intellectual). *Asj-Sjir'ah*: Gema Fakultas Sjari'ah. No. 5-6 (1971): 59-63.
18. Menyingkap Falsafah Rahasia Isra' dan Mi'radj (The Exploration of the Philosophy and Secret of The Miraculous Journey and Ascension). *Op. Cit.* *Suara Muhammadiyah*. Th. 50, No. 13-14 (1970): 7-20.
19. Tilawatil Qur'an dan Hukum Memusabaqahkannya (The Competition of Reciting the Qur'an and Its Legal Status). *Ibid.* [*Suara Muhammadiyah*]. Th. 51, No. 7 (1971): 11-33; No. 8 (1971): 11-12; No. 9 (1971): 11-12, 16.
20. Dinamika dan Elastisitas Hukum Islam (The Dynamics and Elasticity of Islamic Law). *Op. Cit.* [*Al-Djami'ah*], Th. XII (1973): 5-29.
21. Etc.

## 2. 6. Ṣiddiqī's Shortcomings

A prolific and self-educated or autodidactic writer, Ṣiddiqī, unfortunately, was not without shortcomings. Inconsistencies in thinking constitute a shortcoming of Ṣiddiqī's works. His ideas about the abrogating (*nasikh*) and the abrogated (*mansūkh*) verses may be taken as an example. In February 1953, he accepted without reserve, the principle of the abrogating and the abrogated verses, even

recognizing it as one of the condition of *ijtihad* that a mujtahid should fulfill.<sup>220</sup> At the same time, however, he accorded a very limited function to this doctrine, restricting its applicability only “to the temporary and partial (*juz’i*) rulings“.<sup>221</sup>

Afterwards in July 1953, he changed his mind and adopted the opinion that there is no abrogation in the Qur’ān.<sup>222</sup> In 1967, he accepted once again the doctrine of abrogation, provided it is endorsed by an explicit *dalil* (evidence).<sup>223</sup> In 1972, he again took up his position of 1967.<sup>224</sup> In 1974, he returned to his earlier attitude of acknowledging abrogation of verses in the Qur’ān.<sup>225</sup> The difficulty in discerning his real attitude toward the matter under discussion is

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<sup>220</sup> Aş-Şiddiqī „*Pengantar Hukum Islam*“, I: 112, 117-118

<sup>221</sup> Aş-Şiddiqī „*Pengantar Hukum Islam*“, 6<sup>th</sup> Edition (Jakarta: Bulan Bintang, 1981), II: 12-15.

<sup>222</sup> Aş-Şiddiqī , „*Sejarah dan Pengantar Ilmu Al-Qur’ān/Tafsīr*“, 13<sup>th</sup> edition (Jakarta: Bulan Bintang, 1990, 114-119.

<sup>223</sup> Aş-Şiddiqī „*Ilmu-ilmu al-Qur’ān Media Pokok Menaafsirkan Al-Qur’ān*“, Jakarta: Bulan Bintang, 1975, p. 18.

<sup>224</sup> Aş-Şiddiqī „*Fiqh Islam Mempunyai Daya Elastis, Lengkap, Bulat dan Tuntas*“, Jakarta: Bulan bintang, 1975, p. 18.

<sup>225</sup> Aş-Şiddiqī „*Falsafah Hukum Islam*, Op. Cit. p. 78-79.

hardly resolved by such a simplistic statement as that of Şiddiqī, who says that „the Qur’ān does not contain the abrogating and the abrogated verses“.<sup>226</sup>

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<sup>226</sup>Aş-Şiddiqī „Hasbi Aş-Şiddi“, Op. Cit. p. 392. Another shortcoming is a technical one. There are at least two technical weakness of his writing, which will be illustrated with reference to his works, *Falsafah Hulul Islam (The Philosophy of Islamic Law)*, Jakarta: Bulan Bintang, 1975. This book has been chosen as an example to represent his works because it reflects his maturity as a professor who „completed“, says Junaidi, „the writing manual of a thesis at the Faculty of Shari‘a of the Sunan Kalijaga IAIN when he was the Dean of that faculty“. Junaidi, „*Hasbi Mujtahid*“, p. 67. The first technical weakness is that Şiddiqī often gives long quotations but does not provide references to them, which makes it difficult to find his original sources. See for instance, pp. 44, 45, 46, 47, 56, 58, 59, and 61, in which he mentions the authors whom he quotes but does not indicate the titles of the books where the quotes appear. The second technical weakness is related to problems in bibliography. In his bibliography, he sometimes gives both the authors and their book titles at the end of every subject on which he writes, but often mentions the titles only.

## Chapter III

### The Interpretation of Women-Related Verse of Sūra An-NISA': An Interpretation based on Tafsīr ash-Sha'rawī and aṣ-Ṣiddiqī

This part of the study will present the position of women from the Qur'ānic point of view. The Qur'ānic perspective presented here, however, is based on the interpretation of only two Qur'ānic commentators, namely Shech Muḥammad Mutawālī ash-Sha'rawī's and Shech Muḥammad Hasbi aṣ-Ṣiddiqī, whose short biographies were outlined in the previous chapter.

Before embarking further on the above-mentioned *tafsīr*, or Qur'ānic exegesis, that is, the *tafsīr* of Shech Muḥammad Mutawālī ash-Sha'rawī (*tafsīr ash-Sha'rawī*) and that of Shech Muḥammad Ḥasbi aṣ-Ṣiddiqī (*tafsīr an-Nūr*), the following general features deserve to be mentioned first. Among 176 verses of *sūra an-Nisa'*, there are 24 verses dealing with women's issues to be found, namely; verses 1, 3, 4, 7, 11, 12, 15, 19, 20, 22, 23, 24, 25, 32, 34, 35, 36, 75, 124, 127, 128, 129, 130 and 176. While other verses could also be regarded as related to women's issues, they are less specific than those mentioned above.

The question of why this *sūra* is named *sūra an-Nisa'* should also first be answered. According to Jalāluddīn as-Suyūṭī in his book, *Lubāb an-Nuqūl fī Asbāb an-Nuzūl*, this *sūra* is called *sūra an-Nisa'* because it contains many verses dealing with issues concerning women. This *sūra*, therefore, is also well-known as *Sūra an-Nisa' al-Kubrā*.<sup>227</sup> Nevertheless, this *sūra* is not the only one that speaks on women's issues. There are also others, for instance: *sūra al-Ma'ida*, *sūra an-Nūr*, *sūra al-Aḥzāb*, *sūra al-Mumtahana*, *sūra al-Mujādala*, *sūra at-Ṭalaq* and *sūra at-Taḥrīm*, among others.

#### Verse 1 of Sūra an-Nisā':

“O mankind! Be dutiful to your Lord, Who created you from a single person,<sup>228</sup> and from it He created its couple, and from them both He created many men

<sup>227</sup> Maḥmūd Shaltūt, “*Tafsīr al-Qur'an al-Karīm*”, 1<sup>st</sup> Edition, Transl. Herry Noer Ali, Bandung: Diponegoro, 1990, p. 323.

<sup>228</sup>The author of the English translation on the meaning of the Qur'an to which I consistently refer (al-Hilālī, et. al.) translated the phrase “*nafsin wāhidatin*” as “Adam”, and the phrase “*zawjaha*” as “*Hawwa or Eve*”. This translation seems to me very hasty and subjective. Therefore, I do not include all of the translation of his interpretation of this verse (*sūra An-Nisa* verse 1). As far as I am concerned, the phrase *nafsin wāhidatin* does not clearly indicate *Adam*. This phrase belongs to the so-called *allegorical (majāzī)* phrase or verse. Since the Qur'an does not clearly state that *nafsin wāhidatin* means *Adam*, it would be wiser if it is translated just the way it is i.e. *nafsin wāhidatin* or “the same material”, since the word “*nafsin*” has so many meanings, for instance; Soul, spirit, person, human being, individual, desire, intention, self-respect, pride, haughtiness, same; the thing itself, etc. Moreover, the word “*zawj*” is primarily used in classical Arabic to signify a sort of thing of any kind [that is one of a pair or couple]; and

and women; and fear Allāh through Whom you demand (your mutual rights), and (do not cut the relations of) the wombs (kinship). Surely, Allāh is Ever and All-Wacher over you” (Q.S.<sup>229</sup> An-Nisa’/4:1).<sup>230</sup>

According to Sha’rawī:

One of the most important issue in this verse is that of whether Eve (*Hawa*) was created from Adam’s rib or not. This issue emerges as a logical consequence of the variety of interpretations of the sentence „*Min Nafsin Wāhidatin*”, which means, from one person, soul, etc. Some ulamas, including *Sha’rawī* are of the opinion that the word „*Min Nafsin Wāhidatin*”, refers to Adam, while others reject such an interpretation.<sup>231</sup> According to *Anas*,<sup>232</sup> this verse does not mean that Hawwa (Eve) was created from Adam’s rib or Adam’s body, but rather she was created from the same sort of race and material, from which Adam was created, namely from a sort of human, not animal.<sup>233</sup>

The next question, which according to *Sha’rawī* must be raised here, is why does God, The Almighty, says in this verse “*khalaqakum min nafsin wāhidatin*, rather than „*khalaqakum min zawjain*? *Sha’rawī* says this represents only the singular form. It could also be interpreted as meaning, however, that man (Adam) was created first and then woman (Eva) second. *Sha’rawī* states that the creation of Adam was an illustration of the making of God’s first creature,

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the word *Zawjāni* signifies a pair, or a couple of such things, i.e. any two things paired or coupled together, whether they be likes or contraries. *Zawjun*, therefore signifies either one of such two things. As in the case of species; it may signify the moist and the dry, the male and the female, the night and the day, or the bitter and the sweet; though it is sometimes applied to any sort of thing; and only when having with it a thing of the same kind. (Sec, Edward William Lane, “*Arabic – English Lexicon*”, in eight Parts; Book I. Part 3; Frederick Ungar Publishing Co. New York, 1867; 1956, p. 1266-1267. So, The word *zawj* may be used to signify both male and female things and human beings as well. It is a neutral word. The word *zawj* used to signify “a husband” and *zawja* meaning “a wife” is only known and used in modern Arabic.

<sup>229</sup>The abbreviation of Q.S. used here means “*Qur’ān Sūra*”.

<sup>230</sup>Al-Hilālī, Op. Cit., p. 106.

<sup>231</sup>Muḥammad Mutawālī ash-Sha’rawī, “*Tafsīr ash-Sha’rawī*”, Vol. IV Akhbār al-Yaum Press, Holiopolis, Cairo, n.d. p. 1986

<sup>232</sup>*Anas*, whom is mentioned here, is probably *Mālik ibn Anas* who is well-known as Imām Mālik. He was born in Medina in 93 A.H. (After *Hijra* [the year in which Muḥammad moved from Mecca to Medina], used as the beginning of the Islamic Calendar Year). His complete name was Mālik ibn Anas ibn Abī ‘Amr al-Aṣbahī. He died in Medina in 179 A.H. at 86 years of age (Muḥammad Jawad Mughniyya, “*Al-Fiqh ‘alā al-Madhāhib al-Khamsa*”, Beirut: Dār al-Jawad, 1960, p. 13-14). Unlike Abu Hanifa, Malik did not take a long journey except to Mecca and Medina. Nevertheless, he knew and mastered well the tradition that was build and practiced by the Prophet (pbuh) and his companions in Medina, so he considered the tradition (*athar*) of Medina society as a source of law. His authoritative book, which can be regarded as his *Magnum Opus*, is *al-Muwaththa’*, a hadith collective which was composed based on Islamic Jurisprudence (fiqh) system. (Read H.A.R. Gibb, Op. Cit., p. 321-324 and compare with Hasbi Ash-Shiddiqī, Op. Cit., h. 17-233).

<sup>233</sup>Sha’rawī, Ibid. p. 1987

while the creation of Eva simply automatically followed this first creation (of Adam). Therefore, the word “*khalaqa minha*” means created from its species (material), created from clay and then shaped, etc. But the way Adam was created was not repeated with the creation of Eva. This is clear in the use of the word “*minhā*”, which means Adam’s rib, a word that could not be found in the phrases describing Adam’s creation. Moreover, Sha’rawi added, the “*hujja*“, or proof of everything that is not witnessed by a human, must come from the one who did witness it, namely from God, The Almighty. Sha’rawī asserts that Allah would like to protect us from going astray, in this case with regard to how we were created and born.

Another interesting point is the use of the sentence „*wabaththa min humā rijālan katsīran wa nisā’an*”. The word „*baththa*”, according to Sha’rawī, means the same as *nashara* (to spread out). The reason *nashara* is used in this context is that humans - or the creation of God - must spread out on earth in order to use every benefit or useful thing that is bestowed by God the Almighty on earth.<sup>234</sup> *Minhumā* here according to Sha’rawī means something that comes from Adam and Eva (*Hawwa*) . This could be understood to mean that humans were created from/through Adam and Eve. It also implies something that starts from a small amount or number and eventually finishes with much or many.<sup>235</sup>

With regard to the concept of creation, Sha’rawī sharply criticized Darwin’s evolution theory. He objected that, if mankind derived from monkeys, why were there still monkeys now? It is must be clarified here that Darwin did not actually said that man derives from monkey but that man and monkeys had a common ancestor and that this common ancestor is no longer here today. I think it could be a misunderstanding of quoting Sha’rawī’s interpretation since Tafsīr Ash-Sha’rawī was not written by Shech Sha’rawī himself but it was written by his student. It is not important to Sha’rawī’s argument that as we were not there to witness this event, added Sha’rawī, , we have to accept knowledge of it from the one who did was, namely The Almighty God (Allah).<sup>236</sup>

According to Şiddiqī:

Şiddiqī says that there were many Muslim scholars (*Ulamas*) who agreed that „*nafsīn wahidatin*” in this verse meant Adam. This is because they interpreted the word „*nafs*” in this context as “*self*”. He added that those who were of this

<sup>234</sup> Ibid.

<sup>235</sup> Ibid. p. 1987-88

<sup>236</sup> Ibid. p. 1987.

opinion maintained that Adam was the father of human beings. This opinion, according to Şiddiqī, could not be derived from the text (*nash*) of the verse.<sup>237</sup>

Moreover, Şiddiqī quoted al-Qaffāl,<sup>238</sup> who said that in this verse Allah wanted to tell us that He creates every one of us from the same material and that from this same material He created the appropriate mate for us. Some *Ulamas* said that Allah did not signify „*nafs*” in this case to be the origin of humans, and that it would be better if this were not made into a problem. If the orientalist say that every species or tribe has a father, this is not contrary to what Al-Qurʿān means. This argument, according to Şiddiqī, is not in keeping with *at-Taura*, which states that Adam was the father of all human beings.

Citing Abduh, Şiddiqī writes that this verse does not accept that *nafsin wahidatin* means Adam, because it is contrary to the findings of scientific research and history. According to Şiddiqī, *wabaththa minhuma rijālan katsiran wa nisāʿan* means that Allah spread or multiplied humans from man and woman. Afterwards He created succeeding generations from this couple. In conclusion, Şiddiqī said that the interpretation of this verse is that Allah creates us from a single person, and from the single person He created his mate, or wife. So that all further human beings were descended from a couple (husband and wife).<sup>239</sup>

### Verse 3 of Sūra an-Nisa':

“And if you fear that you shall not be able to deal justly with the orphan girls then marry (other) women of your choice, two or three, or four; but if you fear that you shall no be able to deal justly (with them), then only one or (the slaves) that your right hand possess. That is nearer to prevent you from doing injustice”. (Q.S. An-Nisaʿ/4: 3).<sup>240</sup>

According to Shaʿrawī:

According to Shaʿrawī, “*mā ṭāba lakum*” means the women who do not belong to the so-called „*Mahramat*” or the women who men are prohibited from

<sup>237</sup> Muḥammad Hasbi aṣ-Şiddiqī, “*Tafsīr an-Nūr*”, Vol. I. Pustaka Rizki Putra Press, Semarang, Indonesia. 1995. p. 752-55

<sup>238</sup> *Al-Qaffāl* was a prominent scholar of Shafīʿite Mazhab. His complete name was Sayf ad-Dīn Abū Bakr Muḥammad bin Aḥmad bin Ismāʿīl ash-Shāshī al-Qaffāl. He was born in 291/904 and studied in Baghdād and Damascus. Al-Qaffāl lectured in Nisābū and Bukhārā. In year 354/965 he went along with Khurāsān army to Raiy. He died in Zū al-Hijja 365/August, 976. For more details see, for instance, Carl Brockelmann, “*Geschichte der Arabischen Literatur*”, Erster Supplementband, Leiden: E.J. Brill, 1937, p. 307.

<sup>239</sup> *Ibid.*, p. 753.

<sup>240</sup> Al-Hilālī, *et.al. Op. Cit.*, p. 106

marrying. In this case, Sha'rawī quotes verse 23 of *sūrā an-Nisa'*, which tells us some of the people (*maḥramāt*) who it is prohibited to marry.

Sha'rawī adds that the sentence „*mathnā wa thulātha waruba'*”, is aimed at simply giving permission to marry orphan women who are under oppression (*mazlūm*), but not in order to master their wealth with greed. Marrying for greed is really forbidden, because the spirit of marriage should be to help or to protect women from despotism or cruelty.<sup>241</sup>

It is important to mention here that if a person chooses one part of a rule or law of God, he or she must also accept and abide by the other conditions related to that rule. The opportunity to marry more than one woman must go hand in hand with the ability and responsibility to treat each of the wives fairly and equitably. Another essential issue to be mentioned regarding polygyny is the concept of justice. Sha'rawī suggests that a man has to be fair in companionship, paying expenses, arranging the nights (of visiting his wives) as well as must be just in the matter of place and time and should not prefer one over another. In other words, it is safe to say that the justice meant here is the justice in term of material. This is in accordance with a Ḥadīth from 'Aisha<sup>242</sup>, in which Muhammad (p.b.u.h) prays to Allah not to blame him due to his heart's tendency that he ,surely, could not be fair. This means that the justice mentioned here is not the justice in the sense of heart but rather material justice. Because the justice of heart is hard to measure.<sup>243</sup>

Sha'rawī goes on to say that a frequent mistake is to chose and follow part of a rule without regarding its totally aspects. Therefore, whoever accepts and follows a rule of Allah, must take all of Allah's plain road as well.

According to Ṣiddiqī:

The phrase “*mā tāba lakum min an nisā'i*” in this verse according to Ṣiddiqī may be interpreted as the women whom you would like to marry, whereas the phrase „*aumā malakat aymānukum*” is interpreted as women who belong to you (mistress). Ṣiddiqī is of the opinion that achieving fairness in the existing marriage is the most essential requirement before entering marriage with the next woman. If a man fails to do so, he should not be permitted to marry again. He added that the word „*adl*” in this verse means a “tendency of the heart”, and not *adl* in the sense of “material” or “tangible”. Therefore, to be fair in this way is not an easy thing to do. It is impossible to distribute love between women equally. Finally, he concluded that the purpose of this verse was to provide a *small* opportunity (not an injunction) for men to have two, three or

<sup>241</sup> Ash-Shā'rawī, p. 2002

<sup>242</sup> Hadīth narrated from Ahmad, Abū Dāwūd and Dārimī

<sup>243</sup> As-Sha'rawī, p. 2003

four wife's at the same time. The permission to marry more than one wife is valid only as a necessity and under certain conditions.

Şiddiqī quoted Amir Ali's opinion.<sup>244</sup> Ali said in his *Sirr al Islām* that most great Mu'tazila's ulamas think that it is wrong for a man to marry another woman as long as he still has his first wife. These *Ulamas* support their opinion with examples of all kinds of disasters and difficulties as a result of polygyny. They therefore encouraged the avoidance of disaster rather than the seeking of any benefits (*maslahat*).<sup>245</sup>

It is important to include here the background regarding how and why this verse was revealed. Bukhārī and Muslim traditionalists (two prominent and the most authoritative Ḥadīth collectors) narrated that 'Urwah ibn Zubair once asked one of 'Aysha's aunts about this verse. 'Aysha said that it was revealed in connection with a fatherless girl, who was under the care of her guardian (*wālī*). Apparently, the wealth and beauty of the girl attracted her guardian and he wished to marry her without paying the bride price as he would to another woman. This verse, according to Şiddiqī, forbids him to do so and commands him to marry another/other women. Şiddiqī therefore thinks that the meaning of this verse is „Marry whoever you like [two, three and four but if you fear that you shall no be able to deal justly (with them), then only one is better for you] and/but do not hurt that fatherless woman”!

#### Verse 4 of Sūra an-Nisa' :

“And give to the women (whom you marry) their *Mahr* (dowry; obligatory bridal-money given by the husband to his wife at the time of marriage) with a good heart; but if they (women), of their own good pleasure, remit any part of it to you, take it, and enjoy it without fear of any harm (as Allāh has made it lawful)”.(Q.S. An-Nisa'/4 : 4).<sup>246</sup>

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<sup>244</sup> Amīr 'Alī aimed here is Sayyid Amīr 'Alī (1849-1928), who was Indian jurist and writer, descended from a Shi'ite family which had come from Khurasan with Nadīr Shāh and remained in India, finding service with successively the Mughal and Āwad court and finally the East Indian Company. He was educated at the Muḥsiniyya (Hooghly) college near Calcutta, where he learned Arabic and also came into close contact with English and their literature, as well as studying their law. For more details on this person, see for instance H.A.R. Gibb, *et. al.* “*The Encyclopaedia of Islam*”, New Edition, Vol. I A-B. Leiden : E.J. Brill, London: Luzac & Co., 1960 p. 442-443

<sup>245</sup>Al-Islām Dīn al-Fiṭra p. 103, Tafsīr al-Hidāya wa al-'irfān, p. 61, in Şiddiqī “Tafsīr an-Nūr”, p. 758.

<sup>246</sup>Al-Hilālī, *Op. Cit.* p. 106

## According to Sha'rawī:

This sūra describes the giving of the bride price, or marriage portion, to a woman before marriage. The word „*Saduqātihinna*” in this verse means „*mahr*” (bride price), while *niḥlatun* means *al-ʿaṭīyya*” or “gift”. Paying the bride price is obligatory. This obligation is, of course, the man’s not the woman’s. Moreover, Sha’rawī wrote that if a man marries a woman, he derives enjoyment (*mut’a*) from her. This also holds true for the woman; she will derive enjoyment from the man she marries. They obtain enjoyment from each other, they co-operate and greatly need one another.

They (women) also expect to be esteemed. The woman, for instance, works at home, while the man works outside. According to al-Sha’rawī the giving of the so-called *mahar* to a woman is an acknowledgement of her value. This bride price is therefore given to the bride, not to her parents or family (*walī*), like in the time of *jāhiliyya*. Although a man has to pay a bride price to the woman he is going to marry, he is allowed to use this money with his wife’s permission. This is expected as a way of strengthening the relationship between husband and wife. According to Sha’rawī, Allah the Almighty informs us that this obligation (in this case the right of a woman to have a bride price) must be performed first, although a husband may eventually use it with his wife’s permission.<sup>247</sup>

## According to Şiddiqī:

According to Şiddiqī „*saduqātihinna*” in this verse means “bride price” (*mahr*), while „*niḥlatan*” means “romantic gift”. This bride price is a symbol of love and affection. It could be seen as an instrument to strengthen a loving relationship. Because the bride price belongs to the woman who is to be married, it cannot be retaken or used by her husband without her permission. Moreover, the husband has no right to force or to intimidate his wife into giving him her bride price; this is not right (*ḥarām*). If a husband wants to divorce his wife, he is not permitted to take anything from her. In this context, Şiddiqī quotes sūra an-Nisa’ verse 19 i.e. as follows: “O you who believe! You are forbidden to inherit women against their will; and you should not treat them with harshness, that you may take away part of the *Mahr* [dowry] you have given them, unless they commit open illegal sexual intercourse; and live with them honourably. If you dislike them, it may be that you dislike a thing and Allāh brings through it a great deal of good.”<sup>248</sup>

## Verse 7 of Sūra an-Nisa’:

<sup>247</sup> Sha’rawī, p. 2009

<sup>248</sup> Al-Hilālī, *Op. Cit.* p. 109-110

“There is a share for men and a share for women from what is left by parents and those nearest related, whether the property be small or large – a legal share”. (Q.S. An-Nisa’/ 4: 7).<sup>249</sup>

According to Sha’rawī:

This verse deals with inheritance. It is said that both men and women have specific rights to the wealth of their parents or relatives no, matter how much or how little. This is because, according to Sayyid Quṭb, parents bequeath their children all things, both good and bad, from wealth, to disease or chastity<sup>250</sup>, etc.

One phrase of this verse, namely „*Naṣīban mafrūḍān*”, means obligatory portion. It follows, therefore, that there must be a maker of the obligation (a commander) - in this case, Allah. According to ash-Sha’rawī, there is a great difference between *farrāḍa* and *awjaba*. *Farrāḍa* may only come from the greatest (God), while *awjaba* derives from a human being. At the end of his commentary on this verse, Sha’rawī says that Allah encourages us with this verse in order to give inheritance to those who have none or to say good (polite) words to him/her. This is what the phrase “*waqūlū lahum qaulan ma’rūfan*” means.

According to Şiddiqī:

Şiddiqī interpreted this verse as saying that when there is an inheritance, the fatherless or orphaned children (boys and girls) must receive a share from their fathers or mothers or from their relatives, no matter how much or how little. This holds true for both sexes, both male and female. Each should receive his or her share on the basis of a standard decree (law). In such cases, writes Şiddiqī, it would be better to give a small share of inheritance to the father’s or mother’s brothers/sisters to avoid jealousy. According to Sa’id ibn Jubair, the command to share the inheritance justly is obligatory to all Moslems, but nowadays Moslems often ignore this command, as is the instruction to ask the permission before entering someone’s house. Al-Ḥassan and al-Nakhāī added that the wealth or inheritance to be distributed here is only the movable wealth. Şiddiqy said that the main aim of this verse was that Allah desired people to behave as well as possible (*Iḥsān*) and as they would wish other people to behave to their children.

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<sup>249</sup> *Ibid.* p. 107

<sup>250</sup> In this case, Sha’rawī also quoted the theory of Mandel (Gregor Mandel), which says that children inherit good and bad (potential) characteristics from their mothers, fathers and ancestors.

### Verse 11 of sūra an-Nisa':

“Allāh commands you as regards your children’s (inheritance): to the male, a portion equal to that of two females; if (there are) only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by Allāh. And Allāh is Ever All-Knower, All-Wise”. (Q.S. An-Nisa’/4 : 11).<sup>251</sup>

According to Sha‘rawī:

This verse deals with the distribution of inheritance. The first question to be asked here is why Allah said *Li-z-zakari mithlu haḍḍi al-unthayayni* and not *„li l-unthayayni mithlu haḍḍi z-zakar”*. According to Sha‘rawī, this construction is meant to provide a unit of measure *„miqyās”*. In this case Allah chose women’s wealth (portion) as the unit of measure to decide that of men.

The next question is why a woman’s portion is half that of a man. According to Sha‘rawī, this distribution is fair or equitable because a woman has no obligation to support her husband, but her husband does have a duty to support both his wife and children. This means that he is commanded to do this, while a woman’s property or inheritance cannot be used or owned by her husband (without permission from her). Furthermore, Sha‘rawī says that the decision to give women a portion is meant to support them if they are not married. The fact that a woman’s portion is half that of a man is because men must support their wives and families and women (usually) do not. With this in mind, Sha‘rawī says that women are treated even better than men, for the above reason and because her portion is first chosen as the unit of measure *„mikyāl”* that dictates the division. Allah, indeed, loves womankind because she is honor *„irdun”* and so He protects her. If she is not married, as stated above, she has something to live on, and if she marries, her husband takes all responsibilities for her, because it is the mercy of God.

Furthermore, this verse states that if (there are) only daughters, two or more, their share is two-thirds of the inheritance. If there is only one daughter, her share of the inheritance is a half. Moreover, for parents, a sixth share of the

<sup>251</sup> Al-Hilālī, *Op. Cit.*, p. 108

inheritance goes to each if the deceased left children. If the deceased had no children, and the parents are the (only) heirs, the mother receives a third; if the deceased left brothers (or sisters), the mother gets a sixth. The distribution in all cases is after payment of legacies he may have bequeathed, or debts. Sha'rawī regards such a distribution or sharing of inheritance as quite a good thing. He says that God Almighty decided to mandate this because He wanted this important issue to be decided by reason „*aql*”.

According to Aṣ-Ṣiddiqī:

Aṣ-Ṣiddiqī interprets the phrase „*yūṣīkumu Allāhu*” as a command or instruction from God concerning the distribution of inheritance. It means that the distribution of inheritance must be carried out in accordance with the will of Allah. He said that this verse is revealed in opposition to the so-called „*Jāhiliyya* custom”, whereby daughters had no right to or share in an inheritance. Aṣ-Ṣiddiqī is in agreement with Sha'rawī with regard to the reason that sons receive double the share of daughters, since it is in accordance with the responsibility a son has to be taken and financial support he has to be spent for his wife and children.<sup>252</sup>

#### Verse 12 of Sūra an-Nisa’:

“In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debts. In that which you leave, their (your wives’) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debts. If the man or woman whose inheritance is in question has left neither antecedents nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third, after payment of legacies he (or she) may have bequeathed or debts, so that no loss is caused (to any one). This is a Commandment from Allāh; and Allāh is Ever All-Knowing, Most-Forbearing”. (Q.S. An-Nisa’/4 : 12).<sup>253</sup>

According to Sha'rawī:

The Verse no. 12 of Sūra an-Nisa’ continues speaking on the matter of inheritance, Sha'rawī writes that this verse is aimed at explaining that a man’s share of an inheritance is equal to the share of two women. This is, in his opinion, just. His opinion is based on the consideration that if a man’s wife dies, he may remarry and needs the money to build his life with a new family,

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<sup>252</sup> Aṣ-Ṣiddiqī, *Tafsīr An-Nūr*, Op. Cit. p. 768-775

<sup>253</sup> Al-Hilālī, *Ibid.*, p. 108.

whereas if a woman's husband dies, she receives an inheritance from him and is free to remarry, and her new husband takes full financial responsibility for her. Sha'rawī added that Allah wants to be certain that there is complete justice in this matter.

In his commentary to this verse Sha'rawī also mentioned the case of *Kalālah*<sup>254</sup>. He said that if a single man, or "*kalālah*" dies, and leaves a brother or sister, each of them shares one sixth. But if there are more siblings, then all of them share one third.<sup>255</sup>

Sha'rawī said that Allah desires justice to be upheld, and for no one to suffer from following His religion. Suffering is due to carnal desire that destroys God's will. Al-Qur'ān must therefore be the entire basis of the law.

According to Şiddiqī:

Şiddiqī interprets "*Walakum nişfu mā taraka azwājukum in lam yakun lahunna waladun*" to mean that if a wife dies and leaves no children or grandchildren, either from her husband who will inherit from her or from another husband, so her husband will receive one half (1/2). This also holds true with regard to both a wife of a consummated marriage as well as for a wife from an unconsummated marriage.<sup>256</sup>

Şiddiqī also wrote that if a wife has children, her husband will share one fourth (1/4) of the wealth she inherited while the rest will be given to her relatives, both *zāwi l-furudh*, (nuclear family) or *zawī l-arham* (extended family), or will be taken by *baitmal* (public court). This dispensation is valid if there is no one else to claim this inheritance. Şiddiqī interprets the sentence "*Fa in kāna lahunna waladun fa lakum r-rub'ū min mā tarakna*"<sup>257</sup> Moreover, Şiddiqī interpret the phrase "*min ba'di waşīyyatin yūshīna bihā aw daynin*" as; "You may take your share after the so-called *waşīyya* and debt are finished (paid). Before that none of the heirs can take the inheritance". Whereas the phrase "*wa-lahunna r-rub'ū min mā taraktum in lam yakun l-lakum waladun*. He interprets "*If a man, i.e. husband, dies and leaves no children either from his former or from his present wife, she (his wife) will share one fourth (1/4)*". This condition holds true only if he has one wife. But if he has more than one, his wives share together from the one fourth (1/4). The rest of the whole inheritance must be distributed to other heirs, *zawī l-qurbā* or *zawī l-arhām*.<sup>258</sup>

<sup>254</sup> *Kalālah* means a man or woman dies without leaving any family or relatives.

<sup>255</sup> The case of *Kalālah* will specifically be discussed with the last verse of sūra an-Nisa', which is related to this subject matter.

<sup>256</sup> Aş-Şiddiqī p. 771

<sup>257</sup> Ibid. 771-2

<sup>258</sup> Ibid, p. 772

If he (husband) leaves children or grandsons, so his wife will take only one eighth (1/8). His children, father and mother will share the rest. At the end of this verse, it is clearly stated that all the above-mentioned dispensation must be implemented after the *waṣīyya* (deathbed bequests) and debts are paid.

According to Ṣiddiqī; this verse makes clear that the right that is given to a man as a husband is double that of a woman. He stated that Allah does not give to wives but only to one wife. This meant, according to him, that a husband should understand from this that every man has only one wife. To marry more than one wife is permitted, but only for urgent reasons or under very rare circumstances; it should be viewed as an unusual thing.<sup>259</sup>

### Verse 15 of Sura Al-Nisa':

“And those of your women who commit illegal sexual intercourse, take the evidence of four witnesses from amongst you against them; and if they testify, confine them (i.e. the women) to houses until death comes to them or Allāh ordains for them some (other) way.”<sup>260</sup> (Q.S. An-Nisa'/4 : 15)<sup>261</sup>

According to Sha'rawī :

This verse deals with the eyewitnesses or testimony towards women who are accused of doing contemptible deeds or crimes. The use of the so-called *isim maushul* (relative pronoun) „*al-lātī*” in this verse, according to Sha'rawī, is used to denote something special (a sexual deviation) between women and women. Therefore, this verse is not begun with „*wa-l-lazāni ya'tiyānihā minkum...*”. Moreover, he added that saying „*Fa s-tashhidū 'alayhinna arba'atun*”, means it is not enough for one person to witness others, but the witnesses must also testify. According to Sha'rawī, Allah asked for four witnesses because two of the four are expected to testify against each other.

Furthermore, Sha'rawī interpreted the sentence „*li-anna humā tastamti'āni ba'ḍahumā*” to mean that the woman who has committed this crime, must be arrested or kept confined, and should not be allowed any contact with other people until she dies. The above-mentioned case according to *Sha'rawī* is not about relations between men and women. If that were so, this verse would read: „*Wallazāni ya'tiyānihā minkum fa āzūhumā...*” which would be understood as

<sup>259</sup> Ibid.,p. 772

<sup>260</sup> The provision of this verse has been abrogated by the verse of sūra an-Nūr verse no. 2., ordaining lashing for the unmarried and stoning to death for the married, if four witnesses testify to the crime. (Al-Hilālī, *Op.Cit.*, p. 109).

<sup>261</sup> Al-Hilālī, *Ibid.*,p. 109.

referring to relations between two men. Therefore, this case deals with relations between woman and woman.

Furthermore, Sha'rawī raised the question of why a punishment is prescribed for a case of two women seeking enjoyment? This punishment, according to him, is to keep the women (in confinement) at home till death. Their crime, he finds, is an evil and a pestilence that must be hindered. It is totally dangerous because a woman should not have lesbian relations and is therefore better off in confinement than returning to this form of "adultery".

According to Şiddiqī:

Şiddiqī views lesbian relations as something that is extremely bad and a great sin, like adultery (*zīnā*). The *fāhisha* meant here is *Musāhaqa*, namely; a woman making love with a woman (lesbianism). He based his judgment on the opinion of Abu Muslim<sup>262</sup> which are narrated by Mujāhid.<sup>263</sup> Four eyewitnesses are needed to prove this lesbian activity. According to *jumhūr*, Şiddiqī said, one other woman is not acceptable as an eyewitness. This is in accordance with a verse of *sūra al-Baqara*. The reason for not accepting lesbianism acts, he said, was to prevent them from doing (being involved in) something that should to be done by men. And this command applies to all Moslems, and the law and punishment are implemented by a jurist.<sup>264</sup>

<sup>262</sup>I did my best to identify this person (*Abū Muslim*) both through the Encyclopaedia of Islām and other related resources, but I did not find any information related to him. There are actually many persons named Abū Muslim, but none of them could be regarded as or connected to the *Abū Muslim* mentioned by Şiddiqī; since they were not Islamic scholars but politicians, for instance, Abū Muslim, who was a leader of the revolutionary 'abbasid' movement in Khurāsān, etc. (For more information, see also, C.E. Bosworth, *et. al.*, "Encyclopaedia of Islam"; New Edition, Vol. VII. Leiden: E.J. Brill, 1993, p. 141. Therefore, I would say that this person is unidentified or unknown.

<sup>263</sup>*Mujāhid* quoted here should be Mujāhid ibn Jabr al-Makkī who is also well-known as Abū al-Hajjāj, successor. He was born in Mecca in 21 A.H. / 642 A.C. and died also in Mecca between 100 A.H./718 A.C. and 104 A.H./722 A.C. Mujāhid was also known as Mawlā of as-Sā'ib (or 'Abdu Allāh or Kay) ibn Abī as-Sā'ib al-Makhzūmī. He was famed as a *mukhri'* (inventor or discoverer) and as a source of Tafsīr (Qur'ān Exegesis/Commentary). He is connected to the school of 'Abd Allāh ibn 'Abbas, but is said to have studied with many other companions of the Prophet (pbuh) as well (See Adh-Dhahabī, "*Ṭabaqat al-Mufasssīrīn*", ii, p. 306). It is narrated that he read the Qur'ān with Ibn 'Abbas three times, stopping each time after each verse and asking about its interpretation, particularly what it was revealed about and how it came to be so. He was proclaimed the most knowledgeable in Tafsīr of his time. Some of his information was said to have come from Jews and Christians, thus making some wary of his works (Ibn Sa'ad, "*Ṭabaqat*", Vol. V. p. 467); he is also said to have searched the world for the wonders spoken of in the Qur'ān, for instance, meeting *Hārūt and Mārūt* at Babel (Adh-Dhahabī, *ibid.*, p. 307-8). On the other hand, he is associated with a rationalist approach to the Qur'ān interpretation (Goldziher, "*Richtungen...*", p. 107-110) and with *ra'yī* (logic/ratio) in *Fiqh* (Islamic Jurisprudence). Certainly, however, no clear and consistent picture emerges from the biographical anecdotes of an exegetical activity which can be connected to a single historical persona. (For more detailed information on Mujāhid, see C.E. Bosworth, *et. al.* "Encyclopaedia of Islam"; New Edition, Vol. VII. Leiden: E. J. Brill, 1993, p. 293

<sup>264</sup>Şiddiqī, p. 778-9

If witnesses establish that they did the so-called *musāhaqa* (lesbian act), culprits must be confined at home and not ever released till they die, or until Allah gives them a way out from the house or sets rules to justify their mistakes. According to *Jumhūr* ‘ulama’, *fāhisha* in this verse means *zinā* or adultery. Adultery here, according to *jumhur*, is that committed by married women or the so-called *muhsanah*, not by a *bikr* (virgin). According to Abū Muslim, this verse is related to the case of *musāhaqa* (lesbians), which is between two women. Furthermore, he declares that this verse is not abrogated by any other verse. This opinion agrees with that of Mujāhid.<sup>265</sup>

Şiddiqī adds that some ulamas said that this verse had been abrogated by verse 24 of *sūra an-Nūr*. Finally, Şiddiqī says, that the verse introduces the punishment towards women who committed *fāhisha* (evil, lesbian acts). He added, that it is true that this punishment is meant for the good of the society and to serve as an example (*ihsān*) to others.<sup>266</sup>

#### Verse 19 of *Sūra an-Nisa*’:

“O you who believe! You are forbidden to inherit women against their will; and you should not treat them with harshness, or take away part of the *Mahr* you have given them, unless they commit open illegal sexual intercourse; live with them honorably. If you dislike them, it may be that you dislike a thing and Allāh brings through it a great deal of good”. (Q.S. An-Nisa’/ 4: 19).<sup>267</sup>

According to Sha’rawī:

By revealing this verse Allah, according to Sha’rawī, aims to deal with women’s affairs and their problems. When Islam came, he added, women lived in wretched, unjust circumstances.<sup>268</sup> Allah therefore revealed this verse in order to change such injustices, Women, for instance, were inherited like cattle if their husbands died. At that time, a so-called *waly* could simply have or take them automatically - like a king. If women objected to this, the *waly* could “inherit” them by force. If the women were married, the *waly* would take the dowry or bride price for himself.<sup>269</sup> Women’s objections to such treatment went unheard. Therefore, Sya’rawī added, after declaring “*Lā yahillulakum an*

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<sup>265</sup> Ibid., 779-780

<sup>266</sup> Ibid. 780

<sup>267</sup> Al-Hilālī, *Op. Cit.*, p. 109-110

<sup>268</sup> Sha’rawī, p. 2078

<sup>269</sup> *Ibid.* p. 2078-9

*tarithu n-nisā'a karhan*" (the first law) Allah added *wa lā ta'ḍulūhunna*...(as the second law).<sup>270</sup>

The meaning of "*wa lā ta'ḍulūhunna*" in this verse, according to Sha'rawī, is that women must be permitted to have their basic rights (human rights) if their husbands die, for example they should be able to remarry whom they want or someone who comes to them (proposes marriage to them). Allah forbids men to do injustice to widows for example, Sha'rawī added, the waly should not retake some portion of what her former husband had given her "*litazhabū biba'ḍi mā ātaytumūhunna*".<sup>271</sup> Therefore, Allah revealed this verse to stop such injustice. Such harsh treatment can only be meted out if a woman does something like commit "*fāhisha*" or adultery "*zina*", etc.

Furthermore, Sha'rawī adds that the word "*al-ʿaḍlu*" has many meanings and originally meant "*al-Man'ū*" (forbidden). But the meaning "balance" is also contained in this word, as in the expression: "*ʿaḍalati l-mar'atu biwaladiha*; this is indeed the original derivation (adoption).<sup>272</sup> The word *al-ʿaḍlu*, meaning "muscle" here, appears in the following phrase "*ʿaḍalati l-mar'atu biwaladiha*", which means "the muscle contracts and does let the baby out". Sha'rawī likens this to the egg of a chicken - the muscle of the uterus is like the shell of the chicken egg. Birth – or hatching – requires a change in the status quo, a fragmentary movement of metabolism. Why is this movement fragmentary? This is because Allah, the Almighty, does not wish to make the rationale of the universe automatic or immutable (i.e. operating by the laws of physics rather than by the will of God); if something comes into being, there must be a force or a being who causes it to do so - who creates it (*al-fā'il* = the subject). According to Sha'rawī, this causality, this relation between cause and effect, works only at Allah's will. If, for instance, he says "stop!", the occurrence will simply stop.

Furthermore, Sha'rawī says that each effect or change in our environment that we see, some of which are contrary to any cause we know, must be viewed as a proof of the absolute power of Allah, The Almighty. If certain sets of cause and effect seem automatic, people may conclude that they can never deviate or change. But Allah makes us conscious that He is the source of power in His kingdom and that He does not create something at once but in a gradual process. Sha'rawī then raised the question, "Does He (Allāh) set causative factors of the universe in motion and then leave them alone to run along automatically? "No," answers Sha'rawī, "He would like to tell us that He is always awake, never negligent and never asleep. He is the One who "powers

<sup>270</sup> *Ibid.* p.2080

<sup>271</sup> *Ibid.* p.2080

<sup>272</sup> *Ibid.* p.2079

the cause” and says “*work or do not work*”. Therefore, we must be aware that He is the controller of all.

Some ‘ulama’, Sha’rawī wrote, say that women have the right to demand what they need for themselves, both in material and non-material terms, from their husbands; but if they commit adultery or other unlawful deeds, they must be punished through the so-called *khulu’*, which means divorce from their husband.<sup>273</sup> The purpose of this, according to him, is to give women the right to choose. Thus, Sha’rawī concludes, the sentence *wa lā ta’ḍulūhunna* in this verse is followed by “*wa āshirūhunna bi al-ma’rūf*”. The word *ma’rūf* in this context, says Shara’wī, has a much wider and deeper meaning than “*mawadda*”. *Ma’rūf* means not only to love but also to give material things, such as food, clothes, good care, etc. According to Sha’rawī, this verse instructs men to have a very good relationship with women (wives).

According to Şiddiqī;

The phrase “*lā yaḥillu lakum an tarithū an-nisā’a karhan*” is interpreted by Şiddiqī as meaning that it is not fair or proper to deal with women like livestock, property or an object to be inherited, because women hate to be so treated. Such behavior was customary in of *Jāhiliyya* times (pre-Islamic period), but we are not allowed to behave like *Jāhiliyya* people. We are also not permitted to treat women in any way we like, for instance, to marry them and then to marry them to someone else (to sell or give them to another), or to make it difficult for them to marry whom they like. Such behavior is indeed not worthy.<sup>274</sup>

The phrase “*Wa lā ta’ḍulūhunna li taz-habū bi ba’ḍi mā ātaītumūhunna*” in this verse, means according to Şiddiqī, that it is not permitted to make trouble or difficulties for women, so that they must ransom themselves by giving away their fortune or bride price. Şiddiqī adds that it was common practice during the Arab *Jāhiliyya* for a man to marry a woman he liked and then later, when he tired of her, to give her away to another man, to make it difficult for her to marry another man she liked, or to forbid her to remarry. Men did this in order to make her pay to free herself, either with her family’s wealth or the dowry that she had received on her marriage.

Şiddiqī writes of a narration by Ibn Jarīr, which he had from Ibnu Za’id telling of the Quraysh tribe, who lived in Mecca and usually wanted to marry a royal woman. But then, if the woman could not live in harmony with her husband, he divorced her - under certain conditions, for instance, that she was not allowed

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<sup>273</sup> Ibid. p. 2081

<sup>274</sup> Şiddiqī, p. 785

to remarry without his permission. To complete the divorce, an eyewitness was invited and a contract (agreement) was drawn up, usually stipulating that if someone came to marry her, the former husband would receive some amount of money or goods - if he did not, the woman would never be permitted to marry a new husband. Moreover, former husbands would create difficulties for their divorced wives, forcing the women to pay them off.<sup>275</sup>

Another phrase that is important to include here is “*Illā an yaʿtina bi fāḥishatin mubayyinatin*”. This phrase, according to Şiddiqī, means if they (the women) commit *fāḥisha*, such as adultery or other shameful and unlawful things, it was permitted to warn and punish them for this, but not overly harshly; punishment should be meted out wisely. This is because the men gave women responsibility, in material and non-material. Such punishment, Şiddiqī adds, is only justified if a woman commits a great sin, like adultery.<sup>276</sup>

Furthermore, Şiddiqī translates the following phrase “*wa ʿasyirūhunna bi almaʿrūfi*”. According to him, this means, “You have to treat your wives so that they are pleased and according to religious teaching. You are not permitted to decrease their *nafaqah* (basic necessities of life) or to hit their bodies or hurt them, either with word or action.<sup>277</sup> Finally, Şiddiqī states that the word “*muʿāshara*” in this verse should be interpreted as the relationship between a man and a woman (a husband and a wife) and that this must be viewed as an equal and a cooperative relationship.

### Verse 20 of Sūra an-Nisa’:

“But if you intend to replace a wife by another and you have given one of them a *Qintār* (of gold, i.e. a great amount as *Mahr/dowry*) take not the least bit of it back; would you take it wrongfully without a right and (with) a manifest sin?” (Q.S. An-Nisa’/ 4 : 20).<sup>278</sup>

According to Shaʿrawī:

In this verse Allāh tells us, Shaʿrawī says, that if we have serious problems with our wives, after living in harmony with them, but we are then afraid of doing things that are prohibited by Allah, we are allowed to replace them. Replacement or “*istبدال*” in this verse means divorce “*talāq*”; but we have to keep in mind that in doing so we are encouraged not to do injustice. Therefore, says Shaʿrawī, this phrase is followed by the phrase “*wa ātaytum ihdāhunna*

<sup>275</sup> Şiddiqī, p. 785

<sup>276</sup> Ibid. p. 786

<sup>277</sup> Ibid. p. 786

<sup>278</sup> Al-Kalālī, *Op. Cit.*, p. 110.

*qinṭāran falā ta'khuzū minhu shay'an*". Etymologically, the word *qinṭaran* meant "something great", but came to mean a large amount of money, etc.). *Qinṭarun* in this verse (context) means wealth "*al-māl*", which Sha'rawī thinks could be interpreted as "dowry" (bride price). In other words, it means that if we divorce our wives, we are not allowed to take anything from them, even though we gave them a large bride price, because, Sha'rawī adds, this *mahar* (dowry) is the price that men pay to be allowed to live with a woman, and for which they dedicate and devote everything to us; after all men only have to pay this price once.<sup>279</sup>

According to Şiddiqī:

Commenting on this verse, Sha'rawī opines that if a man wants to change or to replace his wife with a new one, because he does not like or love her any more, but the wife has done nothing wrong, a husband still owes her this great amount of money (bride price.) - whether she has already collected it from him or not. The husband is not allowed to reclaim anything from her. He has to give it all to her, since the divorce was not her fault.<sup>280</sup>

Şiddiqī tells us that traditionally, the *Jāhiliyya* Arabs (the ignorant ones) could simply divorce their wives with an accusation of adultery. The wife then had to redeem herself by paying him the bride price she had received on her marriage. Finally, Şiddiqī quotes a statement by Muhammad 'abduh, in which he says that "The agreement that is accepted by women is a holy *fiṭra* (human right)". Therefore, Allah illustrates in *sūra ar-Rūm* 21 as follows "And among his signs is this, that He created for you wives from yourselves, that you may find repose in them, and He has put between you affection and mercy. Verily, in that are indeed signs for a people who reflect".<sup>281</sup>

Şiddiqī comes to the conclusion that through this verse Allah wants to stop us from following the traditions of the so-called *Jāhiliyya* period, especially with regard to the bad treatment towards women and their property. Women in the time of *Jāhiliyya* were viewed as a kind of "moveable goods" that could be transferred or inherited. Thus, Şiddiqī says, a so-called *walī* (close male relative) could legally have, possess or inherit the wife of his brother or father if he died.<sup>282</sup>

### Verse 22 of *sūra An-Nisa*':

<sup>279</sup> Ash-Sha'rawī, p. 2084-5

<sup>280</sup> Şiddiqī, p. 787

<sup>281</sup> Qur'ān, *sūra* 30. Verse 21.

<sup>282</sup> Şiddiqī, p. 789

“And marry not women whom your fathers married, except what has already passed; indeed it was shameful and most hateful, and an evil way”. (Q.S. An-Nisa’/ 4: 22).<sup>283</sup>

#### According to Sha’rawī:

This verse, according to Sha’rawī, indicates that a son’s marriage to his father’s former wife or wives was a common practice before Islām. It is narrated, Sha’rawī adds, that Ṣafwān ibn Umayya, who was a notable Quraysh citizen, took over his father’s (Umayya ibn Khalf) position. After the death of his father, he married his father’s widow, i.e. Fākhita bint Aswād ibn al-Muṭālib.<sup>284</sup> According to this verse and to Sha’rawī, this practice of marrying a father’s former wife is a *fāḥisha* (an evil deed) that is very shameful and hateful. Therefore, Sha’rawī adds, it is the aim of this verse to stop this practice, which is contrary to human instinct (*fiṭra*). Furthermore, Sha’rawī says that if such a practice were allowed, sons might rejoice at their father’s death; and it could also happen that the children become sexually and sinfully involved with their father’s wife.<sup>285</sup>

#### According to Ṣiddiqī:

This verse was revealed to stop the custom of a son marrying his step-mother, which was common in pre-Islamic paganism or the so-called “*Jāhiliyya*”. Therefore, Allah said “*Wa lā tankihū mā nakaḥa ābā’ukum min an-nisā’i*”, which means “*And marry not women whom your father has married*”.

Ṣiddiqī said that Allah first mentions the case of sons marrying the former wives of their fathers, and then He separated this from the law or regulation regarding the marrying of other prohibited women (*maḥram*), as is mentioned in the next verse. It is because marrying former wives of fathers in the time of *jāhiliyya* was a very strange tradition which was widely practiced. In connection with this, Ṣiddiqī quotes a narration by Ibn Ka’ab, which derived from Muhammad ibn Ka’ab, in which he said that, “When a man died and left a wife, his son had the most authority to inherit her, and he had the full right to marry her if he wanted to, and if the woman was not a slave, she could be married to another person”. For instance, when Abū Qais ibn Aslat died, his son Miṣan married his father’s wife without paying anything and without giving any of his father’s inheritance to her. Then, this woman came to prophet Muḥammad, (p.b.u.h) telling of her case. The Prophet said please return to your

<sup>283</sup> Al-Hilālī, *Op. Cit.* p. 110

<sup>284</sup> Sha’rawī, *Op. Cit.* p.2090

<sup>285</sup> *Ibid.* p. 2091-92

home first, maybe Allah will reveal a law regarding this case. And then this verse came down to us, as well as verse of 19 of the same sūra (An-Nisa’).

Şiddiqī states that the word *Nikāh* or “marriage” in this verse means “*aqad nikāh*” as examined (what do you mean by “examined” here – perhaps “determined”? by Ibn ‘Abbās (who is this?). This is in accordance with the narration of Ibn Jarīr, in which it is said that each woman who had been married by your father, whether to the marriage had been consummated or not, is forbidden to you. And the meaning of father here could also include grandfather.<sup>286</sup>

The phrase “*illā mā qad salaf*”, in this verse, according to Şiddiqī, means that things that happened in the past, or before this prohibition was set down, would be forgiven by Allāh. This could also imply that if a man married the wife of his father after the handing down of this law, Allah would punish him. This is because marriage with a father’s wife was unacceptable, both logically and religiously; it is a contemptible thing.<sup>287</sup>

To support his idea, Şiddiqī quotes Imām al-Razī’s statement as follows “the contemptible thing is divided into three categories, namely contemptible in terms of logic, religion and custom”. He adds that the “logical contemptibleness” is indicated by dirty words, the “religious contemptibleness” is denoted by words of hatred while “customary contemptibleness” is displayed by the so-called *wasā’a sabīlā* or worst words. Finally, Şiddiqī quoted the opinion of Rashīd Riḍā. According to Rashid Ridhā the so-called *fāhisha* or the contemptible thing is divided into four rankings, namely, contemptible in terms of *‘aqlī* (logic), *ṭabī‘ī* (nature), *‘ādī* (custom) as well as contemptible in religion or *shar‘ī*.<sup>288</sup>

### Verse 23 of Sūra an-Nisa’:

“Forbidden to you (for marriage) are: your mothers, your daughters, your sisters, your father’s sisters, your mother’s sisters, your brother’s daughters, your sister’s daughters, your foster mothers who gave you suck, your foster milk suckling sisters, your wives’ mothers, your step-daughters under your guardianship, born of your wives to whom you have gone in – but there is no sin on you if you have not gone in them (to marry their daughters), - the wives of your sons who (spring) from your own loins, and two sisters in wedlock at

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<sup>286</sup>Şiddiqī, p. 790

<sup>287</sup>Şiddiqī, p. 791

<sup>288</sup>Ibid., p. 791

the same time, except for what has already passed; verily, Allāh is Oft-Forgiving, Most Merciful”. (Q.S. An-Nisa’ / 4 : 23).<sup>289</sup>

According to Sha’rawī:

This verse according to Sha’rawī deals with the women whom a man is forbidden to marry, or the so-called “*al-Muḥārim*”. Sha’rawī says that in the beginning Allah created Adam and his wife (Eve) and then He gave the clear system to them. This system completes the pillars or principles; so that Islam would find the duration (interval) of things as they came. These things came from the sediment of the old region and culture. Even if it had been taken from the custom or the nature (*fīṭra / instinct*). The people were accustomed to these things without realizing that Allah had already set down rules in the previous religions.<sup>290</sup>

In this connection, Sha’rawī noted that the modern sciences help us to understand many things underlying Allah’s rules. For example, science discovered that in the reproduction of every type of organism, be it plant, animal or human, if the two who mate (male and female) are not closely related, their offspring will be stronger and less likely to suffer from inherited diseases. But offspring from parents who are closely related (father and mother from the same family) are more likely to have genetic faults. Thus in agriculture and husbandry “*cross-breeding*” is practiced, that is the crossing or breeding of two different varieties within the same species. The equivalent idea with humans is for men or women to marry someone from further away that is from a different family, tribe or village. Sha’rawī supports his opinion by quoting a Ḥadīth of Prophet Muhammad (p.b.u.h.) namely: “Marry from far away (outside your close family), you are not going to be weak. And do not marry a close relative because the offspring will be weak.”<sup>291</sup>

In another Ḥadīth the prophet Muhammad said: “Marry from far away, so that you will not be weak” “*Ightarabū lā taḍwū!*”. Ash-Sha’rawī also quoted a poem of Jāhiliyya, in which it is stated that “I advised those who have a care for the future (not to let his son marry the daughter of his brother (cousin)),(if he does so) he is not going to be free from weaknesses and diseases”. Thus, Allāh and His Messenger forbade marriage to your mother’s sister and so on (*maḥārim or close relative*), because it is very bad both morally and physically. “Why is this forbidden?” Sha’rawī asks. It is because, he says, this relationship is an original relationship and the other relationship is a branch relationship. A mother, for instance, is an original relation and the daughter is a branch relation. The

<sup>289</sup> Al-Hilālī, *Op. Cit.*, p. 110

<sup>290</sup> Sha’rawī, *Op. Cit.* p. 2094-2095

<sup>291</sup> This Hadith is a *marfū’ Hadith* that is narrated by Ibrahim al-Harabī from the Prophet p.b.u.h.

phrase “*wa-akhawātukum*” in this verse therefore means the sister (close) relationship. It is because both of them come from the same parents.<sup>292</sup>

Moreover, Sha‘rawī raises another question, i.e. why does Allah, The Almighty, forbid marriage among those with a close blood relationship? It is because, according to him, He (Allah) wants strong offspring and a good quality of reproduction. Additionally, there is another reason to avoid marriage between relatives. A husband and wife are always subject to psychological changes and strains. If these become too great and a couple wish to separate, (as we (Allāh) said “*if you want to change to another wife...*” (*Wa in aradum istibdāla zawjin makāna zaujin...*)) this becomes difficult if family ties are also involved.

Thus, Allāh and His Messenger forbade marriage to your mother’s sister and so on (*maḥārim or close relative*), because it is very bad both morally and physically. “Why is this forbidden?” Sha‘rawī asks. It is because, he says, this relationship is an original relationship and the other relationship is a branch relationship. A mother, for instance, is an original relation and the daughter is a branch relation. The phrase “*wa-akhawātukum*” in this verse therefore means the sister (close) relationship. It is because both of them come from the same parents.<sup>293</sup>

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This ban also applies to the daughters, sisters, aunts and any other female blood relatives of the father. It therefore becomes clear why Allah, the Almighty, instructs men to keep these relationships separate and thus free from conflict.<sup>294</sup> Sha‘rawī adds that the wisdom of God is not just for one case but applies to all such cases. And the so-called “*muḥarrim*” or the women men are forbidden to marry naturally includes not only a man’s mother but also her mother (his grandmother) and so on, on both his mother’s and the father’s side. And the mother of every wife is also forbidden to her husband.

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<sup>292</sup> Sha‘rawī, p. 2095

<sup>293</sup> Sha‘rawī, p. 2095

<sup>294</sup> Ibid, p. 2095

The next problem deals with the forbidding of marriage with a man's wet nurse, and the like. In this context, Sha'rawī asks why Allah forbids men to marry a woman who has nursed them? According to Sha'rawī, it is because the wet nurse has contributed to the building or formation of the baby's cells and the growth of his body, which means that a part of child is from her, and this part forbids him to marry his wet nurse. Therefore, most Moslem scholars ('ulama') declare it forbidden (set verdicts) for a man to marry a woman who was suckled by the same wet nurse, because it is more probable that cells developed in both children from this suckling process. Some scholars do allow marriage to a wet nurse, if the child was only suckled once or twice by her); the exception is Abu Hanifah, who totally forbids marriage to wet nurse.<sup>295</sup>

The *fatwa* (verdict, judgment) of later scholars is that it is not forbidden to marry a woman unless she suckled him or he had suckled from her five times satisfactorily, or he suckled from the woman day and night and was satisfied. The suckling described here would also have had to take place during the 'period of suckling', as the Qur'ān says "*wal wā lidātu yurđī'na awlādahunna ĥawlayni kāmīlayni li-man arāda ayyutimma ar-rađā'ah*". The "suckling period" in question is the first two years of the baby's life, the usually period a baby is nursed. This implies that suckling outside the suckling period no longer influences the formation of a child's body.<sup>296</sup>

Thus the case of suckling has different considerations because the Prophet Muhammad (p.b.u.h.) said that "That which is forbidden due to suckling is the same as that which is forbidden due to family relationships". Forbidden marriages based on suckling relationships covers mother, her daughters, sisters, brothers and her aunts, etc. So we can see that the question of suckling has many different aspects, and can be a source of bliss from Allāh - or not. As to *baraka* or bliss, Sha'rawī poses the question of why some people have no bliss from Allah? Sha'rawī uses a metaphor to explain this (i.e., the sending of bliss from Allah), in which he says that the sending of the so-called *baraka* is like broadcasting news over the radio. If the news cannot be received, the fault does not lie with the transmission or the broadcast itself, but with the "radio receiver". This also applies to people who marry a "suckling relative" - even unintentionally. They will not "receive" bliss. Sha'rawī suggests "Why not have a file for each family, in which the different suckling relationships and names are written down, to help avoid doing forbidden things. If we avoid doing things prohibited by Allah, then we can receive bliss from Him. The suckling of a mother cannot be replaced with anything else".<sup>297</sup>

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Sha'rawī, p. 2096<sup>295</sup>

<sup>296</sup> Ibid, p. 2097)

<sup>297</sup> Sha'rawī, p. 2099

Another prohibited marriage is that with the mother of your wife or the daughter of your wife from a previous marriage (*ar-rabībah*). Moreover, it is also forbidden to marry the wife of your own son (daughter-in-law). Sha'rawī added that the word "*aslābikum*" means (the son/daughter) from your own backbone. This, according to him, indicates that sons- and daughters-in-law were adopted sons or daughters, and that marriage with them was very common in the time of *Jāhiliyya*. Therefore, this verse, says Sha'rawī, is aimed at stopping such an unwise tradition and is well known as the Arabic term "*tabannī*" or adoption. It could, however, be implied from this verse that it is allowed to marry an adopted son or daughter.

A case such as this occurred in connection with the Prophet Muhammad (p.b.u.h.) himself, who received Zaid bin Haritshah as a gift from his beloved wife Khadijah. Mohammed then adopted Zaid as his son and named him Zaid bin Muhammad.<sup>298</sup> Allah eventually prohibited the adoption with the verse 40 of sūra al-Aḥzāb "*Mā kāna Muhammadun abā aḥadin min rijālikum...*"<sup>299</sup> This verse demonstrates the strictness of God's judgments, which do not exempt anyone, even Muhammad, the son of 'Abdullah (Prophet Muhammad p.b.u.h.). Sha'rawī is saying here that everybody has the same position before the law.

At the end of his comments on this verse, Sha'rawī says that the phrase "*Illā mā qad salaf*" means that this case, of adoption or "*tabannī*", took place before God's law concerning this was handed down. However, the law is not retroactive, that is, it does apply to what is past, but only to what comes after. It is not considered a sin to do something before there is a law against it, and there is no punishment for violating the regulation before it is passed. All these things reflect the generosity and forgiveness of Allah.<sup>300</sup>

According to Şiddiqī:

Şiddiqī is of the opinion that the phrase "*Ḥurrimat 'alaykum ummahātukum*" means that Allah not only prohibits marriage to a man's own mother but also to the mother of his mother (his grandmother). Şiddiqī classifies this first *muḥarrim*, as was explained regarding the above-mentioned verse 23 of sūra an-Nisa', as involving "the main (original?) Offspring". The word *wa banātukum*, on the other hand, according to him, means that Allah forbids us to

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<sup>298</sup> It is known that Zaid was kidnapped from his family and he was sold because he was a slave and then Hakim ibn Hazam bought him and gave him to Khadijah "*Ummul Mu'minin*", finally she presented him to the Prophet p.b.u.h. For more information about Zaid, see also Sha'rawī, p. 2100

<sup>299</sup> Ibid. p. 2100-2101

<sup>300</sup> Ibid, p. 2109

marry our daughters and the daughters of our children (grandsons). This category is classified as branch offspring<sup>301</sup>

The next prohibition of marriage in this verse, according to Şiddiqī, is that Allah forbids men to marry their sisters, both their full sisters and the sisters of the same mother or the same father only – that is, half-sisters (*Wa akhawātukum*). Moreover, Allah also prohibits marriage with uncles or aunts either from the mother’s or the father’s side. In addition to this group, your grandfather’s daughter and your grandmother’s daughter could also be included even though this may be a more distant relationship (*Wa ‘ammātukum wa khālātukum*).<sup>302</sup> Furthermore, the phrase “*Wa banātu al-ākhi wa banātu l-ukhti*”, according to him, forbids us to marry the daughters of our brothers or sisters, of our half-brothers or half-sisters.

The next prohibited marriage is that within the suckling relationship. “*Wa ummahātukum l-lāti arḍa’ nākum wa akhawātukum min ar-raḍā’ati*”. This phrase explains about wet nurses and “suckling brothers and sisters”, that is, children who were suckled by the same wet nurse. . God, The Almighty prohibits marriage between children in the same generation (blood brothers). If a child is suckled by a woman, then that woman automatically becomes the mother of that child. The husband of that woman becomes the father of that child and their children become brothers and sisters to that child.

The *Sunna* (Prophetic traditions) explains that it is prohibited to marry women related through suckling. The apparent meaning of this verse is that, a little suckling is the same as much suckling. That was the opinion of ‘Alī ibnu Abb’s, al-Ḥasan, az-Zuhri and Qatadah. This view taken up by Abu Hanifah and Malik. A few *ulamas* say that the child must be suckled at least three times before it is prohibited to marry her.<sup>303</sup> Whereas, another group, according to Şiddiqī, are inclined to say that it is prohibited to marry after five times of suckling. This belief was taken from ‘Abdullah ibn Mas‘ūd, ‘Abdullah ibn Jubayr and is believed to have come from mazhab ash-Shāfi‘ī and Aḥmad ibn Ḥanbal (Ḥanbalī). Yet another view is that it is not prohibited to marry a woman suckled by the same wet nurse, if the if she was not suckled in the year and time as determined by the *sharā’*; this version is believed to have derived from mazhab ‘Umar and ibnu ‘Abbās. This assessment, according to Şiddiqī, was also used by Ash-Shāfi‘ī, Aḥmad, Abū Yūsuf and Muḥammad.

Nevertheless, Şiddiqī adds, there is a narration (*riwāya*) from Ibn ‘Abbās; in which he says that the suckling that prohibits marriage is the *early* suckling that

<sup>301</sup> Şiddiqī, p. 791

<sup>302</sup> Ibid. p. 792

<sup>303</sup> Ibid. p. 792

takes place before the “suckling period” ends, namely within the first two years of both children’s lives . If the children do not have the same wet nurse in their first two years, then the suckling relationship does not prohibit marriage. But if a boy and girl suckle from the same wet nurse in the first two years of their lives, this suckling relationship prohibits marriage between them. This was the opinion of az-Zuḥrī, al-Ḥasan and Qatādah, and it was also adopted by al-Auza‘ī.

The next category of prohibited marriage based on this verse, according to Ṣiddiqī, is the marriage with in-laws, which includes; among others, the following: “*Wa ummahātu nisā’ikum*”, namely the mother of your wife, which also includes her grandmothers, great-grandmothers, etc. However, it is not forbidden to marry the mother of a wife, with whom a man has had no sexual intercourse, but only has a contract (‘aqad) of marriage. These are the *jumhūr* opinions of the Companions of the Prophet Muhammad and the four Imams (Hanafī, Malikī, Shāfi‘ī and Ḥanbalī. Ḍahīr (lafad/text) ayat strengthened *jumhūr* opinion, because the verse did not stipulate sexual relations.

“*Wa rabā ibukum al-lātī fī ḥujūrikum min nisā’ikum al- lātī dakhaltum bihinna*” = A man is forbidden to marry the stepdaughter under his supervision, i.e. the daughter of a wife with whom he has had sexual intercourse; this also includes the children of that child. “*Fa il lam takūnū dakhaltum bihinna fa lā junāḥa ‘alaikum*” = “If you have not made love to your wives, then it is alright for you to marry their daughters.” The above phrase explains that you are allowed to marry your stepdaughter if you have not made love to her mother.

The Hanafite Islamic School of law maintains that if a man has had sexual relations with a woman outside of marriage, it is forbidden for him to marry the mother or grandmother of that woman, or to marry her children or grandchildren. This even holds true with regard to the relatives of a woman whom a man has touched with voluptuous feelings. Furthermore, if a man touches his wife’s mother with voluptuous feelings then his wife is forbidden to him. This last opinion is, however, disputed by other imams, because there are no hadiths, or *atsar* on which to base this.<sup>304</sup>

“*Wa ḥalā’ilu abnā’ikum al-ladhīna min aṣlābikum*” = And the wives of your own children. This above phrase, according to Ṣiddiqī, refers to the wives of a man’s own children. Furthermore, the phrase explains that it also includes the wives of a man’s grandsons (either son or daughter). Their wives are forbidden to marry their grandfather. This also includes the suckling relationship (see above). Because of that it is forbidden for us to marry the wife of our

<sup>304</sup> Ibid. p. 793

“suckling” child (that is, the wife of a boy nursed one’s wife). As he Prophet (p.b.u.h.) said, “It is forbidden to marry a “suckling” relative, it is forbidden because of the offspring.” (HR. Bukharī and Muslim). Şiddiqī, furthermore, adds that there are things that are forbidden because of a reason, but if the reason is gone then it is not forbidden any more.

“*Wa an tajma’ū bayna al-ukhtayn*” = it is forbidden for you to “group”, i.e. marry two sisters. The four mazhab agree that it is forbidden to be married to two sisters at the same time; this includes both buying and/or marrying . them. In other words, a man cannot marry a woman and own her sister as a slave.<sup>305</sup> This part of verse, according to Şiddiqī, may also imply that “to group” two relatives could mean grouping a woman with her aunt from her mother or her father – that is marrying both a woman and her aunt. This prohibition regarding the grouping of a woman with her aunt is not in the Qur’ān but the hadiths. It is forbidden for us to group two siblings together; that is, if one of the two siblings is a man, it is forbidden for him to marry his own sister. There are some who find it acceptable to “group” a woman with her aunts. “*Illā mā qad salafā*” means unless it was done or it happened before (this law was proclaimed). But now it is forbidden upon you.

The above phrase means that if someone does something forbidden before it was forbidden, then he/she will not be punished for it. It is said that the people in *jāhiliyya* times often “grouped” (married) two sisters. It was told by Ahmad, Abu Daud, at-Turmuzi and Ibnu Majah from Fairuz ad Dailami, that Fairuz, when he became a Muslim, had two wives that were sisters, so the Prophet p.b.u.h. said to him: “Divorce one of them!” Ibnu Abbas explained that the *Jahiliyah* people permitted most of what Allah prohibited.

“*Inna Allāha kāna ghaḥūrā r-rahīmā*” = God Almighty is forgiving and forever merciful. Allah did not punish people for their wrongdoings in the era of *jāhiliyya* (the time of ignorance / pre-Islamic times) or for what ever they have done before this verse is revealed, provided that they then did good deeds according to the teaching of Islam. Şiddiqī states that one of the generousities of Allah is forgiveness, and to wipe from your soul all of your wrongdoings, and to forgive all your sins if you repent. This is one of the meaning of this phrase (*ghaḥūran rahīmā*). And among the mercies of Allah towards you (us), Şiddiqī adds, is to declare the laws of marriage, to strengthen the bond between family and in-laws, and those related through suckling, so you will love each other and help each other to be faithful and pious to Allah. Finally, Şiddiqī comes to the conclusion that through this verse Allah, the Almighty God, tells us which women men are prohibited from marrying.<sup>306</sup>

<sup>305</sup>Ibid. 794

<sup>306</sup>Ibid. p. 795

## Verse 24 of sūra an-Nisa':

“Also (forbidden are) women already married, except those (slaves) whom your right hands possess. Thus Allāh ordained for you. All others are lawful, provided you seek (them in marriage) with *Mahr* (dowry/bridal-money given by the husband to his wife at the time of marriage) from your property, desiring chastity, not committing illegal sexual intercourse, so with those of whom you have enjoyed sexual relations, give them their *Mahr* as prescribed; but if after a *Mahr* is prescribed, you agree mutually (to give more), there is no sin on you. Surely, Allāh is Ever All-Knowing, All-Wise”. (Q.S. An-Nisa' / 4 : 24).<sup>307</sup>

According to Sha'rawī:

“*Wa al-muḥṣanātu min an-Nisa'ī*” this verse is still related to verse 23, namely, it deals with the women whom a man is prohibited from marrying “*al-muḥarramat*”.... Sha'rawī stated that, normally, there is reciprocal or mutual meaning to be found in the origin of derivation. Thus “*almuḥṣanātu*” in this verse is taken from the word “*al-ḥiṣnu*”, meaning fortress or stronghold. This is a place in which (a group of) people defend themselves from their enemies; they are protected in this fortress so they will be safe from their enemies. But if they have no fortress, they could be kidnapped and taken or brought by their enemies. This is the original meaning of “*al-ḥiṣanu*”. The derivations from this context are many; among others verse 12, sūra al-Taḥrīm: “*Wa maryama ibnata Imrāna al-latī aḥṣanat farjahā*”

“*Aḥṣanat farjahā*” means that she purifies herself and prevents a man from coming near her. So, *almuḥṣanātu* in this verse (an-Nisā' verse no. 24) means that “*almutazawwija*” or the women who are married. Sha'rawī added that as long as she is married, then her vagina (*al-farju*) is occupied with one man (husband) and this will prevent someone else from taking it. Being married will prevent (her) from any foreign or new thing to interfere with her bond with her husband. This is the meaning of *almuḥṣanātu min an-nisa'ī*. So *almuḥṣanātu* in this context means those (women) who are purified by marriage. Allah, the Almighty said in sūra an-Nisa' verse number 25:

“*Faidhā uḥṣinna fa in ātayna bifāḥishatin fa'alayhinna niṣfu mā 'alā almuḥṣanāti min al-'azābi*” The origin of the so-called “*al-Ihshan*” is *al-'iffah* which means “chastity”...and also “free”, because no one will “come next to” the free woman. Sha'rawī noted here the story of Abu Sufyān's wife, in the so-called “*bay'at an-Nisa'*”. The wife of *Abū Sufyan* said “Does *al-ḥurra* or the

<sup>307</sup> Al-Hilālī, p. *Op. Cit.*, p. 111

free woman commit adultery? In this case we find that the term for “adultery” is identical with that for “sperm” (*al-Īma*). They (slave women) have no father, mother or honor, indeed, anyone can come to them with a strong desire (motivation) because she is not protected and she has no power or family. Therefore, she receives a half punishment of that of a free woman, because a slave is surrounded by people who think about lewdness.<sup>308</sup>

The term *Iḥṣān* here generally involves the idea of *al-iffā* or “chastity”. By *iḥṣān* is meant being free (non-slave) and married and by *Muḥṣanāt* is meant free unmarried women. The common situation of the free woman, who is part of a family is that, no one will come to disturb (making love to, etc.) her. But another situation might arise. For instance, if there was a married woman belonging to a non-Muslim tribe and there was a war, between her people and the Muslims she might become a captive of the Muslims. As a captive, her non-Muslim marriage is no longer valid and the woman now belongs to Muslim society. Her being possession and in captivity removed her so-called “*Ihshan*”; this is in accordance with what Allah, the Almighty, said: “*Illā mā malakat aymānukum*”.<sup>309</sup>

As a captive or slave she falls from the so-called *al-Ihshan* status. In this situation a Muslim may marry her or enjoy her if she is his slave, although she was once a married woman in another religion and place; this is because there is a disagreement between the two regions. She is in an Islamic region and has been taken from a field of war, and therefore becomes a slave., However, a man may marry her if she is not pregnant as the Prophet Mohammad said that “do not make love to a pregnant woman up to giving birth, and if she is not pregnant so wait until her menstruation comes”. This is meant to respect her, because Allah does not want to make any difficulties for her at a time when she is away from her husband as well as a captive, but He wants to make her happy with her new master and let her live by his side. So the sexual relationship (with her master) is not forbidden and protects her from being exposed to the bad talk of the people.

“*wa l-muḥṣanātu min an-nisā’i illā mā malakat aymānukum kitāballāhu aalaykum*”. *Kitāballāhu* in this context means that Allah has written it to you. Allah said also; “*Wa aḥalla lakum mā warā’a zālikum*”. According to Sya’rawī, *al-maḥramāt* here means “lineage or genealogic mahramat, suckling mahramat, and *iḥshan* mahramah (married). Sha’rawī also tries to explain the meaning of “*wa aḥalla lakum mā warā’a dhālikum*”, or it is permitted to you to marry them (women), therefore, he added that Allah said; “*wa aḥalla lakum mā warā’a an tabtaghū!*” or *taṭlubū*, which means to demand “*bi-amwālikum muḥṣinīn*”.

<sup>308</sup> Sha’rawī, p. 2110 - 2111

<sup>309</sup> Ibid. 2111.

Money, as we know, is the reward of effort. And effort usually involves tiredness and tediousness. Every man loves the result of effort (namely property) and will defend it with his life, because the property will never come without diligence.

Everything that comes from inherited property was also the result of tiredness, tediousness and the diligence of ancestors. So “*an tabtaghū bi-amwālikum*” denotes something related to money, which belongs to or is within responsibility of men. “*an tabtaghū bi-amwālikum!*”. As the Prophet Muhammad said “ Oh all young men, if someone among you has something to spend (money), so please get married, because it will be best to protect his eyes and sex (penis and vagina). If he is not able to do so, then he is recommended to fast, because it is a fortress for him”.<sup>310</sup>

As you get the money after movement and tiredness, you should spend it on what brings benefit you sooner and later (short- or long-term benefit). If you spend it only for quick and early benefit and forget the later benefit, this means you do not use it well. So the word *muḥṣinīn*, as we know, has many meanings “*In tattaqū bi-amwālikum muḥṣinīn*”. “*Muḥṣinīn*” or *muṭa‘affīfīn* means to put (to spend) the money which you earned in the right way, a way which brings both short- and long-term benefit. This also applies a man who seeks to sleep with a woman without marriage, thinking only of the immediate benefit and forgetting the later benefit.

According to the rule of this verse, Sha‘rawī adds, this verse warns us to spend (to marry a woman) only for a limited period of time. So the word *muḥṣinīn* here means to keep the purity forever. Allah, the Almighty, Sha‘rawī states, explains the meaning of the word “*muḥṣinīn*” with the opposite word i.e. “*musāfiḥīn*” which derives from “*as-safḥu*”. This word is identical to “*as-sabbu*” which means pouring out. Furthermore, Sha‘rawī says that it is remarkable that when Allah, the Almighty, talks about men, He uses the word “*muḥṣinīn*”, whose *ṣād* (*ṣād* = character) is *kasrah* (underneath/broken). But when He talks about women, He uses the word “*muḥṣanātu*” (*fāth*)[*muḥ-ṣi-nīn*], and He does not say “*muḥṣanātu*” (*fāth*), because men normally, seek women and the women are always being sought.<sup>311</sup>

Examining the following phrase “*ghaira musāfiḥīna famā istamta‘tum bihī minhunna fa’ṭū hunna ujūrahunna*”, Sha‘rawī pays close attention to the word *istimta‘* which, he says means “to reach” or “to seek enjoyment for the soul”. The first enjoyment a man finds with a woman is during their engagement

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<sup>310</sup> Hadith, narrated by Buchari, Muslim, Abu Daud , Turmizi and Nasa-i from Abdullah ibn Mas‘ud.

<sup>311</sup> Sha‘rawī, p. 2113

(contract) and wedding; this may be a long preliminary to seeking sexual enjoyment, but this kind of enjoyment is not the only kind. Allah said, “When you seek or reach enjoyment, so you have to give (pay) the women the dowry (*mahr*)”. Therefore, if a man marries a woman and then divorces her before sleeping with her, he still has to pay her half of the dowry, because he has taken half of the enjoyment. According to Sha‘rawī, enjoyment is not only sexual pleasure or intercourse, but also to other things, such as the enjoyment of being engaged, etc.<sup>312</sup> Through this verse, Allah, the Almighty wishes us to build our family lives based on purity and security. Psychological security provides enjoyment at all levels.

According to aṣ-Ṣiddiqī:

Ṣiddiqī interpreted “*wa l-muḥṣanātu min an-nisā’i illā mā malakat aymanukum*” as follows: “and all *muḥṣanāt* from your women, except the women who belong to your right hands”. This means that it is forbidden for you to marry the so-called *muḥṣanāt* (women who are married)<sup>313</sup>, except married women who are captives in a religious war whose husbands are still in the so-called *dār al-kufr*, or the land of the unbelievers. Ṣiddiqī based his opinion on a Ḥadīth that is narrated by a Muslim, namely, in *Kitāb Ṣaḥīḥ Muslim* 17:9, no.33. According to jumhūr ‘ulama (most ‘ulama), it is allowed to have sexual relations with these women, because their marriages are no longer valid. This is only allowed, however, after they have given birth, if they were pregnant, or if not pregnant, after menstruation, when they are in a clean state. In other words, Allah allows men to marry and to have sexual intercourse with captive women after their uteruses are clean. Moreover, the Ḥanafite group (mazhab) maintains that a man may marry an already-married woman if she is a captive from another country or state, but the captor is not allowed to marry her if she was captured together with her husband.

Furthermore, Ṣiddiqī says that Islam does not instruct us to capture women, nor does it forbid such a thing. This is because captivity could also conceivably benefit women, for instance, if all – or a very large number - of the men in a tribe, or the so-called *kabila*, died, then there would be no men left to take care of their women. Furthermore, if we think, Ṣiddiqī adds, that releasing or returning captive women to their own country is better, this is also allowed. This idea, according to Ṣiddiqī, is based on the Islamic principle of in the so-called *uṣul fiqh* namely, “*dar’u al-mafāsidi muqaddamun ‘alā jalbi al-maṣāliḥ*”

<sup>312</sup> Ibid. p. 2113

<sup>313</sup> According to Ṣiddiqī, the term *Muḥṣanāt* in the Qur’ān has four possible meanings: a. The women whose status are married, this can be found in sūra an-Nisa’ no. 23. b. The women who protect or purify themselves as mentioned in the same Sūra and verse. c. The women who are free (not slaves); this meaning can be found in *Sūra an-Nisa’* verse no. 24, and d. The women who convert to Islam or who have husbands as mentioned in Sūra an-Nisa’ verse no. 24

which enjoins followers to avoiding (causing) destruction or harm, and to give priority to those things that bring advantages or create good situation. There are, therefore, at least, two possible courses. The first is to return the captive women to their own people and the second is to make them our servants. Confronted with such a choice, Şiddiqī argues that a president, king or military commander has the right to decide this according to what will best benefit his country.

Şiddiqī, moreover, states that permission to take captive women as slaves or servants or to marry them is decided by the so-called *sunna* ; but not in the Qurʾān. There is not a single verse in the Qurʾān that permits slavery or making slaves of captives. If slavery is still practiced, then, according to Şiddiqī, it is, forbidden and unlawful. With regard to captive and slave women, Şiddiqī says that it is only permitted to have sexual relations with captive women if one marries them legally. This means that it is forbidden to have sexual relations with them without or before *nikāḥ* (legal marriage), and this requires their agreement. This opinion is, however, contrary to that of *jumhūr ʿulamaʿ* (most ʿulamaʿ), who think it is allowed to make love with captive women without *nikāḥ* or legal marriage.<sup>314</sup>

Further along, Şiddiqī explains that the difference between marrying a captive woman and marrying under normal circumstances is that a man is permitted to marry a captive even if she is already married, that is, still has a husband. This condition, as explained above, only holds true if the husband is far away, not in the same country with the woman, or separated during or due to war. This opinion, however, is sharply criticized by Shech Abū Zayid, who says in his book *“al-Hidāya”* that this verse (an-Nisaʿ; 24) definitely does not allow men to have sexual relations with servant women who belong to them, - either through purchase or capture - without legal marriage. This is based on the rule of Islam, which forbids sexual relations between any couple without marriage first. This rule, Abū Zayid adds, is just as true with regard to captive women as to free women.<sup>315</sup>

### Verse 25 of Sūra An-Nisaʿ :

“And whoever of you have not the means wherewith to wed free, believing women, they may wed believing girls from among those (slaves) whom your right hands possess, and Allāh has full knowledge about your Faith (*īmān*); you are one from another. Wed them with the permission of their own folk (guardians, *awliyāʿ* or masters) and give them their *Mahr* according to what is reasonable; they (the above-mentioned captives or slave-girls) should be

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<sup>314</sup> Şiddiqī, p.798.

<sup>315</sup> Ibid. p. 798

chaste, should not have had illegal sex, nor lovers. After they have been taken in wedlock, if they commit illegal sexual intercourse, their punishment is half that for free (unmarried) women.<sup>316</sup> “This is for him among you who is afraid of being harmed in his religion or in his body; but it is better for you that you practice self-restraint, and Allāh is Oft-Forgiving, Most Merciful”. (Q.S. An-Nisa’/ 4: 25).<sup>317</sup>

According to Sha’rawī:

First of all, Sha’rawī tries to explain the meaning of *al-istiṭā’a*. *Al-istiṭā’a*, according to him, means to follow something with obedience, without rebellion, disobedience or reserve. Thus the phrase “*wa man lam yastaṭi’ minkum ṭawlan*” in this verse means “and anybody who is not able to do something or who has no ability (means) to grant a favor (to marry a free believing woman) then he may marry a woman [slave] among those whom his right hands possesses. This is, according to Sha’rawī, the real meaning of the word “*aṭ-Ṭawlu*”. Sha’rawī further explains the meaning of “*aṭ-Ṭawlu*” by giving the example “*fā ṭālatuhu yadahu*”, which means “so she becomes obedient to him”, whereas the word *ṭaṭawwala* in the phrase “*wa fulānun taṭawwala ‘alayya*” means *fulān*, “(someone) who gives me a gift”. This sentence has the same meaning as “*tafaḍḍala ‘alayya bishay’in*”. But the sentence “*wa fulan taṭawwala ‘alayya*” means “(someone) who has no ability to obey me” or “he who does not want to obey me (follow my instructions)”<sup>318</sup>.

All these meanings are derived from the word “*aṭ-Ṭawlu*”. The word *ṭawlan* in this context means the ability that enables one to marry someone he loves. This implies that a man without money, is not in a position to marry. It is another matter, “(if) there is no intention to marry a free woman”, because her dowry normally is expensive. So a man may marry a captive slave, because it is easy to give her the basic necessities of life, and she has no tribe or family who will argue with him about the dowry. So, “*wa man lam yastaṭi’ minkum ṭawlan an yankiha al-muḥṣanāti l-mu’mināti fā min mā malakat aymānukum min fatayātikum al-mu’mināti*”.... As we have already seen in the verse or the interpretation of the verse above, marriage with the so-called *mulki al-yamīn* or slave is for those who do not own her, because the owner (*mālik*) does not need to do so. He may enjoy her as well as have intercourse with her because she belongs to him, and not to any one else.<sup>319</sup>

<sup>316</sup>For female or male slaves (married or unmarried); if they commit illegal sexual intercourse, their punishment is fifty (50) lashes (half of that for free unmarried women); neither stoning to death nor exile is prescribed (Al-Hilālī, *Op. Cit.*, p. 111)

<sup>317</sup>Al-Hilālī, *Ibid.* p. 111

<sup>318</sup>The word “*taṭawwala*” is synonymous with “*yajṭari’a* or *ihānah* or *ma’siyya*” and means disobedience, rebellion or humiliation.,

<sup>319</sup>Ash-Sha’rawī, p. 2121.

Therefore, Allah permits a Moslem to marry a slave (of other groups who may have been captured during or due to wars, etc.), with the stipulation of having the permission of her lord or master. This is because the marriage will inevitably cut into part of her time and service to her lord. It is therefore necessary to have permission from her master, so that he (her master) will understand how her time is divided between her husband (marriage) and her service to him. Allah, nevertheless, commands us not to humiliate her because of her status as a slave or a humble person, and then refuse to pay her dowry. There is no reason, according Sha'rawī, to avoid paying the dowry to her which is customary and of an amount appropriate to her status, because it is the compensation for her virginity and her service.

However, Sha'rawī adds that if Allah commands a man to obtain permission to marry a slave-woman from her master and also obliges him to pay a dowry to her, there would still be a problem with this, because slave women have no right to possess anything. This is because of the conventional rule that the slave and whatever she owns belongs to her master.<sup>320</sup> Nevertheless, Sha'rawī argues, even if the slave and whatever she owns belongs to her lord, it would still be possible for her to be the “first owner” of the dowry, before it goes to the hand of her lord; whereas if a man marries her but gives her property directly to her lord, she would not appear to have been worthy of a dowry. Hence, Sha'rawī is of the opinion, that the meaning of the phrase “*al-ʿabdu wa mā malakat yadāhu*” is to give her the chance to be the possessor of money, which is given to her (symbolically) as a sign of respect. The fact that her property actually belongs to her lord is not so important. In this way, a man may marry a slave-woman and enjoy a harmonious family life with her, because this is recommended by Islam. Sha'rawī further poses the question of whether the text implies that if a man can marry a free (non-slave woman) does this make him unsuitable to marry a slave woman? His answer is “No,” because this would not diminish or resolve the question of the slave-woman’s eligibility as a wife. If men only married free women, what would that mean for the slave-women’s hope of freedom through marriage?. Sha'rawī then says “look at the high wisdom that would not be said but only by God, adds Sha'rawī.<sup>321</sup> (it is *known only to God!*)

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<sup>320</sup> *Ibid*, p. 2121.

<sup>321</sup> From the Islamic point of view (Islamic Jurisprudence), if a slave (non-free) woman is married by a free man, she will automatically be free and her children have free status. Therefore, to marry a good and pious slave-women is very respectable in Islam and is much better and more honorable than to marry an unbelieving women, as indicated by the Qurʾān as follows:”And do not marry al-Mushrikāt (non-believing women, idolatresses, etc.) till they believe (worship Allāh Alone). And indeed a slave-woman who believes is better than a (free) *Mushrika* (a non-believing woman or idolatress), even though she pleases you. And give not (your daughters) in marriage to *al-Mushrikūn* (polytheists, pagans, idolaters, and disbelievers in the Oneness of Allāh and in His Messenger Muhammad p.b.u.h) till they believe (in Allāh

Through this, Allah desires, according to Sha'rawī, to eliminate slavery gradually. Before the coming of Islam, if a man married a slave-woman from another country, or a slave in his own country or region, her children would inherit her status, and also be slaves. In Islam, however, Sha'rawī says that the children will take on the status of that parent with the better status;<sup>322</sup> this means that in the case of a marriage between a free man and a slave woman the children inherit the status of their father. As a consequence, the children who are born to such a couple will possess free-man or free-women status. This also holds true for the children of a slave-woman and her master. Their children will also be free. Allah the Almighty, indeed, wishes to eliminate slavery. And this is the first purpose of this verse, which must be caught and understood.

Another message, Sha'rawī says, is that marriage should connect a man with a woman in order to form the nucleus of a family. Imagine what would happen if there were no equality between husband and wife! A husband should therefore not assume any superiority over his wife and a wife should also not make herself superior to her husband, because each of them is equal to the other. This represents the balance of life and social intercourse (*mu'amala*). However, if a man marries a slave-woman who has no family, the woman will, Sha'rawī says, automatically be weak and humble to him, and as a consequence, he will be superior to her. This situation will be humiliating for her, and if she has children, they will say to her, for instance, "you have no uncle (family)". Allah, therefore, wants to encourage family life with equality. He thus made the so-called *kafā'a* (equality) an obligatory prerequisite for marriage. Allah the Almighty says "*al-khabīthātu li al-khabīthīna wa al-khabīthūna li al-khābīthāti wa aṭ-ṭayyibātu li aṭ-ṭayyibīna wa aṭ-ṭayyibūna li aṭ-ṭayyibāti...*"<sup>323</sup> meaning "The bad women for the bad men and the bad men for the bad women, the good women for the good men and the good men for the good women..."<sup>324</sup> When Allah decreed that the good women are for good men and the bad women are for bad men, we should heed this. According to Sha'rawī, if we obey and follow this rule, all problems would be solved or at least the probability of having problems in family life may be minimized.

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Alone) and verily, a believing slave is better than a (free) *Mushrik* (idolater), even though she pleases you. Those (*Al-Mushrikūn*) invite you to the Fire (Hell), but Allāh invites (you) to Paradise and Forgiveness by His Leave, and makes His Āyāt (proofs, evidences, verses, lessons, signs, revelations, etc.) clear to mankind that they may remember. (Al-Hilālī, *Op. Cit.* p. 47-48).

<sup>322</sup> This means that from the Islamic perspective with regard to religious status, the children will follow the religion of that parent whose religion is best according to Islamic teaching. For instance, if the father is a Muslim, but the mother a Buddhist, the religious status of the children is Muslim, etc.

<sup>323</sup> Sūra An-Nūr /24 , verse 26.

<sup>324</sup> Al-Hilālī, *Ibid.*, p. 470

Sha'rawī is of the opinion that this law is not a natural law but a legislative law, which requires us to follow it and to match the good men with the good women and bad men with bad women in order to realize the so-called *tawāzun* (balance or equality). If, for instance, there is a bad husband who says to his wife: "You are like this and that...", she will reply to him, "And you are like this and that...". The good husband will not say such things, because he does not want to hear such words in reply. The good man and woman are tolerant and respectful of each other.<sup>325</sup>

Sha'rawī then goes back to interpret the following phrase "*Wa man lam yastaṭī' minkum ṭaulan an yankiha al-muḥṣanāti al-mu'mināti*". The word "*al-muḥṣanātu*" (free) in this verse, according to him, means unmarried, with reference to a woman, because if she were married, it would not be permissible (it would be impossible) for her to marry another (man). On the other hand, the word *fatā* in the phrase "*Fa min mā malakat aymānukum min fatayātikum al-mu'minātu*", is used to describe someone who is powerful and young; while the word *fatātun* is used for any slave woman, even if she is an old woman, weak, etc. Moreover, Sha'rawī explains, The Prophet teaches us not to say "*hā zā 'abdī*"<sup>326</sup> (= *this is my slave*) or *wa hā zā amatī*" (= *and this my bondmaid*), but he suggests saying "*(hā zā) fatā wa fatātī*" (*this is my young lady*). Furthermore, Sha'rawī comments on the phrase "*famin mā malakat aymānukum*" meaning "And what your right hand possesses", which implies slave-women. In this context, Sha'rawī says that there are some people who ask, "*Does one marry one's slave?*". Sha'rawī argues that the answer is "No!" This is because she is legitimately or lawfully his, she belongs to him, and, therefore he may have children from her. Moreover, a man may also marry a slave-woman who belongs to other people, because, according to Sha'rawī, Allah, says that *al-mu'minūn* (the believers) are (together) like a strong building; as the Prophet says "*al-mu'min li al-mu'min ka l-bunyāni yashuddu baḍuhu baḍan*"<sup>327</sup>, meaning "a believing man to a believing man is like a building that strengthens itself from within.

Commenting on the following phrase of the verse "*fā min mā malakat aymānukum min fatayātikum al-mu'mināti wa l-lāhu a'lamu bi-īmānikum*", Sha'rawī says that to say that the degree or level of faith of a *mulkul yamīn* (one who possesses a slave woman) is weak or low is to be offensive (unfair?). To say so, according to Sha'rawī, is not realistic, because Allah says in the Qur'ān "*wa-l-lāhu a'lamu bi-īmānikum*", which means, "He (Allāh) knows your faith best". It is thus possible that the quality of faith of a slave is better than that of a slave-owner. Such a thing, according to Sha'rawī, is indeed a

<sup>325</sup> Sha'rawī, p. 2122

<sup>326</sup> *Ibid.* 2122-3

<sup>327</sup> Hadīth, narrated by Bukhārī and Muslim and Turmizī and Nasa'ī from Abū Huraira.

matter of the heart, and it is enough for you to know what you can see (what is visible) but do not say and do what you cannot really see or know.

Continuing, Sha'rawī add that if Allah wanted to treat or solve a matter, He would use God's methods. He knows what the reality is and He fulfills all creatures' needs. This is demonstrated by his declaration, "*antum in kumtum lā tastaṭī'ūna ṭawlan an tankiḥū al-muḥṣanāti fankiḥū al-imā'a*," meaning Hear, if you are not in a position to marry a free woman, so marry a slave woman". This verse, according to Sha'rawī, must be viewed as a move to decrease and eliminate the practice of slavery.<sup>328</sup> This is why, Sha'rawī goes on, this phrase is then followed by "*wa-l-lāhu a'lamu bi imānikum ba'dukum min ba'din*", meaning "Allāh knows your faith best". Sha'rawī suggests that when one marries, one must be aware that some part of others is also a part of oneself, because all are from Adam (the same origin). And long as you believe in God, the faith between you is the same. Therefore, if one wants to marry, one should not forget this consideration. Allah is the real maker and organizer.

Another aspect to be considered is the need to ask or get the consent to marry a woman from the so-called *walī* (family, master, etc.), as is indicated by the following phrase "*fankiḥūhunna bi-izni ahlihinna*", meaning "marry them (women) with the permission of their own family, folk, guardian, *awliyā'*, etc."<sup>329</sup> This is an imperative, because whoever possesses a captive slave-woman, is obliged to treat her as his own family and to behave well to her. The aim is to replace the situation that she once had in her former and lost family, and for her to know that she is under Islamic protection, as if she were within the shelter of her own family, protected by a father or even better.<sup>330</sup> With regard to the treatment of a slave or captive (either man or woman) a master is required to feed them with the same food he consumes, and clothe them like he clothes himself, and is enjoined not to demand or instruct his slave to do anything that he or she is incapable of. Thus if a master asks his slave to do what is too difficult for him or her, the master must help. "And if he finds someone whom he clothes with his clothes and he feeds with his same food, then, if this slave does hard work, so he (the lord/master) has to help her/him". Considering such behavior, Sha'rawī asks, "What kind of treatment is this"? According to him, it is the real behavior of a family.

Sha'rawī emphasizes how many problems are solved by Allah. He treats the matter of someone seeking marriage, as well as the slave and her (his) lord. This is, indeed, a portrait of a God of Unity, who would not treat one person well at the cost of others. As long as a slave woman belongs to a master, the

<sup>328</sup> Sha'rawī, p. 2124

<sup>329</sup> Al-Hilālī, *Op. Cit.* p. 111

<sup>330</sup> *Ibid.* P. 2124

lord has advantages, but the slave also has his or her own advantages. Thus a man has to ask the consent of the master, family or guardian of a slave or captive woman, if he wants to marry her. Moreover, Sha'rawī adds, in the matter of dowry, Allah says: “*Fankihūhunna bi-idhni ahlihinna wa ātūhunna ujūrahunna bi-al-ma'rūf*”, meaning “Wed the slave-women with the permission of their masters and give them their dowry as appropriate”. This is an instruction from God and it is an obligation to be fulfilled by a man who desires to marry a slave-woman, equal to that for marriage with a free woman. If a slave woman marries with the consent of her master, Sha'rawī goes on, her master knows that there is someone who has become a partner to her and who may have sexual relations with her, i.e. her husband; therefore, her master must expect to forfeit his right to do so with her. Knowing this, her master knows that she will not come back to him (his bed) again. In giving his permission for the marriage, Sha'rawī states, the master accepts the fact that he no longer has the right to demand sexual relations with her. He, however, according to Sha'rawī, still has the right to be master of this slave-woman but not to demand sexual service of her.<sup>331</sup>

According to Şiddiqī:

According to Şiddiqī, the phrase “*wa man lam yastaṭī' minkum ṭaulan anyankiḥa al-muḥsanāti al-mu'mināti fa min mā malakat aymānukum min fatayātikum al-mu'mināti*” means “they who have no ability to marry a free and faithful woman, both due to the lack of wealth, and other conditions; so they are permitted to marry slave-women who are captured during the war since that is allowed by the religion. This man is, however, encouraged to marry a woman who is pious.

There are some factors, Şiddiqī states that can make a man ineligible to marry a free (non-slave) woman, for instance, a handicap or physical defect, bad behavior or even the inability to finance her, among other things. Considering this situation, Hanafite 'Ulamas suggest that the so-called *mahr* or dowry need not be so expensive; some *dirhams* or a small amount of money are/is enough. Some of them even say that a dowry of only 1/4 *dirham* is enough. Nevertheless, some are also of the opinion that the dowry is 10 *dirhams*. The Qur'ān and Hadīth, however, do not specify any size for the dowry.<sup>332</sup> This much depends on the one who situation and wealth of those involved. Nevertheless, it is not the intention of Islam to make the marriage process difficult, for instance, by making the dowry as expensive as is commonly and widely the case in most Arab countries. This may prevent adult men from marrying on the one hand, and encourage adultery on the other. Concerning the

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<sup>331</sup> Sha'rawī, p. 2125

<sup>332</sup> Şiddiqī, p. 801

payment of the dowry, Şiddiqī quotes a Hadith from the Prophet Muhammad, i.e. “*Search for mahr (dowry), although it is only a kind of iron ring!*”. Şiddiqī, moreover, says that the companions of the Prophet Muhammad paid the dowries of their wives only by teaching the women a part of the noble Qurʾān.

The phrase “*wa-l-lāhu aʿlamu bi-īmānikum baʿḍukum mim baʿḍin*”, according to Şiddiqī, means that Allah knows best your faith (quality) and that of others. It is forbidden in Islam to hate each other because all Muslim are brothers. This is in accordance with God’s revelation, “Oh Muslims, some of you are the brothers to part of others”.<sup>333</sup> Therefore, it is not justified to consider marriage with a slave woman as something that is a disgrace. This verse could be interpreted as meaning that Allah, The Almighty, raises the position of slave-women who are pious and considers them the equal of free women. It is indeed true, that there are many slave-women who are better than ten thousand free women, as indicated by sūra al-Hujurat, verse 13. “*Fankihū hunna bi-idhni ahlihinna*”, which means marry them with the consent of their masters or of those who have authority over them, such as fathers, grandfathers, judges or those who received *waṣīyyat* (dying exhortation/legacy). All of these people have the authority to allow the slave women to marry their husbands-to-be.

Moreover, Şiddiqī said that the phrase “*wa ātūhunna uḵūrahunna bi al-maʿrūfī*” clearly states that the payment of the dowry to the women must be done in a proper and appropriate way. This means that the amount must be suitable and that which is appropriate to the situation and respective custom; it must not humiliate them (women). According to Şiddiqī, some ʿulamas interpret this verse to mean that the dowry is paid to the master who owns the slave (woman). Imām Mālik, however, maintains that the dowry belongs to the wife, even if she is a slave. This holds true, according to Mālik, even in the condition in which the lord has nothing for himself,<sup>334</sup> since it is the right of women to possess (their dowry).

Şiddiqī is of the opinion that the phrase “*muḥṣanātin ghaira musāfiḥātin wa lā muttakhidhāti akhdānin*” in this verse indicates that the slave-women are (like) our wives, and that they do not perform adultery (in having sexual relations with their masters). They are also not concubines”. As “wives”, we have to treat them respectfully as well as kindly.

History tell us, Şiddiqī adds, that in the age of pagan ignorance (*jāhiliyya*), adultery was committed both secretly and openly. Secret adultery is between a woman and her lover, whereas, open adultery is that performed by the professionals who serve all men who come to them. This last is what Shaʿrawī

<sup>333</sup> See Sūra at-Tauba, verse 71.

<sup>334</sup> Şiddiqī, p. 801

said was the object of the so-called *safāḥ* or *sifāḥ* (laws) against fornication or adultery). The people of that age (*jāhiliyya*) forbade open adultery, but allowed the secret type. However, the Qurʾān prohibits both kinds of adultery.<sup>335</sup> In short, this verse implies that Allah bids us to marry the slave women as He bids us to marry free women - and that is with the so-called *iffāḥ* (alms giving or benevolence) and *iḥsān* (chastity or virtue) from both the bride and the bridegroom.

Concerning marriage with free women, Ṣiddiqī adds, that Allah requires the *iḥsān* and *iffāḥ* from the side of the bridegroom because the free women, especially those, who are still virgin, are safe and protected from adultery. Therefore, according to Ṣiddiqī, Allah requires the so-called *iḥsān* from the man in the case of marriage with a slave woman. Moreover, Ṣiddiqī states that in the age of pagan ignorance (*Jāhiliyya*), adultery was normally committed with slave women. Slave women were bought and then forced into prostitution; one example was ʿAbdullah bin Ubai, who forced his slaves to commit adultery (work as prostitutes?). This happened before he converted to Islam.<sup>336</sup>

Islam teaches that slave women should be treated justly and in accordance with what they deserve. This is demonstrated in the following part of the Qurʾānic verse “*fa idhā uḥṣinna fa in ātayna bi-fāḥishatin fa ʿalayhinna niṣfu mā ʿalā al-muḥṣanāti min al ʿadhābi*”, which, according to Ṣiddiqī, means “if they (slave women) purified themselves (performing *iḥsān*, good deeds) [then you have to make good deeds, *iḥsān*, to them] but if they afterwards make or commit adultery, they should be punished, which is half the punishment of that of a free women.”<sup>337</sup> &<sup>338</sup>

Furthermore, Ṣiddiqī tells us that if they (slave-women) commit adultery after marriage, their punishment is half that dealt out to free (non-slave), married women who commit adultery. Therefore, the slave women will be lashed fifty times, while the free women one hundred times. This regulation could be found, according to Ṣiddiqī, in the Ḥadīth books (*kutūb al-Ḥadīth*) of Bukhārī and Muslim and others. For instance, it is narrated from ʿUmar that; “The stoning (*rajam*) is a decision of Allah towards the adulterers or adulteresses who have already been *muḥṣan* (married). This holds true for both men and women. Sufficient evidence is required and all facts are considered before the punishment of stoning is carried out - for instance, whether the woman got pregnant or if she or he confesses ”.<sup>339</sup> Moreover, anyone who give false or

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<sup>335</sup> See Sūra al-Anʿām, verse 151.

<sup>336</sup> See Sūra an-Nūr, verse 33

<sup>337</sup> See Sūra an-Nūr, verse 2

<sup>338</sup> Ṣiddiqī, p. 803

<sup>339</sup> Ṣiddiqī, *Ibid.* p., 803

wrong information, they too must be punished accordingly. It is narrated in a Ḥadīth, Ṣiddiqī continues, that the Prophet instructed his companions to stone (*rajam*) *Mais al-Aslamī and al-Ghamidiyya*, because they admitted that they committed adultery. But the Prophet postponed the stoning of the woman (*Ghamidiyya*) until she gave birth and weaned her child. This Hadith is narrated by Muslim and Abu Daud.<sup>340</sup>

Ṣiddiqī argues that with regard to marry enslaved or captive women, as described by the phrase “*dhālika li man khashiya al-‘anata minkum*”, means that permission to marry a slave-woman - for a man who is not able to marry a free woman - is offered in case he is in danger of committing adultery. But patience in this matter is important, as it is indicated by the next phrase, “*wa an taṣbirū khairun lakum*”, meaning “if you are patient, it would be better for you”. Avoiding adultery will protect your children to come; it will save the next generation from bad behavior that will be inherited from their parents. Moreover, Ṣiddiqī quotes a narration by ‘umar, in which he said “If a slave marries a free woman, that means he has already made half of himself free, and if a free man marries a slave woman, that means he has already made half of himself slave”. From this it is clear that marriage is aimed at building an essence (truth) that comprises a man and woman, whereby each of them is viewed as a part of the other. While as a matter of faith, according to Ṣiddiqī, each partner will be viewed as a separate individual, that is each must take responsibility before God for what he or she has done, in the connubial sense of feeling and love, they are an integrated body.<sup>341</sup>

### Verse 32 of Sūra An-Nisa’:

“And wish not for the things in which Allāh has made some of you to excel others. For men there is reward for what they have earned, (and likewise) for women there is reward for what they have earned; and ask from Allāh of His Bounty. Surely, Allāh is Ever All-Knower of everything”.( Q.S. An-Nisa’ / 4 : 32).<sup>342</sup>

According to Sha’rawī:

In interpreting and explaining this verse (sūra an-Nisa’ verse 32) Sha’rawī gives an analogy by stating that Allah, the Almighty, created the universe and in the universe He created species. Each species consists of many races, and each race consists of many individuals. Moreover, he adds, these individuals are divided

<sup>340</sup> *Ibid.*, p. 803

<sup>341</sup> *Ibid.* p. 803

<sup>342</sup> Al Al-Hilālī, *Op. Cit.* p., 112-113

into two genders. One should know that all of them are equal as far as race is concerned. This is also true in the case of individuals. If we look at an object, it appears to consist of one subsistence, but it is actually made up of different elements, and again each element has its special role. For instance, if we build a building, this building needs sand, cement, bricks and iron. Then, each of these substances is bound together to create something new, the building. The cement plays an important role, as does the plaster, sand, pebbles, etc. All are necessary, and each has its own unique function without overlapping. In the same way, human beings are divided into two kinds, namely male and female. Both of them have common characteristics that bind them as a species. Nevertheless, both differ from each other according to the nature of their sexes. If you tried to replace one species with another, you would surely fail to do so.<sup>343</sup>

It would indeed be strange, Sha'rawī argues, if Allah created two kinds of creature (e.g. male and female), and then said, "this sort is obliged to be the same as that sort". This analogy can also be applied to time, which is allotted a function as circumstances and nature require. No event can not be separated from its time. The day, for instance, is characterized by the events that happen in the period from sunrise to sunset, and by night-time events belonging to the period from sunset to sunrise. The events of the night are silence and rest, while the events of the daytime are activity and work. If one tries to alter or reverse this system, it means that events will be dislocated in time and place, they are out of step and contrary to one another.<sup>344</sup>

Furthermore, Sha'rawī says that it is clear that Allah, The Almighty, makes us to look again at something that we oppose, and that we may indeed, eventually, come to agree with it. The above verse tells us that some things that we object to, e.g. the fact that some people are better or have more than we do; we will finally learn to accept. Sha'rawī also says that we should accept God's rules or system without reserve; thus we may use the night to take rest, privacy and quietness, while the daytime is there to use as the space for our activities and work. Thus, Sha'rawī explains, Allah, The Almighty, made the daytime as the opposite of nighttime. Does this mean that night and daytime oppose each other? - or support each other?<sup>345</sup> Sha'rawī answers that, each surely supports and completes the other; because the rest at night improves and makes possible the activity during daytime. One takes sleep and rest to renew one's energy. So, the night subsidizes the day with its role. If a man stays up all night, he will not be able to do anything during the day. What other aspects of the night subsidize the day? Surely, it is the silence of the night. Allah explains that this is

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<sup>343</sup> Sha'rawī, p. 2183

<sup>344</sup> Sha'rawī, p. 2183

<sup>345</sup> Ibid. p. 2184

indisputable an the same amongst all human beings, both religious and profane ones. People are not obliged to be the same in work, activity and purpose. To those who disagree, we say that this (variety) is like the nature of time, which also has its various purposes; hence choose to associate with those whom you think are really appropriate to you from amongst those you do not like or do not agree with. This is in keeping with Allah’s example, as He shows in *sūra al-Layl* (Evening) no. 1-4 as follows “(1) By the night as it envelops. (2) By the day as it appears in brightness. (3) By Him Who created male and female. (4) Certainly, your efforts and deeds are diverse (different in aims and purposes).<sup>346</sup>

Furthermore, Sha’rawī adds that we know that human beings are divided into two categories, i.e. sexes, namely, men and women, and both of them have collective and individual work. And to each of them is due the so-called human respect “*karāmah insāniyya*” and freedom of belief “*al-‘aqīda*”. Therefore, no man should compel or force a woman to conform to any belief or religion (*‘aqīda*). We, Allah says, hold up to you the wife of the prophet Nūḥ and Luṭ and the wife of Fir‘awn (Ramses);<sup>347</sup> so that you may take an important example from them.

Sha’rawī is of the opinion that the power that men and women have in common is the freedom of belief (*I‘tiqād*); this holds also true for the ability to reason with regard to important matters. We know how, for instance, ‘Ummu Salama gave to the Prophet Muhammad (p.b.u.h) during the *Hudaybiyya* incursion some advice that saved Moslems from a horrible division. And we know the story of Balqīs, the queen of *Saba’*, who was able to solve problems without any help of men. Therefore, it is possible for women to reason and to think, even, women who lived before Islam; they too sometimes had good judgment and gave wise advice on various important matters.<sup>348</sup>

Moreover, Sha’rawī adds that Allah, The Almighty God, bestows reason upon women. They have the ability to reason as do men, but this ability will not emerge except in its own time or place. The role of man, according to him, involves movement (activity) that requires resolution and strength (force), whereas for woman’s role, it requires affection and compassion. In this context, Sha’rawī gives an example from daily life. A man (husband) comes home from work, which he does to support his wife and child. He is tired and would like to sleep, but his child comes crying to him. In this case, he would complain and shout at his wife and child, saying, “Be quiet! I want to take a rest!” Before this happens, the mother should take her child, without waiting for her husband to

<sup>346</sup> Al-Hilālī, *Op. Cit.* p. 838

<sup>347</sup> Ibid. P. 2184

<sup>348</sup> Ibid. p. 2185

tell her, since this is the part of a mother's duties (her share of the work). Sha'rawā adds that there are many divisions of labor in the historical partnership between man and woman, which relieve a man in his position, and woman in hers.

Moreover, Sha'rawī gives an example concerning the story of the Prophet Abraham's family, i.e. Ḥajar and Ismā'īl, whom he left in Mecca (*biwāḍin ghairi zī zar'īn*), an empty and infertile valley that offered nothing to live off of and no water.<sup>349</sup> But then when the instruction from Allah to sacrifice Ismā'īl (through Abraham's dream) comes, the role (reaction) of Ḥajar is missing. Why? The role of Abraham, with his firmness, decision and prophethood, is the one called for in this situation, while the role or inclination of Hajar, her compassion and feelings, is not. . As a woman, Ismā'īl mother (Ḥajar) would hardly sacrifice him, because her pity is stronger than that of Abraham. This story tells us that each of them has his or her own duty, and the success (of a couple or of a society) is based on the power of this allocation of duty. Therefore, Allah said: "*Wa lā tatamannaw mā faḍḍalallāhu bihī ba'ḍukum 'alā ba'ḍin*", meaning "And wish not for the things in which Allāh has made some of you to excel others". Nevertheless, sometimes we find some people who take (follow) this and others who take that. To this, Sha'rawī suggests, "Beware of following your mind and wishes. Do not demand, saying, "I want this," but request Allah for His favor, because the word "*wa lā tatamannaw*", according to Sha'rawī, indicates that it is forbidden to wish to possess that which Allah has already given to someone else. Therefore, Allah says: "*was-alū Allāha min faḍlihi*", meaning ask Allah for His favor. Sha'rawī adds that as long as you ask Allah for His favor, there will be hope that He may give it to you."<sup>350</sup>

In response to people who ask why Allah forbids us to wish for something that He has already given to someone else, Sha'rawī cites the following part of the above mentioned verse, i.e. "*wa lā tatamannaw mā faḍḍalallāhu bihī ba'ḍukum 'alā ba'ḍin*". It is usual for Allah to favor some of us through His will and allows one to excel another; and it is appropriate to His word in sūra Az-Zukhruf/43: 32 i.e. "*warafa'nā ba'ḍukum fawqa ba'ḍin darajātin li yattakhidha ba'ḍuhum ba'ḍan sukhriyyan*", meaning, "And We raised some of them above others in rank, so that some may employ others in their works".<sup>351</sup> Furthermore, Sha'rawī recommends us to say "I humbly ask Allah in order He give (something) to me, because Allah, The Almighty, gives us leave to ask (not demand)"

<sup>349</sup> Read p. 2187 paragraph 2-3

<sup>350</sup> Ibid. p. 2187

<sup>351</sup> Al-Hilālī, *Op. Cit.* p. 663

The word “*tamannā*” (to wish for or to desire), according to Sha‘rawī, is normally associated with begging for something that is impossible or for something that could not be achieved in reality, whereas asking and praying for something that one could really hope to receive - something which is also reasonable and logical and not utopian - is not classified as *tamannā* (to wish). The verse no. 32 of sūra an-Nisa‘, according to Sha‘rawī, is related to the verse no. 71 of sūra an-Nahl, in which Allah says “*wa-l-lāhu faḍḍala ba‘ḍakum ‘alā ba‘ḍin fī ar-rizq...*”, meaning “And Allah has preferred some of you above others in wealth and properties (*rizq*)...”<sup>352</sup> Sha‘rawī is of the opinion that it is important to explain the meaning of the word “*rizq*”<sup>353</sup>. He asks if “*rizq*” is money only? His reply is that it is not - *rizq* is whatever is useful for human beings. Dreaming is also a kind of *rizq*, as is knowledge or bravery., All of these things are *rizq* (gifts from God)., Allah says: “*Mā faḍḍala -l-lāhu bihi ba‘ḍakum ‘alā ba‘ḍin*”. This gives rise to the question of who is the preferred – or more preferable one? This is because Allah uses the word “*ba‘ḍakum*”, which means “some of you”. Allah, according to Sha‘rawī, does not explain which exact person this is, but there must be someone or some people among us who is/are preferable or someone who is much more preferable than another.<sup>354</sup>

Why is this? According to Sha‘rawī, it is certain that each person has preferences, and humans will surely take and choose the thing they like best, and will always keep seeking more than he or she already possesses.<sup>355</sup> Sha‘rawī adds that each person has his or her own role to fulfill in doing this, and the power to do this (i.e. to pursue desired goals) is given by God to mankind. As an additional element to complete this power, God gives the perfect and appropriate talent, but this gift is not repeated (it comes only once, at birth). Hence, Sha‘rawī says, as long as the talent is perfect, I, for instance, should not envy a man or woman, who is “preferred” (better) than me in a certain case, because I need him and he should not envy me if I forward myself with (or depend on) his talent and work, because he will need me someday. Thus each person needs and depends on the talents and accomplishments of others, and this is what one should love and take comfort from regarding the talent of another.

Why is the first phrase of the above verse followed directly by the next phrase “*li r-rijāli naṣībun min maktasabū wa li-n-nisā’i naṣībun min maktasabna*”? According to Sha‘rawī, this phrase indicates that it is important for man or woman to be successful, and pious, virtuous and polite for the honor of what

<sup>352</sup> *Ibid.* p. 357

<sup>353</sup> *Rizq* literally means “means of living or livelihood”

<sup>354</sup> *Ibid.* p. 2188

<sup>355</sup> *Ibid.* p. 2189

God has created. Moreover, people must consider that God will reckon the reward and punishment of all mankind; and each person will be charged in accordance with his capacity.<sup>356</sup> An example of the necessary difference between the roles of man and a woman is that of a man whose wife – who has a nursing child - gets sick. sick and He will not be able to replace her in nursing his baby. This is a small example showing how important a woman is to a man and a man to a woman. Each person, Sha'rawī states, must therefore be viewed as important. Finally, Sha'rawī come to the conclusion that the rational person is one who respects God's predestination in His creation as well as His gift (talent) as He grants it. He will ask God for His favor or for things he is allowed to ask for: *barakah* to his position (situation). Therefore, as Allah says: “*Wa lā tatamannaw mā faḍḍala l-lāhu bihi baḍakum ‘alā baḍin li r-rijāli naṣībun min maktasabū wa li-n-nisā’i naṣībun min maktasabna*”. We notice that this equalizes it perfectly.<sup>357</sup>

According to Şiddiqī:

“*Wa lā tatamannaw mā faḍḍala l-lāhu bihi baḍakum ‘alā baḍin li r-rijāli naṣībun min maktasabū wa li-n-nisā’i naṣībun min maktasabna*”. ” Şiddiqī interprets this sentence as follows: Do not expect to possess something that Allah has already given to someone else. Because men obtain their portion from their exertions as women receive their portion from their efforts.

Şiddiqī adds that Allah has, indeed, assigned some duties to men and some to women. Thus, if men perform certain duties then the rewards for doing so are for men and women have no claim to them. Likewise, the special duties performed by women are of course rewarded, and men cannot obtain these rewards. We should therefore, Şiddiqī adds, not expect to obtain something that is within the purview of someone else. Şiddiqī suggests that each of us must work and strive, and then we will receive the results of our efforts.

Şiddiqī adds that it is important to stress here that it is forbidden to expect or to hope for some things, it is only forbidden to look for the things that are beyond our allotted reach, like a woman expecting to be a man or like an ugly person who wishes to be handsome or beautiful. We are permitted to hope or try for things that others have as far as it is logically and properly attainable. In short, we have to train our sights on what we can do and not on what can never belong to us.

“*Wa as- alū l-lāha min faḍlihi*”, and ask Allah for some of His favor. Şiddiqī adds to this sentence that we are not recommended to expect the wealth that is

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<sup>356</sup> Ibid. p. 2189

<sup>357</sup> Ibid. p. 2190

given to others and it is extremely forbidden to harbor envy for things that others possess. However, we are encouraged to pray to Allah so that He will grant us wealth from His benevolence (*iḥsān*) and mercy. “*Inna l-lāha kāna bikulli shay’in ‘alīmā*” Indeed, Allah knows best overall. Ṣiddiqī adds that because Allah knows everything, so He makes some of us better than others, both in the sense of hierarchy or readiness that they possess and in the level of knowledge.

According to aṣ-Ṣiddiqī there are so many background to be the cause of the revealing of this verse. All of the background were related to men who expected to have multiple rewards as that of women’s, like the multiplication they have already possessed in the heritage. Moreover, this verse is also dealing with women who expected to be obliged for jihad (holy war).<sup>358</sup> Aṣ-Ṣiddiqī quotes a narrative from Ikrimah in which he said, there were a group of women who expected to be sent to battle field. They said that we do will that Allah would like to instruct us to participate in holy war, so that we will be able to obtain the rewards like men do. As a result of this situation Allah reveals this verse. In conclusion, this verse avoids us from expecting things that are not in our territorial. Because it will make us envy or jealous to whom who possesses the things.

### Verse 33 of Sūra An-Nisa’:

“And to everyone, We have appointed heirs of that (property) left by parents and relatives. To those also with whom you have made a pledge (brotherhood), give them their due portion (by waṣiyya – will)<sup>359</sup>Truly, Allāh is Ever a Witness over all things”. (Q.S. An-Nisa’ / 4: 33).<sup>360</sup>

According to Sha’rawī:

Sha’rawī begins his comment while saying that if we find the word “*likulli*” in the form of the so-called *tanwin* (nunation), there must be an implicit necessity. It derives originally from sentence “*likulli insānin*” and then the noun is missing and replaced by nunnation, like in the case of verse 83-84 of *sūra al-Wāqi’ah*.

Allah says “*Walikulli ja’alnā mawāliya*”, the word “*Mawāliyya*” is plural form of “*mawālā*”. Before the verse on inheritance was revealed, the Prophet Muhammad fraternized the so-called *al-Anshar* with *al-Muhaajirien* and they

<sup>358</sup> Ṣiddiqī, p. 813

<sup>359</sup>For details see Muhammad Ibn Isma‘il al-Bukhārī, “*Ṣāḥīḥ al-Bukhārī*”, Hadith No. 489, Vol. 3 (ed.) by Muṣṭafā Dīb al-Bughā. 1990.

<sup>360</sup> Al-Hilālī, *Op. Cit.*, p. 113

were used to inherit between them based on this brotherhood. At that time, there was something which was called “*mawlā al-munāsharah*” this terminology (institution) means that two people devote some of their good to each other and they said: I am your brother and you are my brother, your war is my war and your safety is my safety and your blood is my blood and you inherit from me and I inherit from you and you understand me and I understand you or if I committed a crime, you will pay (defense) it for me and if you committed a crime, I will pay it for you, it is a brotherhood.

They possessed a portion from the property of the deceased. Allah explains: We make an inheritance to each of men and women that he or she inherits from the property left by his/her parents and relatives...or they have portion from that and also some of the inheritance of the so-called *the awliya’ al-munāshara*. And you say no! You have to give them their portion that was made the condition namely as-sudus. This law was not shaded but abolished and Allah reveals His word: *Wa ūlū al-arhāmi ba’duhum awlā bi-ba’din fī kitābi l-lāhi, Inna l-lāha bi-kulli shay’in ‘alīm.*<sup>361</sup>

As long as Allah says: “*walikulli ja’alnā mawāliya min mā taraka al-wālidāni wa al-aqrabūna*” means each person among relative possess something from the inheritance left by his/her parents and relatives. (Therefore), you may not say that they are died and you do not want to give them anything. No! As they have had agreement and belief relation, then give them their portion as a gift as Allah said “*Fa ātūhum naṣībahum inna l-lāha kāna ‘alā kulli shay’in shahīdā*”, Allah witnesses on such a thing and He witnesses whether you do it or not.<sup>362</sup>

According to Şiddiqī:

“*Wa likulli ja’alnā mawāliyya min mā taraka*”, Şiddiqī interprets this sentence that each man and woman has the right to possess (*mawlā*) for things left by the deceased (among his or her relatives). “*Al-wālidāni wa al-aqrabūna wa al-lazī ‘aqadat aimānukum*”. This sentence, according to Şiddiqī, denotes to parent (mother and father of the deceased) as well as to relatives and to whom who commit a loyal oath with you (deceased).

According to aṣ-Şiddiqī the so-called *mawālī*<sup>363</sup> are mother, father, children, brother, husband and wife. Husband and wife are what this verse means as *al-lazīna ‘aqadat aimānukum*. This is due to the fact or tradition that a husband shakes his hand (with the deputy of woman) if he makes a transaction. This could also be viewed as a loyal oath. Amongst Jahiliyya tradition, one might

<sup>361</sup> Sūra al-Anfāl, verse 75.

<sup>362</sup> Ash-Sha’rawī, p. 2192

<sup>363</sup> Mawālī means anybody who has the right to possess the inheritance of the deceased.

commit a royal swear based on a cooperation (helping each other) and as a result he or she inherited 1/6 portion of the inheritance.<sup>364</sup>

“*Fa ātūhum naṣībahum*”. This means “and give to the *mawālī* their portions just the way they are. “*Inna l-lāha kāna ‘alā kulli shay’in shahīdā*” means surely, Allah - the Almighty – observes all of your movements and attitude toward your property and other things. Therefore, Ṣiddiqī adds, no one should be greedy or covetous to the property of others both man and woman, this holds also true to children and adults. And Allah will punish you for everything (mistakes) you have ever done in the day after.<sup>365</sup>

### Verse 34 of Sūra An-Nisa’:

“Men are the protectors and maintainers of women, because Allāh has made one of them to excel the other, and because they spend (to support them) from their means. Therefore the righteous women are devoutly obedient (to Allāh and their husbands), and guard in the husband’s absence what Allāh orders them to guard (e.g. their chastity, their husband’s property). As to those women on whose part you see ill-conduct, admonish them (first), (next), refuse to share their beds, (and last) beat them (lightly, if it is useful); but if they return to obedience, seek not against them means (of annoyance). Surely, Allāh is Ever Most High, Most Great”. (Q.S. An-Nisa’ / 4: 34).<sup>366</sup>

According to Sha’rawī:

“*Al-rijālu qawwāmūna ‘alā al-nisā’i*”, according to Sha’rawī, some mufasssirs do not interpret this verse except to address it with the relation and interaction between husband and wife. Apart from that, according to him, this verse speaks also about the absolute and principal rights of men and women. This verse, therefore, is not limited to the case or issue of a husband and his wife. Also the father is, in this connection, the manager for his daughters and the brother is the manager for his sisters. For the first understanding we have to understand first and foremost what does the sentence “*al-rijālu qawwāmūna*” means? Does this give the woman the excellence (superiority) and central position or give her inconvenience? Through this verse, Allāh (The Almighty God) requests us to respect natural existence (proposition), and He is the creature who creates all things best and He is who manages this judgment (*ar-rijālu qawwāmūna ‘alā an-nisā’i*). And what is the meaning of “*qawwāmūna*”? *Al-qawwām* is the

<sup>364</sup> Read for instance: al-Buchary 85:5, Muslim 23:hadith 2, Ahmad, Vol. 1, p. 190, or hadith no. 1655; or Muslim 44, p. 206, Ahmad, Vol. 5, p. 61 and Hadith no. 6917; Abu Daud 18:16, or Hadith 2921; al-Buchary 65, 4:7, Abu Daud, 18, 16 Hadith 2923. And read also al-Qasimy, 5:1212, 1218.

<sup>365</sup> Ṣiddiqī, p. 815

<sup>366</sup> Al-Hilālī, *Op. Cit.*, p. 113

superlative form of *al-qiyām*. And Allah uses this word in this verse denoting to tiredness. Then, according to sha‘rawi, if we say “*fulānun yaqūmu ‘alā qawmi*” this means that he or she does not take a rest forever. Also why is the word “*qawwāmūna ‘alā an-nisā-i*” used in this context to stop breathing? Why does not woman do something herself to search for her advantages? Men are responsible for women or they have to perform a duty to maintain (to better) the condition. And, therefore, we find that Allah uses word *al-rijāl* and *an-nisā-i* generally, and He uses also something single in which we can find in His word “*bimā faḍḍala l-lāhu ba‘ḍahum ‘alā ba‘ḍin*”, what a preferring form!

Surely, the preferring form (superlative) that a man has exertion and to fight on earth as well as to make effort in life, this makes woman in her life to admit the permission from him if she lives under his care. There is an instance in the story of Adam (peace be upon him), as Allah warned Adam and Eva from “*Shayṭān*”, Iblis who was instructed to bow to Adam together with Angels was denied, therefore, we know that Iblis is the longstanding enemy of Adam, and Iblis said: Shall I bow to whom you created from clay?<sup>367</sup>

Allah explains to Adam as He sent him to the earth that he has to remember this hostility. Be aware! He will never leave you behind and will continually try to seduce and instigate you. It is because he does not want to be disobedient (to Allah) alone, but he would like to embrace others from another race whom he rejected to kneel down to their father, namely, Adam. And therefore, he would like to seduce them as he used to seduce Adam: (Allah said) “O Adam! Verily, this is an enemy to you and to your wife. So let him not get you both out of paradise!”<sup>368</sup>

Did Allah say after that “*fatashqiyā* (unhappy) or *fatashqā* (distressed)? Allah said “*fatashqā*”<sup>369</sup> If there is any difficulty and contention (struggle) on the earth to protect woman, so it is a message or a letter of recommendation for man. This indicates that “*al-qawāma*” needs fatigue and exertion and effort. These important matters belong to man. And we see that. the condition of preferring as Allah said “*ar-rijālu qawwāmūna ‘alā an-nisā’i bimā faḍḍalallāhu ba‘ḍuhum ‘alā ba‘ḍin*” is indeed followed by word “*ba‘ḍahum*”. On the one hand, it is because of the preferring of man for he is the “*qawwām*” and the preferring of woman on the other, namely, her existence at home when he takes rest with her and to be under her care.<sup>370</sup>

<sup>367</sup> Sure Isra’ verse: 61

<sup>368</sup> Sure Ṭāha, verse 117

<sup>369</sup> See the end of sure Ṭāha, verse 117

<sup>370</sup> Sha‘awī p. 2194

Sha'rawī adds that Allah indeed advanced the law that has to be obeyed at the beginning of this verse, because it is the law of Allah who creates all things best. Then, He explains the lawsuit of the belief “*ar-rijālu qawwāmuna ‘alā an-nisā’i*”. This sentence followed then by another sentence “*bimā faḍḍalallāhu ba‘ḍahum ‘alā ba‘ḍin wabimā anfaqu min amwālihim*”. Afterward Allah adds “*faṣṣālihātu qānitātun ḥāfiḍātun lī alghaibi*” which means that a pious woman is who keeps the plain road (program) that has been regulated to her. And as long as she is pious, she is legitimate. The word “*qānut*” here means static obedience to Allah.<sup>371</sup> Afterwards follows a sentence that regards to *qawwāmah*, namely: “*wabimā anfaqu min amwālihim*” The property brings the result of movement and tiredness, and the one who is tired (due to work) called “*qawwām*”. Also, woman has to be happy with this reality, because Allah, The Almighty, granted the difficulty and tiredness to the gender that is specialized in that case.

Moreover, Sha'rawī explains how a wife to behave if her husband is away “*hafḍi al-ghayb*”. Among other thing, he says that by staying at home, a wife may protect herself from the so-called “*fitna*” as well as to secure her vagina (property) and the property of her husband.<sup>372</sup> Nevertheless, a wife is permitted to go outside her house, but only in for important thing (emergency). In this case Sha'rawī compares woman with a rose. He says that if you see a rose in a garden that attracts the intention or affection of a man. Sa'rawi says that (in approaching a rose) there are three level of affection, first, you are going to go closer to it. This level called “*idrāk*” (attainment). Second, if you admire it and you do enjoy and love it, this means “*wijdān*” (intuition), but, third, if you want to cull it, that means the act of struggle. Therefore, Allah instruct man and woman to lower (keep) their eyes.<sup>373</sup>

Sha'rawī, furthermore, says that religion (*dīn*) guides us in order to be able to understand things or cases that contains a long life dimension in an extended life. So, Sha'rawī adds, if you will be successful (in this life), you have to pay attention at the frame of the variety of the life and you must find the especially of it. This situation holds also true to woman, she has the opportunity, as far as she has enough time, to extend her role or function at home. For instance, if she has children, so, she is obliged to teach them and so on.

According to Şiddiqī:

“*Ar-rijālu qawwāmūna ‘alā an-nisā’i bimā faḍḍala l-lāhu ba‘ḍuhum ‘alā ba‘ḍin wa bimā anfaqu min amwālihim*”. Şiddiqī interprets this sentence as follows:

<sup>371</sup> Ibid. 2195

<sup>372</sup> Sa'rawī, p. 2197

<sup>373</sup> Ibid. 2197-2198

Men are the managers of women. This position is based on the reason that Allah has made one of them to excel the other, and because they spend (finance) some of their properties to women.<sup>374</sup> Amongst the obligation of men, adds Şiddiqī, is that they protect women. Therefore, Allah obliges the duty of taking part in war only to men, not to women as well as spending some of their property to basic necessity of life. The war is a case of protection. And this is the reason of why men obtain a larger portion of heritage than women do.

Apart from that (the right to manage, to guide and to lead), men and women have the same rights and obligations. The high level that is given to the men is to lead and to manage the family and the women manage household freely, surely it is allowed as far as it does not break the rule of religion and it should be in agreement with the willingness of their husbands. Women, for instance, keep the house (households), control it, and look after the children as well as do shopping in accordance with their husband's financial ability. Under the protection of a husband, a woman is able to fulfill their duties, to have pregnancy, to give birth and breast-feed.<sup>375</sup>

*“Fa aṣ-Şāliḥātu qānitātun ḥāfiḍhātun li al-ghaybi bimā ḥafīza l-lāhu”*. Also, the pious women are those who obey their husbands and keep all things that happen between husband and wife based on the command of Allah that He has already instructed to maintain it. The virtuous women are those who obey their husband and keep (the secret) of all cases that happen between them in a recess and not telling to anybody else, even to the relatives. They have to do so due to the promise given by Allah, namely, they obtain great reward for keeping the secret and because of Allah's threat to those who do not keep the secret.<sup>376</sup> According to Şiddiqī, this verse contains a great warning to women, who like telling things that happen between them and their husbands in that *khilwa* (recess). Apart from that, this verse teaches also the wives to maintain the property of their husbands.

*“Wa l-lāti takḥāfūna nushūzahunna fa'iqūhunna wahjurūhunna fī al-maḍāji'i wa-aḍribūhunna”*, and all women whom you worry about (that they will rebel against you), so give them warning and don not sleep with them and (finally) hit them. All wives, who you are afraid of not being able to do the obligation well, so you have to follow the following steps, namely;

1. Give them good lesson that causes God-fearing to raise in their spirit, so that they will be conscious that the mistakes (sins) they will commit, will take them into torture in the day after.

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<sup>374</sup> Read for instance Sūra al-Baqarah, verse 228.

<sup>375</sup> Read for instance Al-Turmuzi 10:10, al-Mahasin V:1218. 1222.

<sup>376</sup> Şiddiqī, p. 816

2. Stay away from them, and do not sleep in one bed with them. Hit them, but not so painful. This may be done if it is necessary (emergency).

The third step, according to Şiddiqī, is made to the women, who are not possible to be treated with soft lesson. Actually, a good and wise husband does not have to do the third step. “*Fa in aṭa’ nākum fa lā tabghū ‘alayhinna sabīla*”, So, if they obey to you again, then, do not make any deceit to them!

If they obey you through one of the three warning steps, so do not treat them with ill treatment (tyranny). And then start with guide and advice. Afterwards let them sleep alone. And finally, you may hit them. If this step would not help you, take your problem to arbitration. And if the condition is getting better, so do not search for its background.<sup>377</sup> The phrase “*Inna l-lāha kāna ‘aliyyan kabīrā*” means surely, Allah is Ever Most High, Most Great. According to Şiddiqī is aimed by Allah at warning us with His power and greatness in order not to oppress our wives and not to practice any deceitful thing to them. And Allah will punish the husbands, who use their authority (power) profusely. It is only the right to manage and to control as the authority that is level given to the men.<sup>378</sup> If the condition or problem is not able to be handled and solved with the three steps and the dispute goes on, so we have to take the solution given in the following verse, namely, sūra An-Nisa’ verse number 35.

#### Verse 35 of Sūra An-Nisa’ :

“If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from her; if they both wish for peace, Allāh will cause their reconciliation. Indeed Allāh is Ever All-Knower, Well-Acquainted with all things”. (Q.S. An-Nisa’ / 4: 35).<sup>379</sup>

According to Sha’rawī:

Sha’rawī is in opinion that this verse is aimed at remaining the family members, either father, brother, mother or another close relatives of paying attention to family affairs and never leave them behind, so that the so-called “*shiqāq*” will not happen. The sentence “*wa in khiftum shiqāqa baynihimā fab’athū ḥakaman...*” is also addressed to maintain the relationship between each family. Therefore, Sha’rawī adds, it is necessary to make somehow like a representative board or delegation from both sides (husband and wife). All members of this institution have then to make a clear line or limitation (rule of game) for the family as Sha’rawī says “*we say that we see so and so*”<sup>380</sup>

<sup>377</sup> Ibid. p. 817

<sup>378</sup> Read also Sūra Al-Baqarah, 228.

<sup>379</sup> Al-Hilālī, *Op. Cit.* p. 113

<sup>380</sup> Sha’rawī, p. 2203

## According to Şiddiqī:

In the context of family conflict Şiddiqī is in opinion that if the quarrel between husband and wife could not be solved even with last treatment (striking). In this situation, a wife is probably suffered or being under repression, so in this stage their family, neighbors and all who deserve to pay their attention and work on Allah's way, must decide a representative from both sides. Moreover, it must be taken into consideration that the so-called "*ḥakam*" (arbitrator; arbiter) or representative persons must be the most fair one amongst the family and have enough experience in the family affairs. Another important thing is that the above *ḥakam* must strive to produce peace between the two (husband and wife). And if they are willingly searching for the best solution or way out, Allah will grant His guidance. But if finally both of them are in opinion that divorce is the best solution for them, so the hakams may divorce them.<sup>381</sup>

*"Inna l-lāha kāna 'alīman khabīrā"*, Şiddiqī interprets this sentence that Allah knows best all probabilities that will happen between a husband and his wife as well as its backgrounds. Therefore, He declares a certain law on this case. Moreover, Şiddiqī adds that the background (*asbāb an-nuzūl*) of this verse is that it was a woman, named Habība binti Zayid ibn Abu Zuhair who committed a faithless deed to her husband, Sa'ad ibn ar-Rabī. Then, he slapped his wife's face. Afterwards, his wife and his father in law went to Prophet Muhammad (pbuh). Habībah's father said to The Prophet "I gave my daughter to him (Sa'ad) to be his sleep-mate, but he slapped her. As the Prophet heard that than he said *"lī-taqtashsha min zaujihā"* which means that she may take vengeance upon her husband, namely to slap him on the same way he did to her.

After that *Ḥabība* and her father went home to take the vengeance upon her husband. Later on, the Prophet Muhammad (pbuh) said : *"Irjī'ū! hāza Jibrīlu ātānī wa anzala l-lāhu hāzihī al-āyāta"* Means, go home! This is Jibril who is coming to me and Allah revealed this verse. And finally, the Prophet said *"Aradnā amran wa arāda Allāhu amran, wallazī arāda Allāhu khairun"*. This Hadith means We would like to do so and Allah would like to do so (another way), and what Allah would like to do is the best. Aş-Şiddiqī, finally, say that this verse is the background for the so-called *tahkim*, and he is convinced that if we do follow it correctly and seriously, we do not have to go to jurists in the court.

<sup>381</sup> 'Ulama' (Islamic scholars) are in agreement to decide that hakam (representative persons) have the right to divorce them. For more detail, read for instance, al-Qasimi, Vol V. p. 1225-1226.

### Verse 36 of Sūra An-Nisa’:

“Worship Allāh and join none with Him (in worship); and do good to parents, kinsfolk, orphans, the poor (*al-masākīn*), the neighbor who is near of kin, the neighbor who is stranger, the companion by your side, the wayfarer (you meet), and those (slave) whom your right hands possess. Verily, Allāh does not like such as are proud and boastful”. (Q.S. An-Nisa’ / 4: 36).<sup>382</sup>

According to Sha’rawī:

Sha’rawī said that if Allah says to us “*wa’budū l-Lāha walā tushrikū bihī shay’a*”, means that we have to avoid ourselves from doing things that oppose to Allah’s command (obedience)...Worship means the obedience of a slave to his lord and it could not be understood that the worship is only what we did from; prayer, fasting, tithes and pilgrimage, because these are (only) the pillars of Islam and as long as these elements are viewed as pillars and foundation on which Islam is built. Moreover, Islam is not only based on pillars but the pillars are foundation on which Islam is built and the foundation on which a house is built is not all house. Therefore, Islam should be viewed as a compound building. As far as ash-Sha’rawī is concerned the so-called *‘ibāda* is not limited to prayer, tithes, fasting and pilgrimage but it is inclusive all aspects of life.<sup>383</sup>

The most important sentence in this verse that is related to gender equality is “*wa bi al-wālidayni ihsānā*” means and do good to parents!. Sha’rawī comments to this sentence: “Look at the position given by Allah to parents, namely, father and mother”!. And the message for you oh, all Moslems is to worship Allah, and the duty upon you because you are a part of the existence; because the message (*khiṭāb*) belongs to a responsible ones (*mukallaf*) and the duty is part of existence. And parents are human reason for your existence and if the reason is evaporated (heaved), then where did the parents come?...from parents, it goes on in such a manner until the case of God’s existence and then ends this matter on The Single (Allah), because the duty (*taḳlīf*) from the imposer (*mukallif*) upon the responsible (*muallaf*) is part of the existence. And the existence (must) have a visible reason, namely, parents (mother and father). And whenever it is connected to Allah, truly He, The most Glorious, commands: “worship me and join none with me (in worship)! And after that (He directly commands)...”and do good to parents”! The word “*al-ihsān*” denotes to the exaggeration in giving the addition...that originates the place or position of *ihsān*.<sup>384</sup>

<sup>382</sup> Al-Hilālī, *Op. Cit.* p., 113-4

<sup>383</sup> Ash-Sha’rawī, p. 2206-2209

<sup>384</sup> Ibid. p.2209

“*wa bi l-wālidayni ihsānā*” ...Allah - when He associates parents with the worship to Him; due to that He is single and we join nothing with Him - does not deny or oppose to the belief or unbelief of parents; because there is another verse that says : “But if they (both) strive with you to make you join in worship with Me others that of which you have no knowledge, then obey them not; but behave with them in the world kindly, and follow the path of him who turns to Me in repentance and in obedience. Then to Me will be your return, and I shall tell you what you used to do.”<sup>385</sup>

In this case, it is true that there is no obedience to both of them but it is to respect only because they are direct reason for the existence, although this reason against whom, who created and made him exist, namely, Allah. “*Wa ṣāhibhumā fī d-dunyā ma'rūfā*”. This sentence denotes that one has to behave with both of parents with a good behavior , especially, to take care of their advantages but it is suggested not to be so closed to both of them (friendly) if they are not Moslem. Sha'rawī quotes many verses of the Qur'ān concerning good behavior “*birru al-wālidayn*” towards parents, for example, verse 83 of *sūra al-Baqara*, verse 151 of *sūra al-An'am*, verse 15 of *sūra al-Aḥqāf* and so on.<sup>386</sup>

According to Ṣiddiqī:

Through this verse Allah commands you to perform all kinds of worships only to Him and you join no one (nothing) to Him. You must worship Him due to Himself. Moreover, Ṣiddiqī states that you have to worship Allah by feeling His Greatness with your heart both in open or hidden way.<sup>387</sup> As an indication that one obeys Allah is that he or she performs all instructions that Allah commends to him (her) as well as avoids all forbidden things that He prohibits. As a result one will reach a perfection of his/her deed (*'amal*) both worldly and practically.<sup>388</sup>

According to Ṣiddiqī one who performs worship due to other reason but God himself, he/she is a *kāfir* or unbeliever. Moreover he divides the so-called *kāfir* into three categories, namely:

1. The *shirk* of *'Arab Mushrikīn* (unbelievers), namely people who worship idols and believe that the idols can give them many advantages and may also make them next to Allah, etc.<sup>389</sup>
2. The *shirk* of *Naṣarā* means worshipping *al-Masih* (Jesus).<sup>390</sup>

<sup>385</sup> Read Qur'ān, *Sūra Luqmān* (XXI), verse 15.

<sup>386</sup> Ibid. p.2209-15.

<sup>387</sup> Ṣiddiqī, p. 820

<sup>388</sup> Ibid. p. 820

<sup>389</sup> For more information (Sha'rawi says) read QS. Yunus, 8

### 3. *Shirk* by prayer (du‘a) and *istishfā’* (asking for recovery from a disease, etc.)

Another important issue in this verse is that serving our parents with best deeds. Sha‘rawi is of the opinion that to perform the so-called *ihsān* or good deeds to our parents means that we fulfill all rights they suppose to possess from us, because, he adds, they are the cause of our existence in this world and they teach us with whole love they have and wholeheartedly.<sup>391</sup> Furthermore, aṣ-Ṣiddiqī says that we are commanded to do our best in serving our parents, however, they have no rights to limit our freedom, especially, our private affairs, family life and our right to choose a religion or nation, etc. And if they break these regulations, then we have the right not to obey them.<sup>392</sup>

#### Verse 75 of Sūra An-Nisa’ :

“And what is wrong with you that you fight not in the Cause of Allāh, and for those weak, ill-treated and oppressed among men, women, and children, whose cry is: “Our Lord! Rescue us from this town whose people are oppressors; and raise for us from You one who will protect, and raise for us from You one who will help” (Q.S. An-Nisa’ / 4: 75).<sup>393</sup>

According to Sha‘rawī:

This verse begins with a surprise, because it is revealed just after the explanation of the reward upon war on God’s cause. Therefore, this war happened due to the arrangement with human character, as we are used to say in our life: and what is wrong with you that you do not do like this? As if we are asking the reason of stopping from work (thing) that is inspired by nature, and logic. And if there is no one does it, so the absence of work will be a wonderful or surprising thing. And the war on God’s way after the explanation of Allah that He will present a high reward (to whom who fulfill it) and to whom, who does not perform it, it will be a cause of agitation to be wonder from him, therefore, Allah says “*wa mā lakum lā tuqātilūna fī sabīli l-lāhi*” which means “and what is wrong with you that you fight not in the Cause of Allah!” or to lift up the religion of Allah.

Allah says “*What is wrong with you that you fight not on Allah’s way, and for the weak!*” means that war or fight is aimed on Allah’s Cause and at liberation

<sup>390</sup> Read for instance QS. At-Taubah; 31

<sup>391</sup> For more detail, read : *al-Buchari* 56:46, p. 1371., *Muslim* Vol. I, p. 48-51., *Al-Musnad* Vol. IV, p. 214. Read also, *QS. Al-Isra’* 22 in which Allāh tells us that we have to serve our parents “*birr al-wāliḍayn*”.

<sup>392</sup> Ṣiddiqī, p. 821

<sup>393</sup> Al-Hilālī, *Op. Cit.* p. 121.

the weak. This denotes the heroism of mankind so that he fights in order to eliminate the pain or suffering of the weak, but we are fighting even on behalf of humanity to release the weak from their pain; It is a sign of strong faith if they are patient in that pain. Such people, according to ash-Sha'rawī, are the foremost to be released from the pain.<sup>394</sup>

And Allah gives it to us in a wonderful way: (*wa mālakum lā tuqātilūna fī sabīli l-lāhi wa al-mustad'afīn*) as if the logic of reason, affection and religion decide to fight, and if we do not fight, then this need to be investigated (asked). When our Lord interchange (question) like this case, He does it on the reason that each person will be so shameful in his dream if he becomes as an object surprising the others. It is like what He says in *sura al-Baqara*, verse 28, namely, "*kaifā takfurūna bi l-Lāhi*" means How can you disbelieve in our Lord, oh unbelievers (*kuffār*)? Indeed, this case is miracle and not logic.<sup>395</sup>

Sha'rawī is in opinion that Allah mentions word "*al-rijālu*" direct after the word "*al-mustad'afīna*" supposing that men are strong. This turns us to condition that makes a man weak, and who comes after that is much weaker. Chronologically, Allah says "The weak ,ill-treated and oppressed among men, women, and children, whose cry is: "Our Lord! Rescue us from this town whose people are oppressors; and raise for us from You one who will protect, and raise for us from You one who will help!".<sup>396</sup> Indeed Allah heard the prayers of people, who were persecuted by the unbelievers, to rescue them from the town whose people were oppressors, the town was Mecca.

This story tells us how were the believers (*mu'minīn*) in Mecca at that time in which the so-called *'asabiyya* (partisanship) did not enable them to move (to Medina) after the Prophet (pbuh) had already moved. They were forbidden to do so, protecting their faith and they became weak: men, women and children. They suffered from ill-natured persecution and no body had compassion even upon the children, therefore, Allah says to the believers: "What is wrong with you that you fight not in the Cause of Allāh, and for those who are weak, ill-treated and oppressed among men, women and children!"

And they (the unbelievers) when they were oppressed what did they say? They say: (*Our Lord! Rescue us from this town whose people are oppressors, and raise for us from You one who will protect!* ). This prayer indicates that they never go out but they will be protected by some people of them who believe that it will be raising a protector among Moslem who will protect them, as if they inspired us that the conquest of Mecca (fathu Mecca) will happen. And it

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<sup>394</sup> Ša'rawī p. 2417

<sup>395</sup> Ibid. p.2418

really happened. Surely, Allah made to them a best protector and helper, who derives among themselves, he is Muhammad (pbuh). He protected them with the very best protection and he helped them with the very best help.

Amongst group of the weak were Salamah ibn Hishām who was not able to evacuate, al-Walīd ibn Walīd, ‘Iyāsh ibn Abī Rabī‘ah, Abū Jandal ibn Sahīl ibn ‘Umar. Sayyidina Hamzah (May Allah bless him) said: Indeed I and my mother were part of the weak, women and children and they oppressed us so that we could not able to go out, such a people must be helped. And Muhammad and all Moslems (his companions) indeed helped them; since they were the protectors of them.

According to Şiddiqī:

This verse, according to Şiddiqī, contents the instruction of war to Moslems in order to protect those who are weak, women and children. This can also be understood from the *du’a* (prayer) they performed that denotes how they are under oppression of the Meccan unbelievers as follows “*rabbanā akhrijnā min hāzihi al-qaryati aḍ-ḍālimi ahlukā wa aj‘alnā min ladunka waliyyā wa aj‘alnā min ladunka naşīrā*”. Therefore, they asked Allah to release them from this condition (to take them away from Mecca city) and to send them a protector.<sup>397</sup> aṣ-Şiddiqī adds that it is an obligation to a Muslim to fight against the so-called friends of Satan without any doubt and fear.<sup>398</sup>

#### Verse 124 of Sūra An-Nisa’ :

“And whoever does righteous good deeds, male or female, and is a (true) believer [in the Oneness of Allāh (Muslim)], such will enter Paradise and not the least injustice, even to the size of a speck on the back of a date-stone, will be done to them” (Q.S. An-Nisa’ / 4 : 124).<sup>399</sup>

According to Sha’rawī:

As it can be seen, Allah mentions words *zakar and untsa* very clearly in this verse. So that no body knows the person who performs the action “*al-fi’lu*” that contains in His word “*ya’malu*” in which women are included. It is because women in many cases of jurisprudence are included in the jurisprudence of

<sup>397</sup> Şiddiqī, p. 868

<sup>398</sup> Ibid. 869

<sup>399</sup> Al-Hilālī, *Op. Cit.* p. 130

men. This, according to Sha'rawī, denotes that women are constructed on cover(ing).<sup>400</sup>

Moreover, Sha'rawī adds that or the things that need a define word “*naṣ*” to it, then Allah gives it, so that, He reveals this verse, namely “*wa man ya'mal min aṣ-ṣāliḥāti min zakarin aw unthā fa ulā'ika yadkhulūna al-jannata wa lā yudlamūna naqīrā*”.<sup>401</sup> Allah mentions the word “*min*” that denotes the grouping “*tab'īd*” ... or a part of totality, so that He says: “*wa man ya'mal min aṣ-ṣāliḥāti*” and not “*wa man ya'mal aṣ-ṣāliḥāti*”, because He knows his creature. There is nobody who performs all good deeds. There is one who strives to perform some of good deeds on his might.<sup>402</sup> And a Moslem is obliged to do his best in performing some of good deeds according to his ability.<sup>403</sup>

The good deeds meant in this verse is aimed at stressing that one will not ignore good deeds upon its goodness, as a result the goodness will remain on its goodness. This means that a mu'min will never perfume decomposition. And this, according to Sha'rawī, is the first degree. After that mankind competes each other in performing good deeds that are suitable to their leadership on earth and each deed that improves human leadership on earth is good deed. And who paves the way that enables mankind to take a rest is also good deed (*'amalun ṣāliḥun*), this also true to whom who help one in reaching his goal or who release one from life necessities.<sup>404</sup>

Whatever that help life movement is good deed. Indeed, mankind performs good deeds, like the intellectuals of the past era (nations) although they did not belief in The Single God. This hold also true to the atheism scientists who create good things for mankind, like paving the way and creating some tools that are useful for mankind...this kind of experts will obtain their reward from mankind who work for them but not from Allah, because they do not belief in Allah (unbelievers) . But who perform good deeds and he (she) is a believer, then his (her) reward is clear, namely: “*And whoever does righteous good deeds, male or female, and is a (true) believer (in the Oneness of Allāh (Muslim)), such will enter paradise and not the least injustice, even to the side*

<sup>400</sup> Sha'rawī, p. 2663

<sup>401</sup> Al-Qur'ān , Sūra IV, verse 124

<sup>402</sup> In relation to this context see also *sūra al-Baqara* verse no. 286 in which God, The Almighty said: “Allāh burdens not a person beyond his [her] scope. He [she] gets reward for that (good) which he/she has earned, and he/she is is punished for that (evil) which he has earned...” (Q.S. Al-Baqara / 2:286). (Al-Hilālī, *Op. Cit.* p. 66-7).

<sup>403</sup> Ibid.

<sup>404</sup> Ibid. p. 2664

of a *speck on the back of a date-stone, will be done to them*” (Qurʾān, IV: 124).<sup>405</sup>

Some people say that the absence of injustice will contain righteous good deeds or bad deeds and then we find one who says: whoever does evil deeds, he must be punished, and the fact that he obtains the punishment is not injustice, Allah says in Sūra Yūnus:, verse 27 “*jazāʾu as-sayyiatin bi-mislihi*” which means the recompense of an evil deed is the like thereof.

According to Şiddiqī:

This verse, according to Şiddiqī, explicitly emphasizes that there is no different between man and woman in the case of performing good deeds “*ʿamalun ṣālihun*”. Both of them (man and woman) who perform good deeds will be pleased to enter paradise without any discrimination and injustice punishment. On contrary, this holds also true to whom who performs bad deeds (*sayyia*) that he or she will be escorted to hell. Finally, Şiddiqī emphasizes that Allah is indeed the most fair upon His creatures.<sup>406</sup>

#### Verse 127 of Sūra An-Nisaʾ:

“They ask your legal instruction concerning women, say : Allāh instructs you about them, and about what is recited unto you in the Book concerning the orphan girls whom you give not the prescribed portions (as regards *mahr* [dowry] and inheritance) and yet whom you desire to marry, and (concerning) the children who are weak and oppressed, and that you stand firm for justice to orphans. And whatever good you do, Allāh is Ever All-Aware of it”.(Q.S. Sūra An-Nisaʾ / 4: 127).<sup>407</sup>

According to Shaʾrawī:

Shaʾrawī interprets “*wayastaftūnaka fī an-nisāʾi*” that Allah gives you the legal verdict in women affairs. Whereas the sentence “*qul Allahu yaftikum fī hinna wa mā yutla ʿalaykum fī al-kitāb*” according to him means that “Allah teach us that human being is not allowed to speed up asking for legal decision in things except if he asks to be shown things that he has no knowledge about it before that. This may be possible to him to have the answer to that he asks for”.<sup>408</sup>

<sup>405</sup> Al-Hilālī, *Op. Cit.*, p.130.

<sup>406</sup> Şiddiqī, p. 926

<sup>407</sup> Al-Hilālī, *Op. Cit.*, p. 131

<sup>408</sup> Shaʾrawī, p. 2676

Moreover, Sha'rawī argues that “asking for the solution of a judicial in women affairs is a phrase (clause/altogether), namely like; *shaghīratin wa kabīratin, yatīmātin wa ghaira yatīmātin*”<sup>409</sup> He, then, raises a question of why the answer to fatherless women “*yatāmā an-nisā*” emerges. The answer according to Sha'rawī is that the adult women possess the ability to solve their problems and they are not weak. Whereas the fatherless (orphan) girl is very weak. And we know that the meaning of word “*yatīm*” is that one who does not reach his maturity (full of age) and as soon as one reaches his maturity, then he is not a yatim anymore. This holds true for both man and woman. Therefore, came the special answer, namely, fatherless girl (*yatāmā an-nisā*). This is because fatherless girl is always under the protection of her guardian (*awliyā*). These guardians we call, nowadays, as *awṣiyā* (person who is given the testament).

Sha'rawī argues that there are two conditions of guardianship, first, if there is a beautiful girl and she has wealth, so the guardian has to marry her (to someone else) so that she can enjoy her beautifulness as well as manage her wealth. Second, if there is an ugly girl, so the guardian is not encouraged to marry her because it may make problem to her; or he prohibits her to marry because then, her husband will be the authority for her wealth. This matter needs a clear legislation. In this context, Sha'rawī quotes a story that happened between Caliph Umar and a man who asked him about the case of fatherless girl who is under his guardian. Umar replied to him. “If she is a beautiful girl, leave her! So that she may take benefit from you, but if she is ugly, then marry her and use her so that her wealth will benefit her ugliness.”<sup>410</sup>

Furthermore, Sha'rawī adds that “we find a missing letter (*ḥarfun maḥzūfun*) in the word “*targhabūna*” that could be “*like*” or “*dislike*” because it contains two meanings. If it is aimed at loving woman...it becomes “*targhabūna fī*” (to like). And if the woman is ugly the word will be “*targhabūna 'an*” (to dislike/ to hate). There is no one but Allah who is able to compose such a wonderful methods which collects between two opposite positions”.

Another important issues relating to the management of fatherless girls and their wealth is how to deal with them justly as Allah says “*wa antaqūmū li l-yatāmā bi l-qisṭ*”. Sha'rawī is in opinion that the word “*al-qisṭu*” means “*al-'adl*” (justice). But if we read it with “*fathu qāf*” namely “*al-qasṭu*”, then, it means injustice. And Allah says “*wa antaqūmū li al-yatāma bi al-qisṭi*” and then He gives legislation “*wa ātū al-yatāmā amwālahum*”. Sha'rawī adds that Allah speaks in this matter about dowry and wealth and then He promotes it with instruction (*al-amr*) to a comparative level between the matter of fatherless children and the matter of belief. According to Sha'rawī, the ugly

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<sup>409</sup> Ibid. 2676

<sup>410</sup> Ibid. 2677

parentless girl who has no property and no beautifulness, then, her guardian has to keep her as well as the right of Allah to her.<sup>411</sup>

The sentence “*wa antaqūmū li l-yatāmā bi l-qisī*” is an instruction of Allah to the believers to deal with the property or wealth of fatherless child justly, because the orphan girl could be with her guardian and family. And she could also have something of prettiness, and this hastens her guardian to come to her with his inclination and compassion to give her something more than that to his own children. Therefore, Allah warns us that in taking care the orphan girl, one hastens to do it justly and do not add (anything). Based on this aspect, Allah ends this verse with His sentences “*wa mā tafalū min khairin fā inna l-lāha kāna bihī ‘alīmā*”. This sentence shows us that the case of work and fulfill is not a pendant of reward, but the matter of intention is a pendant of result. Therefore, Sha‘rawi suggest not to say “*fā‘altu*” which means I did, but say “*fā‘altu biniyyatin kadhā*” means I did with the intention like this.<sup>412</sup>

According to Şiddiqī:

The background or cause of why this verse was revealed, according to Şiddiqī, is that at that time came some companions of the Prophet (pbuh) to him for asking fatwas upon many cases from him, for instance, how to deal with wives fairly and the law concerning fasting, etc.<sup>413</sup> In this verse Allāh mentions that He has already revealed (in the first part of this sūra) some verses dealing with this case, such as the law of *mu‘amala* (treatment; conduct) with orphan women in the matter of inheritance.<sup>414</sup>

Şiddiqī quotes also some bad habits from people who lived in the past (*jāhiliyya time*) whose behavior toward orphan, especially, orphan women is really bad. For instance, if the orphan women are beautiful and rich, they would marry them only because of their beauty and wealth. But if the are ugly, neither they marry them nor marry to other people in order to possess their wealth.<sup>415</sup>

It was also another discrimination in distributing the inheritance amongst *Jāhiliyya Arab*. They did not distribute the inheritance to children (and weak son or daughter). The inheritance will be distributed only to adult men who are

<sup>411</sup> Ibid. 2780

<sup>412</sup> Ibid. 2780

<sup>413</sup> Şiddiqī, p. 929

<sup>414</sup> Ibid. p. 930

<sup>415</sup> Ibid. p. 930

able to hold the swords. Moreover, Şiddiqī says that through this verse Allah draws their attention to the verses revealed at the first part of this sura.<sup>416</sup>

Şiddiqī interprets the sentence “*wa an taqūmū li al-yatāmā bi-al-qisṭi*” that Allah explains to you about the obligation dealing with the management all rights of the orphans, both women and men, in a just way. And one has to pay a serious attention to their affairs.

*Wa mā tafʿalū min khairin fa inna l-lāha kāna bihī ʿalīmā* meaning Allah knows all good deeds that you do for the orphans and therefore, He will present you His rewards for the things you have done in the day after. On contrary, He will punish you for the bad things you do to the orphans.<sup>417</sup>

#### Verse 128 of Sūra An-Nisa’ :

“And if a woman fears cruelty or desertion on her husband’s part, there is no sin on them both if they make terms of peace between themselves; and making peace is better. And human inner-selves are swayed by greed. But if you do good and keep away from evil, verily, Allāh is Ever Well-Acquainted with what you do”. (Q.S. An-Nisa’ / 4:128).<sup>418</sup>

According to Sha’rawī:

This verse contains, among other things, the condition of making peace between a wife and her husband if she fears cruelty or desertion on her husband’s part. According to Sha’rawī, the so-called “*nushūz*” or cruelty must be avoided before it happens which means that one has to solve first and foremost the cause of the problem before the case or problem comes into being, so that he may avoid the case. This is the same what may happen to a wife, that before she get somehow like *nushūz*, she is allowed or it is not a sin to her to make a contract which give her a protection from any cruelty or desertion of her husband.<sup>419</sup>

Sha’rawī adds that the principal of the relationship between a man and his wife is that he takes his wife in order to make her happy (secured) as well as to give her affection and mercy and to take care of her. Therefore, the jurists are of the opinion in the case of marriage there must be the so-called “*kafā’a*” or equality

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<sup>416</sup> For more information, Shiddiqī says, read al-Bukharī 65: 4; p. 1234

<sup>417</sup> Ibid. p. 930

<sup>418</sup> Al-Hilālī, *Op. Cit.* p. 131

<sup>419</sup> Sha’rawī, p. 2682

or at least the position of the couple must not be too different.<sup>420</sup> Based on this context, Allah issues the verse 26 of Sūra an-Nūr which means: *“Bad statements are for bad people (or bad women for bad men) and bad people for bad statements (or bad men for bad women). Good statements are for good people (or good women for good men) and good people for good statements (or good men for good women)...”*<sup>421</sup>

The so-called *kafā’a* holds also true in the matter of values (good and bad). Therefore, one is not allowed to marry a bad woman to a good man because she will not follow him and it is not allowed to marry a bad man to a good woman, as he would not follow her. A good man would marry a good woman, he would get confidence, and will get settlement or rest and will make him more powerful.<sup>422</sup>

Furthermore Sha‘rawī says that it is suggested to both husband and wife to hide any secret or bad things from both sides. Because there is secret (open space) between man and woman who are married. Therefore, they have to protect each other on behalf of Allah’s rule.<sup>423</sup> And Allah reveals this verse with the purpose to avoid or interdict this fight or disagreement between a man and his wife or vice-versa before the problem comes into being. The wife is obliged to detect the cause of cruelty and avoidance from her husband’s side.<sup>424</sup>

It is not suggested, Sha‘rawī adds, that a man thinks that there is a woman, who has every beautifulness and goodness, because a beautiful woman sometimes does not have all good habits that are required for life.<sup>425</sup> But both of them are encouraged to be patient in their relationship between one another. If they do so (patient), they will get the rewards from Allāh.<sup>426</sup> And if somebody finds something he dislikes on the part of a woman, then it is the obligation of man to complete all aspects of woman so that one can find a perfect picture of her. This holds also true to women (and vice- versa).<sup>427</sup>

Finally, Sha‘rawī states that Allah, The Almighty, as the creator of all creations commands the justice, as far as it is possible to be applied. And therefore, a man is obliged to be just or fair in the matter of time, expense, smile, geniality (sociability) and comfort. And all men are able to do so but they can not be just

<sup>420</sup> Ibid. p. 2683

<sup>421</sup> Muhammad Taqi-du-Din al-Hilali and Muhammad Muhsin Khan, Translation of the meaning of the Noble Qur’ān in the English Language, 1984, p. 470

<sup>422</sup> Sha‘rawi, p. 2683

<sup>423</sup> Ibid. p.2684

<sup>424</sup> Ibid. p.2684

<sup>425</sup> Ibid. p.2685

<sup>426</sup> Ibid. p. 2686

<sup>427</sup> Ibid. p. 2686

in the matter of heart's inclination, as it is a concealed (hidden) matter. Therefore, Allah reveals verse 129 of Sūra an-Nisa'.<sup>428</sup>

According to Şiddiqī:

“*Wa in imra'atun khāfat min ba'lihā nushūzan aw i'rādan*” this sentence, according to Şiddiqī, means if a woman thinks that her husband will do things that are unfair or rude to her or there is no more love between them. Then, she has the right to propose the so called “*şuluḥ or şulḥan*” as indicated in the next sentence “*fā lā junāḥa 'alayhimā an yuṣliḥū baynahumā şulḥan*”. *Şulḥun* here meaning peace, in which Şiddiqī gives an example that a girl is possible or has the right to release some of her duties and rights from her husband but she is still under the protection or “*ishma*” of her husband. Such a solution may be done if both of them agree to do so. Or she may also let herself free from the so-called “*nafaqah 'iddah*”<sup>429</sup> or dowry or even *mut'ah ṭalāq*.<sup>430</sup>

And Allah says that *şulḥu* or peace is better for them “*wa şulḥu khayr*”. According to Şiddiqī, the peace meant in this verse is that to live in peaceful is much more better than divorce, because it will broke the family and its relation (between two big families) as well. In this verse Allah says , add aṣ-Şiddiqī, that stingy or *bakhīl* is a habit of human being “*wa uḥḍirat al-anfus ash-shuḥḥ*” . Women, for instance, wish to possess all their rights not only in the matter of night account, basic need but also in the case of romantic life. Moreover, men are also stingy. Because men and women have a stingy habit (*bakhīl*), then both of them must treat this disease.<sup>431</sup>

If you improve your behavior and protect yourself from the so-called *nushūz*<sup>432</sup> and all causes that bring you into a rebellion with your couple, Allah knows best of what you do and He will surely reward for everything you have done. Şiddiqī also suggests to have patience with husband or wife from his or her bad habit in order to keep the family form a hurricane (divorce).<sup>433</sup>

### Verse 129 of Sūra An-Nisa':

<sup>428</sup> Ibid. p. 2689

<sup>429</sup> *'Iddah* means waiting time before a woman is permitted to remarry. So, *nafkah 'iddah* means money given by a husband to his exs wife in her waiting time.

<sup>430</sup> *Thalaq mut'ah* means paid thalaq. i.e. a wife pays her husband to divorce her. This kind of thalaq called in *fiqh* terminology also as *khulu'*.

<sup>431</sup> Ibid. P. 931

<sup>432</sup> *nusyuz* means to hate and rebel against husband or wife.

<sup>433</sup> Ibid. p. 932

“You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever Oft-Forgiving, Most Merciful”(Q.S. An-Nisa’ / 4:128).<sup>434</sup>

According to Sha’rawī :

In interpreting this verse Sha’rawī quotes a Hadith that narrated by Ahmad, Abu Daud and Turmizy that means: “*Oh Allah! This is my part to what I possess and (please) do not burden me with things you possess and I do not possess it*” which means heart. Based on the above-quoted Hadith, Sha’rawī is in opinion that it is different between the so-called *maylu al-qalbi* (heart’s inclination) which also means *mawājidu nafsīhi* (the intuition of heart) and *nuzu‘u al-nafsi* (the lust of heart). There is no one who is able to manage the intuition and there is no law-making which says to someone: “I love a woman”...except if I want the logic love but not affectionate love. And the religion commands to love a person by using logic (logically), but for the affectionate love there is no law-making anymore.<sup>435</sup>

Sha’rawī then raises a question : “*mā huwa kullu al-mayli*”? or what are all inclinations that is embedded in this verse? According to him that Allāh then explains with His word: “*fā-tazarūha ka al-mu‘allaqa*” so as to leave the other hanging (i.e. neither divorced nor married) this means according to Sha’rawī a woman who is a widow or has no husband and therefore, she has to get married. And if she is not married, she would be very happy by having a husband. And, normally, a husband protects her without fulfilling his responsibility to her. After that Allah illustrates: I do not ask you to incline your heart here or there because this affair is not yours, but I want the justice in another affairs, like the equality in the case of house, expense, children’s need and you have to be also justice in geniality. And I do not burden you in the case of heart inclination (*maylu al-qalbi*).<sup>436</sup>

And Allāh, if He says that he knows best of all things that He created, then He makes the affection to all of us (human being) on which the inclination grows. And then He creates (gives) intuition to us and the choice of passivity even though, He would like prevent the inclination to what he created, but Allah-

<sup>434</sup> Muhammad Taqi-du-Din al-Hilali and Muhammad Muhsin Khan, *Al-Qur’ān al-Karīm wa tarjamatuhu*, Translation of the meaning of the Noble Qur’ān in the English Language, *Op. Cit.* 1984, p. 131

<sup>435</sup> *Ibid.* p. 2689

<sup>436</sup> Sha’rawī, p. 2690

The almighty- sets the inclination free to reform the nature (structure) of society. And as the heart confers to love, Allah knows that the building of nature (universe) is built with love. For example, Sha'rawī makes the analogy that if a scholar does not love to discover God's secrets in His creation, then how can he burden himself in such a hard research and discovery, these all are based on hardship.

Another example is that if one does not love the perfection of his work, then you would never find a serious work and if one does not love his children, then he would not burden himself in facilitating the education to them. Therefore, love is important and Allah does not want us to forbid it but He wants us to upper (maximize) the responsible of love. And as a result we would make to the love a proper place and not to set love free for the sake of human purposes.<sup>437</sup>

Furthermore, Sha'rawī states that Allah wants to make love more respectful, and therefore, we have to put it on its proper position and do not make it, for instance, a spy to the privacy of a person. Thus Allah creates human being with the instinct or natural impulse of loving wealth. Because loving property may force one to work and one may take a benefit from his work of what he needs or what he does not. And the existence of religion, Sha'rawi adds, is aimed at keeping the instinct on its important position and at the same time, avoiding it from crazy freedom that deviates it from the system.<sup>438</sup>

Indeed Allah, as He creates the heart inclinations, He sets also rules of the game (qa'idah): O...the believers stay away from being infected of inclination from heart to heart and make the heart inclination the way you like. Thus, you marry a woman and then you marry another woman and the system does not request from you the total (perfect) justice that you don't have, namely, the inclination of your heart. But the system provides you a structure in which your heart behavior moves. And it is your obligation to be just in the matter of time, expense, clothes, cheerful expression and polite discourse (communication) and do not give way to the heart inclination after that you and your heart are free.<sup>439</sup>

Another important point in this verse is that Allah says: *“wa in taṣliḥū wa tattaqū fa-inna l-lāha ghafūran rahīmā”*, which means *“And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong,*

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<sup>437</sup> Ibid. p. 2690

<sup>438</sup> Ibid. p. 2691

<sup>439</sup> Sha'rawi, p. 2692

*then Allah is Ever Oft-Forgiving, Most Merciful*”<sup>440</sup> According to Sha‘rawī the word “*taṣlihu*” is an indication that there must be a corruption (immoral act) and therefore it is needed to detect the causes that make a husband commit a corruption in relation to marriage relationship (*‘alaqa zaujiyya*) that he makes to her. Apart from that, it is also obliged to a Moslem to recommence the new protection (*fear of God*) in the treatment (*mu‘āmalah*) according to Allah’s rules. And if a husband reforms his mistakes in his relation to the first wife then, he should give her the rights, namely, house, expense, the protection to her children and the acceptance to the children with such a good way and Allah is Ever Oft-Forgiving and Most Merciful.

According to Şiddiqī:

Şiddiqī translates the sentence “*wa lan tastaṭī‘ū an ta’dilū bayna an-nisā’i wa law haraṣtum fā lā tamīlū kulla l-mayli fā tadharūhā ka al-mu‘allaqati*”<sup>441</sup> just the way it is (worldly) which means “*You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married).*”

Şiddiqī says that it is suggested to a husband to be fair and just towards his wives. He has to avoid himself from any inclination that makes him unfair to his wives, as illustrated in this verse. Implicitly this verse forbids one to leave the other wife of him hanging, which means not divorced and has no husband.<sup>441</sup>

However, the inclination of heart that we hardly release ourselves from it is forgiven, as long as it does not minimize the right of another wife.<sup>442</sup> Şiddiqī is also of opinion that to improve one’s habit or behavior in his interaction with his wives (to be just and equal in all matters) is better. And Allah will surely forgive you for what you may not be able to be just.<sup>443</sup>

<sup>440</sup> Al-Qur’ān al-Karīm wa tarjamatuḥu, *Muḥammad Taqī-du-Din al-Hilālī and Muḥammad Muḥsin Khan*, Translation of the meaning of the Noble Qur’ān in the English Language, 1984, p. 131

<sup>441</sup> Şiddiqī, p. 932

<sup>442</sup> Read for instance Ahmad VI:144; *Abu Daud* 12:48 (hd.2134), *At-Turmuzi* 9:42; *An-Nasa’i* 36:2; *Ibn Majah* 9:47 (hd. 1971)

<sup>443</sup> For more information, adds Şiddiqī, read *Sūra Ar-Rum:21* in order to understand the basic of family life.

### Verse 130 of Sūra An-Nisā’:

“But if they separate (by divorce), Allah will provide abundance for everyone of them from His Bounty. And Allah is Ever all-Sufficient for His creature’s need, All-Wise”.<sup>444</sup>

According to Sha’rawī:

According to Sha’rawī this verse is aimed at denoting that Allah possesses all things (*wasī*), and He is able to provide means of living for both good husband and wife and to fulfill all their needs as well as to support the means of living for the second (another) wife of the husband with her all needs and He would accept her ugliness if she is ugly and He would make the eyes of her husband full of good things and beauty as he looks at her. And therefore, do not ever think that Allah has no power to comfort or to make you satisfy! Allah indeed possesses all things that may make all people comfortable or satisfy. And the message of this is that Allah does not like if you take both your wives in a Haas because they both may hate that situation and because both of them are searching for affection and mercy amongst themselves.<sup>445</sup>

According to Şiddiqī:

Şiddiqī says that if the quarrel is worst and no other solution to be found, then the so-called *thalaq* or divorce is allowed. Because it would be better for the advantage of both families. Allah is the most merciful to His creature and He would give them the way out (from this quarrel). Şiddiqī adds that both of them may obtain a sufficiency of Allah’s gift (*kurnia*). It is also possible that after divorce they would live in a better condition. We have to be aware, suggests Şiddiqī, that our heart depends so much on Allah’s will that may change as He will.<sup>446</sup>

### Verse 176 of Sūra An-Nisā’ :

They ask you for a legal verdict. Say: “Allah directs (thus) about *Al-Kalāla* (those who leaves neither descendants as heirs). If it is a man that dies leaving a sister, but no child, she shall have half the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters they shall have two-thirds of the inheritance; if they are brothers and sisters, the male will have twice the share of the female. (Thus) does Allah

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<sup>444</sup> Ibid. p. 131

<sup>445</sup> Sha’rawī, p. 2694-95

<sup>446</sup> Şiddiqī, p. 933.

make clear to you (His Law) lest you go astray. And Allah is the All-Know of everything”(Q.S. An-Nisā’ / 4 : 176).<sup>447</sup>

According to Sha’rawī:

Sha’rawī is of opinion that the word “*istiftā’u*” in this verse means asking for *fatāwa* (verdicts). i.e. asking for the law of Allah in religion in a matter that the man who ask the question has no knowledge about it. The companions of the Prophet were used to ask for fatwas from the messenger of God (peace be upon him), in which he said: “Keep what I left for you because the people before you was indeed perished due to their many questions and their violation (disobedience) toward their prophets. And therefore, do what ask you to do as far as you can and stay away from things that I forbid you to do.”<sup>448</sup>

Moreover, Sha’rawī adds that normally in the Qur’ān, verses that contain the word, *yas’alūnaka* which means they ask you. As if God, The Almighty, would like to teach us that the companions of the prophet wanted to stress that they loved Allah’s system (law) very much and , as a consequence, they would like to organize (build) all aspects of their life on Allah’s law, even though, they indeed hated Allah’s law on what they asked. They finally found that Islam indeed exist and they found also things from the period of ignorance (*jāhiliyya*) and then they acknowledged (settled) it. Apart from that they also found things with their changes.

The companion of the prophet would not like to do things that extends them to the habits of *jāhiliyya* (ignorance) but they would like to do so on ,only, because it is an obligation (a rule) in Islam, and therefore, they raised so many questions. And the fatwas here must be understood in the matter of law (*sharī’a* or religion). And the questions may contain rules and may not. They asked the verdict on the matter of *kalāla*, in this case the Qur’ān poses briefly the question as follows : “ *They ask you for a legal verdict. Say: “Allah directs (thus) about al-Kalāla (the people who die and leave neither descendants nor ascendants as heirs). The issue of kalalah was preceded by another verse, namely, verse 12 of sura an-Nisa’ : “wa in kana rajulun yūrathu kalālatan...”*” which means if the man or woman whose inheritance is in question has left neither ascendants nor descendants. But this verse is related to the matter of kinship on mother’s side, and the question of Jābir ibn ‘Abdallah is related to the kinship on father’s side. Jābir ibn ‘Abdallah (may God bless him) suffered and then he came to the Prophet while saying : ! I suffered from a disease and then the Prophet (peace be upon him) and Abū Bakr came to visit me. They found me loosing my consciousness (faint), and then the Prophet (p.b.u.h.) took the ablution (*wuḍu’*)

<sup>447</sup> *Muhammad Taqi-du-Din al-Hilali, Op. Cit. p. 140*

<sup>448</sup> *Hadith, narrated by Ahmad, Nasa’i, Muslim, Ibn Majah and Abu Huraira in Sha’rawi, p.2878*

and then he wiped his ablution water (*wuḍūʿ*) to me and then I woke up. Afterwards I asked him how should I do with my property? And how do I carry out my wealth? The Prophet gave no answer till the verse concerning inheritance is revealed.<sup>449</sup>

According to another resource from Imām Ahmad,<sup>450</sup> it is told that: He does not inherit me except *kalāla* and how about the inheritance? And then Allah reveals the verse of inheritance. Some of jurists said that the word *kalāla* is taken from sentence "*kalālu at-taʿbi*" which means exhaustion of toil. Because *kalāla* in the term of *sharīʿa* means someone who has neither descendants nor ascendants. And who has no relatives between two lives in which a descendant of him who may wail and when he is strong and weak then his life will make his descendant (son or daughter) wail. Therefore, who has neither father nor son he may live in an oppressed situation. He has no father who gave him the protection and no son who would take care of him in his oldness. Therefore, this kind of man called "*kalāla*".<sup>451</sup>

And some of them are also of opinion that the word "*kalāla*" derived from word "*al-iklīl*" or "*al-tāj*". This word means to encompass or to encircle the head from its surroundings i.e. the most close relation to people and there is no higher relation but fathers or children. *Allāh says. "If it is a man who dies leaving a sister, but no child, she shall have half of the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance..."* . That means that *kalālah* is a condition in which a man dies and he has a sister or a sister, a daughter of his father. She will inherit half of the inheritance and if she dies then, this brother, both her own brother or a brother based on father's relation, will inherit all of the inheritance. But if a *kalāla* (relatives) man dies and he leaves two sisters or more then they both will inherit two third (2/3) of the inheritance this brother. And if he leaves brother and sister then, his

<sup>449</sup> This Hadith is narrated by Bukhārī.

<sup>450</sup> Imām Ahmad meant here is Imām Ahmad bin Hanbal, whose complete name was Abū ʿAbdullah ibn Muḥammad ibn Hanbal ibn Ḥilāl ibn Asad ibn Idris ibn ʿAbdullah ibn Ḥassān al-Shaibānī al-Marwazī al-Baghdādī. He was born in Bagdad in Rabiʿ al-Awal 241 H/November 780 M. He was not only known as an outstanding fiqh (Islamic jurisprudence) *ʿulama* (Arabic. Plural form of *ʿālim* means scholar) but also as an important and prominent Hadith (Muslim tradition) *ʿulama*. His *magnum opus* "Musnad Aḥmad ibn Hanbal" is one of the best Hadith books in the field of Hadith, which contains thousand of Hadiths. Apart from that, his expertise in the field of Fiqh is extremely extraordinary and no one doubts it; he has more than sixty thousand (60.000) fatawā (verdicts) in this field. His home town, Bagdad, which was one of the most important Islamic central civilizations and knowledges in the history- has made enabled him to be a matured and famous scholar. He was known as a genius scholar who were able to combine between *al-wahy* (the revelation of God) and *al-ʿaql* (logic/ration). Most of his fiqh works, however, were compiled by his students. For detailed information read H.A.R. Gibb. *Op. Cit.*, p. 20-21. Read also Hasbi Aṣ-Ṣiddiqī, *Op. Cit.*, p. 265-87

<sup>451</sup> Shaʿrawī, p. 287-9

brother will inherit 2: 1 to that of his sister, which means that one brother, will have twice the share of his sister.<sup>452</sup>

Allah ends the verse with his sentence “*yubayyinu l-lāhu lakum an taḍillū wa l-lāhu bikulli shay’in ‘alīm*” means (thus) does Allah make clear to you (His Law) lest you go astray. And Allāh knows everything”.<sup>453</sup> According to Sha’rawī this sentence means that Allah would like to make clear His law to protect people from going astray. And Allah is, indeed, the most eternal in all kinds of habits and fears and He is eternally, the All-Knower of everything of what may be useful for all human.<sup>454</sup>

According to Şiddiqī:

This verse according to Şiddiqī is dealing with the so-called *kalāla* which means (according to him) a person who dies without leaving father and children. They leave only his/her brother or sister. Because they (brother and sister) have no standard share yet in the inheritance, like *Jābir ibn ‘Abdillah*, who left neither father nor children. He left only brother from father and mother sides, whose share in inheritance is not yet clearly divided. The share that is already clear and definitive as it is mentioned in the first part of this sura is that the share of one-mother brother (who derives from the same mother with the dead person). The first part of this verse states that a brother from mother side as such will obtain one sixth (1/6) if he is alone (single), like the share of his mother, and one to third (1/3) if he is more than one person.<sup>455</sup> If the dead person leaves no parents and children but leaves a sister, both a sister of the same father as well as of the same parents, then she will obtain half of the share.<sup>456</sup>

“*Wa huwa yarithuhū in lam yakun lahū waladun*”, Şiddiqī interprets this verse that he (a man) would obtain the share of his sister, if she has no sons and daughters. And it is, according to Hasby aş- Şiddiqī, the correct opinion. The share (*nashab*) of the brother is not explained here because the brother is the one who would obtain the rest (*‘aşaba*) which means he may obtain all the rest of the inheritance if there is no *aşhāb al-furūdh*<sup>457</sup> left. If there is any *aşhāb al-furūdh*, then he would obtain the rest. Moreover, if there are two sisters left, then both of them obtain two third (2/3) of the inheritance as Allāh says in this

<sup>452</sup> Ibid. p. 2880

<sup>453</sup> Al-Qur’ān al-Karīm wa tarjamatuḥu, *Muhammad Taqī-du-Din al-Hilali and Muhammad Muhsin Khan*, Translation of the meaning of the Noble Qur’ān in the English Language, 1984, p. 140

<sup>454</sup> Opcit. p. 2880

<sup>455</sup> Hasbi Aş-Şiddiqī, Op. Cit. p. 983

<sup>456</sup> Ibid. p. 983.

<sup>457</sup> *Aşhāb al-furūdh* means relatives who have the share of the inheritance.

verse “*fa in kānat ithnatayni fa lahumā ath-thulutsāni min mā taraka*”. If they are more than two persons, they would also obtain the same share (amount), namely, 2/3 of the inheritance, like the sisters of Jabir who were 9 persons or 7 persons based on other narration. All of them obtained 2/3 of the inheritance. And the rest would be inherited by the so-called ‘*ashāba*, if there is no *ashhāb al-furūdh* left, like the wife of the deceased, etc. If there is any *ashhāb al-furudh* members, then they have to take their share and the rest would be possessed by the ‘*ashaba*.<sup>458</sup>

If the heirs are men and women, then the male will have twice the share of the female, which means the men obtains 2/3.<sup>459</sup> It is the rule for the family member (relative) who are on the same level of relative line, except brother or sister from the same mother. He or she would then obtain 1/6 of the inheritance that should actually be obtained by their mother, because they replace their mother’s position.<sup>460</sup> “*yubayyinu l-lāhu lakum an taḍillū...*” means (thus) does Allāh make clear to you (His law) lest you go astray...! Allāh explains to you all matters of your religion, so that you know and you will not go astray in dividing the inheritance. “*Wa l-lāhu bi kulli shay’in ‘alīm*” meaning “And Allāh is the All-Knower of everything. Şiddiqī adds that Allāh will not arrange for you the law except to give advantages to you, therefore, holds it firmly, since it is the source of goodness and mercy.<sup>461</sup>

The background of the revelation of this verse, according to Şiddiqī, as narrated by Ahmad, Bukhārī and Muslim as well as *aṣḥāb as-Sunan* is that Jabir ibn Abdullah said that the messenger of God (pbuh) entered his room as he was sick, unconscious, so that the Prophet took ablution and then he poured his ablution water to me. After that Jābir became conscious and then he said to the Prophet : “No body would inherit my inheritance but my brothers”. And then he asked the Prophet of how he should distribute his inheritance. The came this verse down as the answer to Jabir’s question.

Moreover, Al-Khaṭṭabī said that concerning the inheritance of parents and children, Allah reveals two verses, the first one was in winter, namely, the first verse at the beginning of sūra an-Nisa’ that is very simple and unclear. The second one is the verse revealed in summer time and it is really clear. This verse is the last verse of Sūra an-Nisa’.<sup>462</sup> Şiddiqī adds that it is also said that this verse is the last verse revealed by Allah (which means not the verse no. 3

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<sup>458</sup> Ibid. p. 983

<sup>459</sup> Ibid. p. 983

<sup>460</sup> Ibid. p. 984

<sup>461</sup> Ibid. p. 984

<sup>462</sup> Ibid. p. 984

of sūra Al-Mā'idah).<sup>463</sup> Finally, Şiddiqī says that Allāh completes sūra An-Nisa' with this verse and, therefore, it is a harmony between the first and the last verse.

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<sup>463</sup> For more information, Şiddiqī suggests, read for instance; al-Buchārī 72: 21. Hadith no. 151-85, Vol VI, Hadith no. 2497, 85:8 Hadith no. 2498, 85: 5, Hadith no. 2496. Muslim 23: Hadith. No. 2, 3. Al-Buchārī 65:4 27 Hadith no. 1941. Muslim 23: Hadith no. 0-13.



## Chapter IV

### The Qur'ān, Women and Gender Equality: An Interpretation Based on the Opinion of Qur'ānic Commentators, Muslim Feminists and Thinkers

In this chapter will be discussed four important issues related to woman which appear in surā an-Nisā' and are viewed as controversial and discriminatory towards woman's rights, namely 1) the concept of women's creation, 2) the concept of leadership in the family, 3) the concept of inheritance in Islam, and 4) polygyny.

#### 4.1. The Concept of Human Creation

The concept of creation to be discussed in the first part of this chapter is one of the most fundamental issues regarding women's position in the Qur'ān. This is because the idea of gender equality is essentially based on the concept of creation. If, therefore, women, are regarded as less respectable creations "*makh'lūq*" than men, -. because e.g. they are thought to be a second-class creation, etc. it is difficult, if not to say impossible, to maintain a belief in gender equality. In Islamic tradition, there are Qur'ānic commentators who state that woman is created from man. This interpretation can not be separated from that of Islamic teachers or scholars ('Ulamas) who interpret religious texts which tend to display a bias in favor of men. This phenomena may easily occur, mainly because most of Qur'ānic commentators (*mufassir*) are men. I am not going to say that since most of them were and are men, they must support men's positions and leave women's position behind. This is only a probability and very likely to happen, not least, because men are often unable to understand women's lives properly, i.e. women's emotional and psychological standpoint.

Moreover, it is a fact that most men, 'ulama' – especially those who belong to traditional ways of thinking - believed that Eve, Adam's wife, was created from Adam's rib. Such an interpretation is, according to Riffat Ḥasan, very much influenced by the Old Testament. This idea may be found, for instance in the Book of Genesis in the Old Testament, namely, 1) Genesis 1:26-27, from 25 BC. the tradition of the clergy; 2) Genesis 2:7 from 10 BC. the tradition of the monk; 3) Genesis 2:18-24, from 10 BC. the tradition of monk; 4) Genesis 5:1-2, from 5 BC. the tradition of clergy.<sup>464</sup> These texts have inevitably given

<sup>464</sup>Fatima Mernissi and Riffat Hasan „*Setara di Hadapan Allāh, Relasi Laki-laki dan Perempuan dalam Tradisi Pasca Patriarkhi*“; trans- Team LSPPA (Yogyakarta: Media Gama Offset. 1995). p. 51

rise to the assumption that women are created from men, and are therefore to be regarded as less important than men.

Islamic tradition, i.e. the Qurʾān knows four different stories about the creation of mankind:

(a) Man's creation from clay (soil) as in the creation of Adam (pbuh). This concept is based on surā al-Fathīr (35) verse: 11<sup>465</sup>, surā Aṣ-Ṣaffāt (37) verse: 11<sup>466</sup> and surā al-Ḥijr (15) verse: 26<sup>467</sup>.

(b) The creation from Adam's rib. This concept is based on surā an-Nisa' (4) verse: 1<sup>468</sup>, surā al-A'Rāf (7) verse: 189<sup>469</sup> and surā Az-Zumar (39) verse: 6<sup>470</sup>

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<sup>465</sup> “And Allāh did create you (Adam) from dust, then from Nuthfah (male and female discharge semen drops i.e. Adam's offspring), then He made you pairs (male and female). And no female conceives or gives birth but with His Knowledge. And no aged man is granted a length of life nor is a part cut off from his life (or another man's life), but is in a Book (Al-Lauh al-Mahfūz). Surely, that is easy for Allāh. (QS. 35:11). This translation is based on The English Translation of The Meaning and Commentary of The Noble Qurʾān, written by Muḥammad Taqī-du-Dien al-Hilālī and Muhammad Muhsin Khan. King Fahd Complex for The Printing of The Holy Qurʾān, Madinah, K.S.A. 1983. p. 583.

<sup>466</sup> “Then ask them (i.e. these Polytheists, O Muhammad pbuh.) are they stronger as creation, or those (others like the heavens and the mountains) whom We have created? Verily, We created them of a sticky clay. Ibid. p. 597.

<sup>467</sup> “And indeed, We created man from dried (sounding) clay of altered mud. Ibid, p. 340.

<sup>468</sup> “O mankind! Be dutiful to your Lord, who created you from a single person (Adam), and from him (Adam) He created his wife [Hawwa (Eve)], and from them both He created many men and women; and fear Allāh through Whom you demand (your mutual rights), and (do not cut the relations of) the wombs (kinship). Surely, Allāh is Ever an All-Watcher over you”. Ibid. p. 106. This verse, however, does not explicitly declare that Eve was created from Adam's rib. This concept is based only on the different of opinions amongst the mufasssirs in interpreting the sentence “*min nafsin wahidatin*” and the pronoun (*dhamir*) “*minha*”.

<sup>469</sup> “It is He Who has created you from a single person (Adam), and (then) He has created from him his wife [Hawwa (Eve)], in order that he might enjoy the pleasure of living with her. When he (a polytheist from Adam's offspring – as stated by Ibn Kathir in his Tafsir) had sexual relations with her (the polytheist's wife), she became pregnant and she carried it about lightly. Then when it became heavy, they both invoked Allāh, their Lord (saying): “If You give us a ṣāliḥ (good in every aspect) child, we shall indeed be among the grateful”. Ibid. p. 229.

<sup>470</sup> “He created you (all) from a single person (Adam); then made from him his wife [Hawwa (Eve)]. And He has sent down for you of cattle eight pairs (of the sheep, two, male and female; of the goats, two, male and female; of the oxen, two, male and female; and of the camels, two, male and female). He creates you in the wombs of your mothers: creation after creation in three veils of darkness. Such is Allāh your Lord. His is the kingdom. Lā ilāha illā Huwa (none has the right to be worshipped but He). How then are you turned away?” Ibid. p. 618-619.

(c) Creation (i.e. birth) from a mother after the process of pregnancy, but without a father, as in the case of the creation of the Prophet Isa (pbuh). This concept is based on surā Maryam (19) verse: 19-24.<sup>471</sup>

(d) Creation through the normal biological process i.e. as the result of coitus – sexual relations- between man and woman (father and mother). This concept is based on surā al-Mu'minūn (23) verse 12-14.<sup>472</sup>

The Qur'ān gives no detailed information on Eve's creation. However, it does explain more in detail the creation of mankind in general. In the above-mentioned verses, especially, in surā an-Nisa' (4) verse: 1, it is implicitly mentioned that Eva was created from "*nafsin wahidatin*", one soul. Most Ulama, particularly traditional *mufasssīrīn* (plural form of *mufasssīr* means Qur'ānic commentator) tend to say that this word indicates that Eve was derived from Adam (Adam's rib). Other *mufasssīrīn*, who belong to the modern *mufasssīrīn*, are inclined to say that this verse does not mean that Eve was created from Adam or Adam's rib, but that she was created from the same material from which Adam was also created.

There are many verses regarding the creation of mankind. Nevertheless, this chapter concentrates only on elaborating verse number 4 of sūra an-Nisa', in which Allah, The Almighty says "O mankind! Be dutiful to your Lord, who created you from a single person (Adam), and from him (Adam) He created his wife (Eva), and from them both He created many men and women; and fear Allah through Whom you demand (your mutual rights); and (do not cut the relations of) the wombs (kinship). Surely, Allah is Ever an All-Watcher over you. (QS 4:1)<sup>473</sup>.

<sup>471</sup> "(The angel) said: "I am only a messenger from your Lord, (to announce) to you the gift of a righteous son" (19). She said: "How can I have a son, when no man has touched me, nor am I unchaste? (20). He said: "So (it will be), your Lord said: "That is easy for Me (Allāh): And (We wish) to appoint him as a sign to mankind and a mercy from Us (Allx0193h), and it is a matter (already) decreed, (by Allāh). (21). So she conceived him, and she withdrew with him to a far place (i.e. Bethlehem valley about 4-6 miles from Jerusalem). (22). And the pains of childbirth drove her to the trunk of a date-palm. She said: "Would that I had died before this, and had been forgotten and out of sight!. (23). Then Jibril (Gabriel) cried unto her from below her, saying: "Grieve not: your Lord has provided a water stream under you. (24). Ibid. p.403-4.

<sup>472</sup> "And indeed We created man (Adam) out of an extract of clay (water and earth) (12). Thereafter We made him (the offspring of Adam) as a Nutfah (mixed drops of male and female sexual discharge and lodged it) in a safe lodging (womb of the woman) (13). Then We made the Nutfah into a clot (a piece of thick coagulated blood), then We made the clot into a little lump of flesh, then We made out of that little lump of flesh bones, then We clothed the bones with flesh, and then We brought it forth as another creation. So blessed is Allāh, the Best of Creators (14). Ibid. p. 455-6.

<sup>473</sup> Muhammad Taqi-uddin al-Hilali and Muhammad Mukhsin Khan „Translation of The Meanings of The Noble Qur'ān in The English Language“. King Fahd Complex for The Printing of The Holy Qur'ān, Madinah, KSA. 1984, p. 106.

While this verse contains not only the concept of mankind's creation but also that of Eve's creation, the verse does not explicitly mention the name of Adam or Eva- they are just expressed in the sentence containing *nafsin wāḥidatin* and *zawjahā*. The question to be posed here is how did/do some ulamas or mufassirs come to the assumption that the word *nafsin wāḥidatin* meant Adam while *zawjaha* meant Eva? This assumption is more likely connected to another verses of Al-Qur'ān, for instance, sūra Al-Baqara (2) verse: 30 which contains the declaration of God to the angels (*malayka*) that He would create (Adam) as His caliph on earth<sup>474</sup>. Moreover, it may also be connected to sūra Al 'Imran (3) verse: 59 which provides us with the idea of the likeness of the creation of Jesus (ʿĪsā) and Adam before Allah.<sup>475</sup>

There also exists a Ḥadīth which explicitly states that Eve (woman) was created from *dila'in iwajin* (a bent rib) of Adam. Most mufassirs are even, therefore, convinced that the sentence *nafsin wāḥidatin* in this verse refers to Adam, while the word *zawjaha* refers to Eva (woman). And from both (Adam and Eve) He (Allah) creates many men and women, i.e. all mankind. It is, indeed, from this that comes the potential for controversial interpretation. It could be interpreted as having a male bias or a female bias, depending on who the interpreter is.

The controversy, however, is not about who was the first human being created by God, but the crucial and essential matter is that the word *wakhalaqa minhā zawjahā* tends to be interpreted by most mufassirs as an indication that Eve was created from Adam. Such an interpretation of this sentence seems to have legitimacy because it is repeated in sūra Al-A'rāf (7) verse: 189<sup>476</sup>. As a consequence, the question of whether Eve was created from the same material (clay: *Arabic*; *ṭīn*) as the material used in the creation of Adam or was she created from a part of Adam's body (Adam's rib, etc.), must be a potentially polemic one. It is undeniable that the core problem that gives rise to such complex and different interpretations amongst the 'ulamas and *mufassir* is the pronoun (*ḍamīr*) "*ha*" in reference to the word "*minhā*". This *ḍamīr* (pronoun)

<sup>474</sup>And (remember) when your Lord said to the Angels: "Verily, I am going to place (mankind) generations after generations on earth." They said: "Will You place therein those who will make mischief therein and shed blood, - while we glorify You with praises and thanks and sanctify You." He (Allāh) said: "I know that which you do not know." (QS. 2. 30). Ibid. p. 8.

<sup>475</sup>Verily, the likeness of Isa (Jesus) before Allāh is the likeness of Adam. He created him from dust, then (He) said to him: "Be!" - and he was. (QS. 3 : 59). Ibid. p. 77.

<sup>476</sup>It is He Who has created you from a single person (Adam), and (then) He has created from him his wife [Hawwa (Eve)], in order that he might enjoy the pleasure of living with her. When he (a polytheist from Adam's offspring - as stated by Ibn Kathir in his Tafsir) had sexual relations with her (the polytheist's wife), she became pregnant and she carried it about lightly. Then when it became heavy, they both invoked Allāh, their Lord (saying): "If You give us a Ṣāliḥ (good in every aspect) child, we shall indeed be among the grateful" (QS. 7: 189). Ibid. p.228-9.

on the one hand, may be interpreted as indicating that Eve was created from the same matter from which Adam was created and on the other hand, it may also be interpreted as indicating that Eve was created from Adam himself i.e. Adam's rib or from a part of Adam's body.

In attempting to solve this problem, Sha'rawī poses the question of why Allah, The Almighty, uses the sentence *khalaqakum min nafsin wāḥidatin* and not *khalaqakum min zawjayni*? According to Sha'rawī, this sentence represents only a single form. Nevertheless, it could also be interpreted that the man (Adam) was created first and then woman (Eve) second. Sha'rawī stated that the creation of Adam is an illustration of the first human being, while the creation of Eve will automatically follow the first creation (the creation of Adam). Even though the word "*khalaqa minhā*" may be translated to mean that Eve was created from the same source from which Adam was created, i.e. created from clay, and then followed by the process of shaping or forming, etc., the method of Adam's creation is not repeated with that of Eve. Therefore, Sha'rawī disagrees with those who think that this verse does not denote that Eve was created from Adam's rib or Adam's body, but rather from the same matter as Adam, namely from human material and not from clay. They, according to Sha'rawī, may be inspired by and should refer to another verse, namely *laqad jā'akum rasūlun min anfusikum...* (QS. 9 : 128).<sup>477</sup>

In my opinion, Sha'rawī does not dare to interpret the implicit content of this verse regarding the case of the creation of Eve. He is afraid of going astray and being mistaken. He therefore suggests that for everything that is not witnessed or is impossible for humans to understand, its "*ḥujja*" (evidence or truth) must be from the one who saw it, and who is Well-Knowing i.e. God, The Almighty. In this case, according to Sha'rawī, Allah would like to protect us from going astray from the interpretation of such a mysterious issue, namely, the question of how Eve was created.<sup>478</sup> Although the sentence "*khalaqa minhā*" could also be translated as meaning that Eve was created from the same source as Adam, i.e. created from clay and shaped into a complete form, etc., the way Adam was created was not repeated for the creation of Eve. This is clear by the word "*minhā*", which means Adam's rib. This word could not be found in the description of Adam's creation. This opinion is in agreement with that of Aṭ-Ṭabarī'. According to Aṭ-Ṭabarī', the meaning of *nafsin wāḥidatin* is Adam and the pronoun *minhā* in this verse refers to a part of Adam's body, while the word *zawjaha* meaning Adam's wife, (Eve), who was created from his rib.<sup>479</sup>

<sup>477</sup> Muhammad Mutawalī al-Sha'rawī, „Tafsir Al-Sha'rawī“, Vol. IV, p.p. 1985-1994.

<sup>478</sup> Ibid. p.1987

<sup>479</sup> For more information on Thabari's opinion concerning Adam's and Eve's creation, read his „*Jami' Al-Bayan fi Tafsir al-Qur'an*“, Beirut, Daar al-Fikr, 1978. Vol. I hal. 267.

Unlike Sha'rawī, Ḥasbi Aṣ-Ṣiddiqī is of the opinion that the phrase *nafsīn wahīdatīn* in this verse does not refer to Adam but it refers to the same species, i.e. the species of human being, and not an animal. To support his idea, he quotes Muhammad 'Abduh's opinion, which says that the text of this verse does not indicate that the meaning of the word *nafs* in this context is Adam.<sup>480</sup> Apart from quoting 'Abduh's opinion, he mentions also the opinion of Abu Muslim al-Aṣfahānī<sup>481</sup> in interpreting the pronoun *minhā* of this verse "*wa khalaqa minhā zaujahā...*" According to Abu Muslim, the pronoun *minhā* in this verse means "from the same species or source". Thus to assume that Eve was created from Adam's rib could not be related to this verse and therefore, it could not be accepted.<sup>482</sup>

Furthermore, aṣ-Ṣiddiqī quotes al-Qaffāl, who is of the opinion that the first verse of sūra an-Nisa' declares that Allah, The Almighty, created each of us from the same species and from this same species He created an equal mate. In the interpretation of the sentence "*nafsīn wāḥīdatīn*" Ṣiddiqī seems to be in agreement with Muhammad 'Abduh. According to him, the sentence "*nafsīn wahīdatīn*" in this verse means "(created) from the same species or material". It is interesting to note here that although Ṣiddiqī mentions many traditional 'ulamas and mufassirs and their opinions regarding the concept of creation of man and woman (Adam and Eve, etc.) - like At-Tabarī and others, who are of the opinion that the sentence *nafsīn wāḥīdatīn* in this verse refers to Adam - he was not much influenced by their opinions. Ṣiddiqī explicitly says that such an opinion could not be understood from the text of the verse and finally, Ṣiddiqī criticizes another opinion of some 'ulamas who stated that Eve was created from the left side of Adam's rib which was taken as he (Adam) felt asleep. This is, according to him, based on the book called *Sifrut Takwin*, chapter two as also found in Ḥadīth (prophetic traditions).<sup>483</sup>

Ṣiddiqī adds that some 'ulama said that Allah does not use the term „*nafs*” in this case as the origin of human beings. Therefore, it would be better for this not to be brought into the polemics. And even if the orientalist say that every species or tribe has a (founding) father, it still could be accepted because it is not contrary to the Qur'ān. This opinion, however, according to Ṣiddiqī, is contrary to *at-Taura*, where it is stated that Adam is the father of human beings. As 'Abduh sees it, Ṣiddiqī says this verse does not prove that the meaning of *nafsīn wāḥīdatīn* is Adam because it is contrary to the results of scientific research and history. And the sentence *wabaththa minhumā rijālan kathīran wa*

<sup>480</sup> Muhammad Ḥasbi Aṣ-Ṣiddiqī (1995) „*Tafsir An-Nūr*“, Vol. I, Second Edition, Jakarta, p. 752-3

<sup>481</sup> Unfortunately, the biography of this Abū Muslim is not identified (not found).

<sup>482</sup> Ibid. p. 753

<sup>483</sup> Ibid. p. 754

*nisā'an*, according to Ṣiddiqī, means that Allah spreads human beings from man and woman. Afterwards, He creates his/her mate from this kind of creation and finally, He creates more and more generations from this couple (a husband and a wife).<sup>484</sup>

Furthermore, it might be useful to include some opinions of Moslem feminists here. Most Muslim feminists are not in agreement with the opinions of most traditional Mufassirs such as at-Ṭabarī and ar-Razī, etc. who tend to place women at an inferior level of society. One who could be mentioned, for instance, is Riffat Hasan, who says that woman, i.e. Eve, was not created from a part of Adam's body. She, moreover, states that the emergence of the idea that Adam was God's first creature and Eve was created from his rib was derived from - or at least influenced by - the Bible, i.e. the Old Testament. To support her view, she quotes four references about the creation of woman in the Old Testament, namely, 1) Genesis 1:26-27, of 25 BC. the tradition of the clergy; 2) Genesis 2:7 of 10 BC. the tradition of the monk; 3) Genesis 2:18-24, 10 BC. the tradition of the monk; 4) Genesis 5:1-2, 5 BC. the tradition of the clergy. In the study of Genesis texts regarding the concept of human creation, it was also found that in Hebrew, the name "Adam" is derived from word *ādama*, which means soil. It was therefore understood that Eve was created from Adam because Adam, according to Hebrew terminology, means soil.<sup>485</sup> These texts of the Old Testament, according to Riffat Hasan have then inevitably been inserted into Ḥadīth,<sup>486</sup> texts that have been used in all manners and capacities as resources or references in the interpretation of the Qur'ān.<sup>487</sup>

Furthermore, Riffat Hasan argues that the word *nafs* in the first verse of *sūra an-Nisa'* does not refer to Adam because this word is grammatically neutral. It could refer to a masculine object (Adam) or equally well to a feminine object (Eve). This is also true of the word *zawj*, which literally means mate and is also a general or neutral word, which can refer to either feminine and masculine objects or persons. According to Riffat Hasan, the use of the word *zawj* to mean woman is only known amongst the Ḥijāz society, but not in other Arabic-speaking regions or countries; and that outside Ḥijāz, people use the word *zawja* to indicate a wife and *zawj* for a husband.<sup>488</sup>

<sup>484</sup>Ibid. 752-5

<sup>485</sup> For more information, read Fatima Mernissi and Riffat Hasan „*Setara di Hadapan Allāh, Relasi Laki-laki dan Perempuan dalam Tradisi Pasca Patriarkhi*“; trans- Team LSPPA (Yogyakarta: Media Gama Offset. 1995)

<sup>486</sup> *Ḥadīṭ* is singular form of *aḥādīṭ* meaning the sayings, deeds and approvals accurately narrated from the Prophet (pbuh).

<sup>487</sup> Fatima Mernissi and Riffat Hasan, „Setara...“ p. 52.

<sup>488</sup> Ibid. p. 48

Apart from Riffat Hasan, there is also another Muslim feminist who suggested a re-examination of the Islamic point of view regarding women, especially in the interpretation of women-related texts, such as the first verse of *sūra an-Nisa*<sup>489</sup>. She is Amina Wadud Muhsin<sup>489</sup>. According to her, it is important to analyze carefully the composition of language and texts word for word. For instance, she maintains that the Qur'*ān* does not declare that Allah created human beings from a man and also does not indicate that the origin of all mankind is from Adam. She adds that the word *nafs* is a feminine form (*muannath*). However, conceptually it may also contain a neutral meaning, which could be used for both male and female forms.<sup>490</sup>

Moreover, it cannot be claimed that Eve was the first human woman or that she was Adam's wife, as it is commonly understood. This, according to Muhsin, may be understood by analyzing the word *zawj*, which is a masculine form (*muzakkar*). Grammatically speaking, the female form is also neutral, and does not specifically indicate a male or female. However, the word *zawj* in the holy Qur'*ān* is generally used to denote mate, couple, pair, wife, groups, etc. Due to the limited information that al-Qur'*ān* provides concerning the creation of this *zawj*, most traditional Qur'*ānic* interpreters made use of the source provided by the Old Testament, which states that Eve was created from Adam's rib.<sup>491</sup>

It is regrettable that Muhsin does not explain further the technical aspect of the creation of Eve or her opinion on whether Eve was created from Adam's rib, in keeping with the opinion of some traditional Qur'*ānic* commentators, or whether she was separately created like Adam, in agreement with Riffat Hasan. Muhsin mentions only that the word *min* in Arabic could have at least two different meanings. Firstly, it could be used as a preposition, which means "from", as in "to extract things from other things". Secondly, it could be used to indicate the equality between two things or the same thing from the same material.<sup>492</sup> Therefore, she is of the opinion that if the first meaning of the word *min* is used to interpret the word *min* of the first verse of *sūra an-Nisa*<sup>2</sup>, the result would be that Eve was created from Adam, in agreement with the interpretations proposed by aṭ-Ṭabarī, ar-Razī, Zamakhsharī, etc. Otherwise, if the second meaning is accepted, the result would be that the creation of Eve does not differ that of Adam and that Eve was created from the same material from as Adam, on keeping with the opinion of contemporary interpreters, for instance, Muhammad 'Abduh, Rashīd Riḍā, Ḥasbi Aṣ-Ṣiddiqī, Riffat Hasan, etc.

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<sup>489</sup>The name of Aminah Wadud Muhsin will be then mentioned as Muhsin referring to her family name.

<sup>490</sup>Aminah Wadud Muhsin, „*Wanita dalam al-Qur'*ān**“, trans. Yaziar Radiani (bandung: Pustaka, 1994), p. 25.

<sup>491</sup> Ibid. p.26-27

<sup>492</sup> Ibid. p.24.

Muḥsin does not give any clear and definite judgment or opinion regarding the two opinions mentioned above. Nevertheless, it seems that she prefers the second alternative to the first one, although she does not explicitly declare so. Her preference can be clearly seen in her comment to Zamakhsharī, in which she says “Zamakhsharī adopted the Old Testament version to support his opinion that *zawj* is derived from *nafs*”.<sup>493</sup> From this it could be assumed that she does not like Zamakhsharī’s opinion (if we do not say that she objects to it). To Muḥsin, it is not important to discuss whether Eve was created from Adam or Adam’s rib or the way Eve was created. The most important thing to know is that Eve was created as Adam’s wife as explicitly stated by the Qur’ān. According to Muḥsin, it is logical that a pair is normally made from two integral and single forms of a single reality (material) along with all different characters and functions or even physical forms, and that both of these two different things work or function in harmony and should be a supplement to one another. Based on this assumption, she argues that each member of a couple logically needs the other part of the couple, and therefore, any relation of the members to each other must be built based on this foundation.<sup>494</sup> With this understanding, Muḥsin finally comes to the conclusion that the creation of Eve was not in addition to the plan of Adam’s creation but was an integral part of it which could not be separated one from one the other - and that, therefore, Adam and Eve are equal.<sup>495</sup> Both of them played an important and equal role in the concept of the whole cosmos.

#### 4. 2. The Concept of Leadership

Besides the concept of Eve’s creation, the issue of family leadership has been an endless discussion amongst the feminists. Therefore, this issue will be included in this chapter. Most feminists denounce the concept of family leadership, which has been well established and commonly practiced amongst Muslim communities, especially regarding the leadership of the husband in a family institution. The feminists do not agree with a concept in which the husband automatically obtains the rights of the family leader. This is, according to them, not because it is not in accordance with the spirit of feminism but also because it is in sharp contradiction to it, namely, to equality between men and women. They do not accept the idea that women are the vice president of the family or the assistant to their husbands. As a logical consequence to this principle, men and women must be given the same status in the family. In other words, there is no term or legitimization that automatically gives men the prerogative to act as the leader of a family.

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<sup>493</sup> Ibid. p. 24

<sup>494</sup> Ibid. p. 27

<sup>495</sup> Ibid. p. 28

The feminists see that a concept in which men automatically gain the right to be the leader of the family, as is commonly accepted and practiced in almost all societies, is no more than a form of inequality and arbitrariness against women's rights. This inequality, according to them, is often expressed in the form of beating, slapping and the like, which husbands used to inflict on their wives. Such crude and rude behavior seems to be theologically legitimized by religious teachings, including the Bible, the Qur'ān and other religious books or holy scriptures. The Qur'ān itself, according to Muslim feminists, has no intention and does not want to endorse such unfair behavior in society. Most of them think that the core problem is not the Qur'ān, but the ways adopted by most of the traditional interpreters in commenting on certain verses, which tend to be *male biased*. These verses, i.e. the polemics of the interpretation of these verses, are a serious and essential problem that should be solved first and foremost. This is very logical and cannot be denied, because most, if not all, interpreters of scripture are men who are, of course, more or less strongly motivated by a so-called sense of male solidarity, to sustain the patriarchal system that is very dominant in Islamic society.

The patriarchal system, which has been widely practiced in most Islamic countries and is accepted as an integral principle of Islamic society, has inevitably given rise to the assumption that it should be viewed as the best system and essential to Islam. The commonly used reference to legitimize the status of men as women's superior is verse 34 of sūra an-Nisa', which says "Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend (to support them) from their means. Therefore the righteous women are devoutly obedient (to Allah and to their husbands), and guard in the husband's absence what Allah orders them to guard (e.g. their chastity, their husband's property). As to those women on whose part you see ill-conduct, admonish them (first), (next), refuse to share their beds, (and last) beat them (lightly, if it is useful); but if they return to obedience, seek not against them means (of annoyance). Surely, Allah is Ever Most High, Most Great (Q.S. 4: 34)."<sup>496</sup>

Regarding the interpretation of this verse, "*Ar-rijālu qawwāmūna 'alā an-Nisā'i*", Sheikh Ash-Sha'rawī says that most interpreters do see this verse as only referring to the relationship between a husband and his wife. Most of them seem to view this verse as speaking about the absolute rights of men and women. Sha'rawī is also of the opinion that this verse is not limited to the issue of a husband and his wife. In this context, the father is also viewed as the

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<sup>496</sup>Al-Hilali, Muh. Taqiuddin and Muhammad Muhsin Khan, 1984 „*Translation of the meanings of the noble Qur'ān in English language*“. King Fahd Complex for The Printing of The Holy Qur'ān, Madinah, K.S.A. p. 113

manager and protector, especially of his daughters, and the brother is the leader for his sisters. Sha'rawī suggests that it is important to understand first and foremost what the sentence “*ar-rijālu qawwāmūna*” means. Does it give security to the woman and a central position or does it give her an inferior position?

According to Sha'rawī, Allah requests us to respect natural existence (proposition), because He is the one who created all things in the best and harmonic conditions. From his explanation to the meaning of the sentence *ar-Rijālu qawwāmūna 'alā an-Nisā'*, it could be seen that Sha'rawī tends to hold that the word *qawwām* in this verse means to protect or to secure. From this point of view, it is safe to say that Shech Sha'rawī would implicitly like to say that men deserve to hold the position of leader in the family only if they are able protect and give security to women in all aspects of life. Otherwise, men do not deserve to be leaders of women.<sup>497</sup>

Sha'rawī argues that the word *al-Qawwām* in this verse is the superlative form of *al-qiyām*. He further states that Allah uses this word in this verse to denote tiredness, which means difficulty. This implies that to lead is not a simple duty, but it must be done with seriousness and responsibility. Therefore, according to Sha'rawī, if one says “*fulānun yaqūmu 'alā qawmi*” this means that he or she never rests, or he or she works tirelessly. Moreover, Shech Sha'rawī raises some questions, among other things, as to why the word “*qawwāmūna 'alā an-nisā'*” is used in this context. Why does not woman do something herself to secure her advantage? questioning answer, Sha'rawī says that men are responsible for women, or it is their duty to sustain as well as to maintain or to improve their condition. Therefore, we find that Allah uses the words *al-rijāl* and *al-nisā'* generally, and He also uses a singular form of the word as can be found in His “*bimā faḍḍalallāhu baḍḍahum 'alā baḍḍin*”. This, according to Shech Sha'rawī, is the preferable form.

Surely, Sha'rawī adds, the preferred form (superlative) of the word *qawwām* in this verse is meant to explain that a man has to exert himself and to fight on earth as well as to make an effort in his daily life. Under these circumstances, it is to be expected that women are to be made secure under men's protection and therefore Sha'rawī is of the opinion that, based on this concept, women should accept men's leadership if they live under the protection and financial support of men.

Did Allah say “*fatashqiyā*” (unhappy) or *fatashqā* (distressed)? Allah, according to Sha'rawī, said “*fatashqā*”<sup>498</sup>. If there is any difficulty and

<sup>497</sup>Tafsir Sha'rawī, p. 2194

<sup>498</sup> See the end of sure Ṭāha, verse 117

contention (struggle) on the earth, so it (this verse) could be used as a message or a letter of recommendation (from God) for men to protect women. And this indicates that “*al-qawwamah*” causes fatigue, exertion and effort. These important matters belong to men. And we see that the condition of preferring men to women as Allah said “*ar-Rijālu qawwāmūna ‘alā an-Nisā’ bimā faḍḍalallāhu ba’dhuhum ‘alā ba’ḍin*” is afterwards directly followed by the word “*ba’ḍahum*”. On the one hand, this is because of the preferring of man for he is the “*qawwām*” and the preferring of woman on the other hand, namely, her existence at home when he takes rest with her and is under her care.<sup>499</sup>

The sentence “*wabimā anfaqū min amwālihim*”, according to Sha’rawī, means that owning (caring for) property may bring the result of movement and tiredness, and the one who is tired due to work is called “*qawwām*”. Furthermore, women should, therefore, be happy with this reality, because Allah, The Almighty, awarded the difficulty and tiredness to the gender that is specialized in dealing with this, i.e. men, but they do not have to do so. Moreover, Sha’rawī explains how a wife should behave if her husband is absent - “*haḍḍ al-ghayb*”. Amongst other things, he suggests that it is much better for women to stay at home if their husbands are absent. By staying at home, a wife may protect herself from the so-called “*fitna*”, as well as ensure the safety of her chastity and the other property of her husband.<sup>500</sup> Nevertheless, a wife is permitted to go outside her house, but only for important things or in an emergency. In this case Sha’rawī compares a woman with a rose. He says that if a man sees a rose in a garden, then the rose will attract his interest or affection. Sha’rawī says that women are like roses, and in approaching a rose, normally, there are three levels of responses to be found: firstly, you are going to get closer to it. This level is called “*idrāk*” (attainment). Secondly, if you admire it and you enjoy and love it, this means “*wijdān*” (admiration), but, finally, if you want to pick it, that means an act of struggle. Therefore, Allah instructs man and woman to lower their eyes.<sup>501</sup>

Shech Sha’rawī says that religion guides us in order to be able to understand things or cases that contain an everlasting dimension in an extended life. So, Sha’rawī adds, if you wish to be successful in this life, you have to pay attention to the framework of the variety of life and you must find the secret of it. This situation also holds true for a woman. She has the opportunity, insofar as she has enough time, to extend her role or function at home. For instance, if she has children, she is obliged to teach them and so on.<sup>502</sup> From the above-mentioned description, it is safe to say that Sha’rawī diplomatically totally

<sup>499</sup> Sha’rawī, p. 2194

<sup>500</sup> Sa’rawī, p. 2197

<sup>501</sup> Ibid. 2197-2198

<sup>502</sup> Ibid. p. 2198-2199

rejects the equality of rights between men and women with regard to family leadership. In his opinion, it seems that as long as men are able to fulfill the requirements of leadership, as the points he mentions above, then the right to lead or to be a leader must be offered to them. His opinion, however, is more progressive than that of aṭ-Ṭabarī. Aṭ-Ṭabarī states that the superiority of men to women is determined by their intellectual and physical strength, and therefore, aṭ-Ṭabarī comes to the conclusion that the prophetic duties must only be fulfilled by men not by women. Based on their intellectual and physical strength, al-Ṭabarī explicitly argues that the overall leadership in the sense of “*al-Imāma al-Kubrā*”, which means the leadership at president or caliphate level and the like as well as “*al-Imāma aṣ-Ṣuḡhrā*”, the leadership in smaller areas, like the position to lead (Imam for) prayer, to perform *Adhan*, *jihād*, *qiṣāṣ*, *ḥudūd*, *ṭalāq*, etc. are the prerogative rights of men.<sup>503</sup> Moreover, according to aṭ-Ṭabarī, the level of education and the ability to fulfill all duties instructed by Allah are, among other things, the reason of why men deserve to lead women.<sup>504</sup>

Analyzing aṭ-Ṭabarī’s opinion mentioned above, it could be said that aṭ-Ṭabarī is inclined to say that there are two simple reasons why men are the proper ones to be the leader of the family, namely, financial and physical power. As an example of the financial argument, men are obliged to pay a dowry for women and they are also responsible for financing the whole aspect of family life. Whereas the physical reason is that men are created stronger than women, at least, in the physical and mental aspects, as mentioned above. As a logical consequence of these superiorities, men are responsible for protecting and giving security to women and therefore, it is more appropriate for them to be the leader of the family. This opinion is, indeed, sharply criticized and could not be accepted by feminists, not only non-Muslim feminist but also Muslim feminists, such as Riffat Hasan, Fatima Mernissi, Amina Wadud Muhsin, and others. The essential point that brought al-Thabari to the afore-mentioned opinion is the interpretation of the pronoun *hum*, meaning *they* in the sentence “*bimā faḍḍalallāhu baḍahum ‘alā baḍin*”. According to aṭ-Ṭabarī, the pronoun *hum* in this sentence indicates men, whereas *baḍin*, according to him, is aimed at women. Therefore, the sentence “*bimā faḍḍalallāhu baḍahum ‘alā baḍin*”, according to him, means “because Allah has made one of them (men) to excel the other (women)”.<sup>505</sup>

Now let us see the opinion of Ṣiddiqī regarding women’s position in the family. According to Ṣiddiqī, the meaning of the sentence “*Ar-rijālu qawwāmūna ‘alā an-nisā’i bimā faḍḍalallāhu baḍuhum ‘alā baḍin wa bimā*

<sup>503</sup> Aṭ-Ṭabarī, „*Jami‘ al-Bayan fi Tafsir al-Qur‘ān*“, Beirut: Dār al-Fikr 1978. Vol. IV. p. 41.

<sup>504</sup> Ibid. p. 40

<sup>505</sup> Ibid. p. 40-41

*anfaqū min amwālihim*” is as follows; “The men are the managers of women. This is because Allah has made one of them to excel the other, and because they (men) spend for (finance) women with their properties.<sup>506</sup> This interpretation is more or less the same as the interpretation given by Sha‘rawī and aṭ-Ṭabarī. Ṣiddiqī adds that to protect women as well as to give security to them is part of men’s obligation. Based on this, Ṣiddiqī says, Allah obliges men to take part in war, an obligation that is not put on women. Apart from this obligation, men should also take the responsibility of spending some of their property to finance the basic necessities of life. The war is indeed a real fact of protection. Such a heavy responsibility that men take, according to Ṣiddiqī, has given them the prerogative not only to be the leader in the family but also to receive a larger portion of inheritance than women.<sup>507</sup>

Apart from this right to manage, guide and lead, men and women have the same rights and obligations. The high status that is given to men is to lead and to manage the family. Women however, could take the right to manage their household freely, surely as far as it does not break the rule of religion and it should be in agreement with the will of their husbands. Women keep the house, control it, and look after the children as well as do shopping in accordance with their husband’s financial ability. Under the protection of their husband, women are able to fulfill their duties, to become pregnant; to give birth and breast-feed.<sup>508</sup>

“*Fa ṣ-Ṣāliḥātu qānitātun ḥāfiẓātun li al-ghaybi bimā hafizallāhu*”, Also, the pious women are that they obey their husbands and keep all things that happen between husband and wife based on the command of Allah that He has already instructed to maintain it. He, moreover, adds that the criteria of virtuous women are those who obey their husbands and keep the secret of all cases that happen between them in a hidden manner and do not tell it to anybody else, even to the relatives. They have to do so due to the promise given by Allah, namely, they will obtain great reward for keeping the secret.<sup>509</sup>

According to Ṣiddiqī, this verse contains a great warning to women, who like telling things that happen between them and their husbands in that *khilwah* (loneliness). Apart from that, this verse teaches also the wives to maintain the property of their husbands. Having interpreted the following sentence “*wa l-lāṭī takhāfūna nushūzahunna fa ʿiẓūhunna wahjurūhunna fī al-maḍāji waḍribūhunna...*” meaning “...as to those women on whose part you see ill-

<sup>506</sup> Read for instance *Sūra al-Baqara*, verse 228.

<sup>507</sup> Muhammad Hasbi Aṣ-Ṣiddiqī (1995) „*Tafsīr An-Nūr*“; Op. Cit. p. 816.

<sup>508</sup> Read for instance Al-Turmuzi 10:10, *al-Mahasin* V:1218. 1222.

<sup>509</sup> Aṣ-Ṣiddiqī, p. 816

conduct, admonish them, refuse to share their beds and beat them (lightly, if it is useful)” Şiddiqī proposes the following steps, namely:

- a) Give them (women) good advice that causes the fear of God to rise in their spirit, so that they will be conscious that the mistakes (sins) they commit will take them into the punishment in the next life.
- b) Stay away from them, and do not sleep in one bed with them.
- c) Hit them, but not painfully. This may be done if it is necessary.

The third step however, according to Şiddiqī, is only done to those women, who cannot be treated in a soft manner and it is strongly forbidden to do it with harmful way, like hitting by using hard things such as wood and kicking and striking on the sensitive area, etc. Actually, a good and wise husband does not have to do the third step.

The following phrase “*fa in aṭa’ nākum fa lā tabghū ‘alaihinna sabīla*”, according to Şiddiqī indicates that if they (women/wives) obey you again, then, do not deceive them. If they obey you through one of the three warning steps, do not treat them badly or in a rude manner. First start with guiding and advice. Afterwards let them sleep alone. And finally, you may hit them only if the above-mentioned steps would not help you; then take your problem to arbitration. And if the situation gets better, do not seek its background.<sup>510</sup>

According to Şiddiqī, through this verse, Allah warns men, with His power and greatness, not to oppress their wives and not to deceive them. Allah will punish the husbands who use their abuse their authority (power). Men are only authorized to manage and to control women.<sup>511</sup> In other words, they are not allowed to use this authority to oppress women and to treat them any way they like. Furthermore, if the situation cannot be handled with these three steps and the dispute continues, so we have to take the solution given in the following, sūra an-Nisa’ verse number 35, in which Allah said: “If you fear a breach between them twain (the man and wife), appoint (two) arbitrators, one from his family and the other from hers; if they both wish for peace, Allah will cause their reconciliation. Indeed Allah is Ever All-Knower, Well-Acquainted with all Things (QS: 4:35).<sup>512</sup>

### 4. 3. The Principle of Inheritance

After the concept of creation, i.e. Eva’s creation, and the issue of family leadership, the principle of Islamic inheritance is also commonly discussed and criticized, not only by non-Muslim feminists and scholars but also by Muslims

<sup>510</sup> *Ibid.* p. 817

<sup>511</sup> See also Sūra Al-Baqara, 228.

<sup>512</sup> *Op. cit.* Al-Hilāli, Muh. Taqiuddin and Muhammad Muhsin Khan, 1984. p. 113.

feminists and scholars themselves. Many of them do not agree with the interpretation of the *fuqaha* (experts in Islamic jurisprudence) and Qur'ān commentators regarding some verses related to women's issues. According to them, most interpretations of the *fuqaha* and *mufasssirin* (Qur'ān commentators) are very discriminatory and disadvantageous to women. This is, according to them, influenced by gender biased tradition which had been practiced in society for a long time.

Among the Qur'ānic verses that they view as being interpreted in a discriminatory way by the *fuqaha* and *mufasssirin* are (a) verse no. 282 of *sūra al-Baqara*<sup>513</sup> regarding women's testimony in the court, (b) verse no. 3 of *sūra an-Nisa*<sup>514</sup> regarding the right of men to practice polygyny with up to four women (wives), (c) verse no. 11 of *sūra an-Nisa*<sup>515</sup> regarding the inheritance rights of women, in which women receive half of the portion of men in the distribution of inheritance; and (d) verse no 30-31 of *sūra an-Nur*<sup>516</sup> and verse no. 53-59 of *sūra al-Aḥzāb*, regarding women's *aurat*<sup>517</sup> and *hijab*<sup>518</sup>.

<sup>513</sup> "...And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witness, so that if one of them (two women) errs, the other can remind her. And the witnesses should not refuse when they are called (for evidence)...(QS. 2:282). Ibid. p. 65.

<sup>514</sup> *And if you fear that you shall not be able to deal justly with the orphan-girls then marry (other) women of your choice, two or three, or four; but if you fear that you shall not be able to deal justly (with them), then only one or (the slaves) that your right hands possess. That is nearer to prevent you from doing injustice.* (QS. 4:3). Ibid. p. 106

<sup>515</sup> "Allāh commands you as regards your children's (inheritance): to the male, a portion equal to that of two females; if (there are) only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by Allāh. And Allāh is Ever-All Knower, All-Wise. (QS. 4:11). Ibid. 108.

<sup>516</sup> "Tell the believing men to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts). That is purer for them. Verily, Allāh is All-Knower of what they do. (30). "And tell the believing women to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts) and not to show off their adornment except only that which is apparent (like both eyes for necessity to see the way, or outer palms of hands or one eye or dress like veil, gloves, head-cover, apron, etc.) and to draw their veil all over *juyūbbihinna* (i.e. their bodies, faces, necks and bosoms) and not to reveal their adornment except to their husbands, or their fathers, or their husband's fathers, or their sons, or their husband's son, or their brothers or their brother's sons, or their sister's sons, or their (Muslim) women (i.e. their sisters in Islam), or the (female) slaves whom their right hands possess, or old male servants who lack vigor, or small children who have no sense of feminine sex. And let them not stamp their feet so as to reveal what they hide of their adornment. And all of you beg Allāh to forgive you all, O believers, that you may be successful.(31) (QS. 24: 30-31). Ibid. p. 470-1.

<sup>517</sup> Part of the body which may not be visible or shown.

<sup>518</sup> *Hijab* here means *jilbab* (veil) meaning female headgear that exposes face but not ears, neck, or hair.

The inheritance rights of women in Islam is actually based upon, first of all, the Qurʾān and has been clearly explained by Hadith, Muslim tradition. In this context, the Qurʾān has given definite guidelines, as it can be found in verse no. 7 of sūra an-Nisaʾ, namely; “*There is a share for men and a share for women from what is left by parents and those nearest related, whether the property be small or large- a legal share...*” (Q.S. 4:7).<sup>519</sup>

This verse, according to aṣ-Ṣābūnī is a reaction and correction to the system of the distribution of inheritance that was practiced among the Arabs, especially in the time of ignorance or *jahiliyya*, in which women and children had no rights for obtaining their share of an inheritance left by their parents or nearest relatives. They reasoned and said “How could we give the heritage to whom has never ridden the horse and who has never held a weapon and who has never taken part in the battle?”<sup>520</sup>

The unjust practice towards women and children as depicted above was actually also continued even after they had embraced Islam. One day, the widow of Saʿd ibn al-Rabiʾ reported her problem to the Prophet Muhammad (ṣbuh). She complained about the decision of her husband’s relatives, who did not give the share to her two daughters from what their father, Saʿad ibn Rabiʾ, had left. All property left by Saʿad was taken by his brothers without sharing it with Saʿd’s two daughters, whereas Saʿd’s daughters were in need of this property for financing their weddings. These verses, i.e. verse no. 11 and 12 of sūra an-Nisaʾ<sup>521</sup> were revealed by Allah as a reaction as well as a solution to the problem faced by Saʿd’s widow.<sup>522</sup> In other word, this story is used as one of *asbāb al-nuzul* (reasons or backgrounds) of the revelation of these verses.

<sup>519</sup> *Op.Cit.* Al-Hilali, Muh. Taqiuddin and Muhammad Muhsin Khan, 1984, p.107.

<sup>520</sup> Muhammad Ali al-Shabuni „*Hukum Waris*“, trans. Abdul Hamid Zahwan (Solo: Pustaka Mantiq, 1994), p. 19.

<sup>521</sup> “Allāh commands you as regards your children’s (inheritance): to the male, a portion equal to that of two females; if (there are) only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by Allāh. And Allāh is Ever-All Knower, All-Wise.(11). “In that which your wives leaves, your share is a half if they no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debts. In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eight of that which you leave after payment of legacies that you may have bequeathed or debts. If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third, after the payment of legacies he (or she) my begueathed or debts, so that no loss is caused (to anyone). This is a Commandement from Allāh; and Allāh is Ever All-Knowing, Most-Forbearing (12). *Opcit.* Al-Hilali, Muh. Taqiuddin and Muhammad Muhsin Khan, 1984, p. 108.

<sup>522</sup> *Ibid.* p. 20

But the case of Sa'd's widow was not the only reason for the revelation of these two verses. There was another case that is viewed as the background or cause (*asbāb al-Nuzūl*) of the revelation of the verses no 11 and 12 of sūra an-Nisa'. *Ibn Jarīr* narrated that after *Hassan ibn Thabit* died, some of his nearest relatives (*ahl al-waris*) came to *Hassān*'s house in order to take the property that *Hassan* left, whereas *Hassān* left a wife named *Hakkah* and five daughters. Facing this unexpected situation, *Hakkah* came to the Prophet (pbuh) to let him know her fate as well as the fate of her five daughters. After that, Allah revealed the verses regarding the distribution of heritage<sup>523</sup>, namely, verse no. 11 and 12 of sūra an-Nisa', which may be quoted as follows:

“Allāh commands you as regards your children's (inheritance): to the male, a portion equal to that of two females; if (there are) only daughters, two or more, their share is two-thirds of the inheritance, if only one, her share is a half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children, are nearest to you in benefit; (these fixed shares) are ordained by Allāh. And Allāh is Ever All-Knower, All-Wise”.<sup>524</sup>

“In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debts. In that which you leave, their (your wives) share is a fourth if you leave no child, but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debts. If the man or woman whose inheritance is in question has left neither antecedents nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third, after payment of legacies he (or she) may have bequeathed or debts, so that no loss is caused (to anyone). This is a commandment from Allāh; and Allāh is Ever All-Knowing, Most-Forbearing”.<sup>525</sup>

It can clearly be seen in the aforementioned verses that Allāh has elaborately explained the distribution of inheritance. For instance, He explains, who the members of nearest family are (*ahl al-wāris*), both who has the right to obtain

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<sup>523</sup> Ibid. p. 20-21. See also the interpretation of these verses in *Tafsir al-Tabari*, vol. III, p.617.

<sup>524</sup> Muhammad Taqi-du-Din al-Hilali and Muhammad Muhsin Khan (1997) „*Translation of Meanings of The Noble Qur'ān*“: King Fahd Complex for the Printing of The Holy Qur'ān. Madinah, KSA. p. 108

<sup>525</sup> Ibid. p. 108

the static share (*bi al-fardh*) and who has the right to obtain the share only in the situation of *'aṣaba* (the rest of inheritance), the percentage of the share, and the situation in which one has the right to obtain or not to obtain the share of the inheritance due to the so-called *hijāb* or *mahjūb* (blocked by the other family member who has closer blood ties or family relations to the deceased).<sup>526</sup>

The core problem that seems to be mostly disputed amongst Muslim feminists is the concept of “...*li z-zakari mithlu haḍḍ al-unthayayn*“ meaning “...to the male, a portion equal to that of two females”. This verse tends to be criticized by the feminists, by posing the question of “is the price or right of a woman half the value or right of a man?” Some feminists are of the opinion that this verse is discriminatory towards women. However, others do not think that this verse is a discriminatory doctrine towards women’s rights. Among those are Amina Wadud Muhsin and Asghar Ali Engineer.

Muhsin is of the opinion that this verse is not aimed at discriminating against women’s rights. Nevertheless, she says it should not be applied directly without regarding other factors related to the distribution of the inheritance itself, for instance, the condition of the deceased and the family or relatives he or she has left. Muhsin suggests that before an inheritance is distributed, the following factors must be taken into account: a) The relatives who have a right to receive a share of the inheritance b) The combination of the share and c) The utility of the share. To support her opinion, she gives some examples, such as, if a family consists of a son, two daughters and a mother (widow), who lives under the nursing and financial support of one of her two daughters, Muhsin asks, why does the son obtain the double share of the daughter? Muhsin adds that the situation would be different if the utility of the inheritance were taken into consideration.<sup>527</sup> By adopting this method and taking all-utility and justice aspects into account, the distribution of the inheritance would be very flexible.<sup>528</sup>

Apart from Mukhsin, another Muslim feminist, Asghar Ali Engineer, is also of the opinion that this verse is not discriminatory towards women. He bases his opinion on the fact that besides obtaining the share of the heritage, a woman will also obtain additional wealth, for instance, from the dowry (*mahr*) given by her husband. Apart from that, a woman, Engineer adds, has no obligation to

<sup>526</sup> Ibid. p. 14

<sup>527</sup> Amina Wadud Muhsin, „*Qur’ān menurut Perempuan: Meluruskan Bias Gender dalam Tradisi Tafsir*“: PT. Serambi Ilmu Press, Jakarta, 2001. p. 155.

<sup>528</sup> Amina Wadud Muhsin, “*Wanita dalam al-Qur’ān*”, p. 118

finance herself and her children because this obligation is imposed upon her husband.<sup>529</sup>

There is no verse to be found in the Qur'ān, which gives a husband the right to possess his wife's property automatically without asking her permission. A husband, otherwise, must provide food and clothing and the like for his wife and children. A husband is obliged to carry all responsibilities in the family on his shoulders, especially regarding the financial needs of his family. This holds true even if he marries a rich woman. Even in this case, he has to take responsibility for her financial support, whereas in a marriage contract, a wife may also demand the so-called *mahr* (dowry), which is sometimes a large amount. Bearing in mind this consideration, it is possible that the share received by a woman is larger than that awarded to a man. Therefore, Engineer suggests that the distribution of an inheritance must be carried out with due consideration of all aspects, both with regard for the present and the future of the heirs. For the present, for instance, a woman may receive half of the portion that a man does, but in the future a woman may, eventually, obtain a larger share than a man.

It seems that Engineer is in agreement with the above verse and does not show any objection to it. What he sharply criticizes is the tendency of some Qur'ān commentators to use this verse as a reason to consider women inferior to men. This assumption, according to Engineer, is totally incorrect and unjust, because equality between men and women is a moral aspect, whereas heritage is a material aspect, that is, economic. Asghar adds that heritage depends as much on social and economic structures as on certain gender functions in a society.<sup>530</sup> Furthermore, it is a fact that women played a different role than men in the period in which the Qur'ān was revealed. Therefore, without considering this fact, it would be impossible to understand the Qur'ānic verses appropriately and correctly regarding the heritage, because dealing with such a case, namely heritage, the so-called sociological and economical, even utilitarian contexts must be taken into consideration.

The Qur'ānic verses, Engineer adds, should not be interpreted clumsily because they may be divided into two categories; 1) contextual and 2) normative. The normative pronouncements of the Qur'ān are eternal and while re-thinking issues in Islamic Shari'ah, particularly pertaining to women's rights, the normative pronouncements have precedence over the contextual. But during the early centuries, contextual categories often had precedence over normative and it was quite 'normal' then. And hence these formulations became widely acceptable in that society. These laws were thought to be normative then and

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<sup>529</sup> Asghar Ali Engineer. "women's rights". P. 99-100

<sup>530</sup> Ibid. 97

hence struck deeper roots in society as well as in the hearts and minds of the people as well and came to acquire the status of immutability with the passage of time.<sup>531</sup>

Apart from Amina Wadud Muhsin and Asghar Ali Engineer, Fatima Mernissi who is a contemporary Moroccan feminist writer is also of the opinion that there is no reason to blame Qur'anic verses or the Prophetic tradition (Hadith) for the discriminatory behavior towards woman in some Islamic societies, which is simply due to a conflict of interests with the male elite. Fatima writes: "...If women's rights are a problem for some modern Muslim men, it is neither because of the Koran nor the Prophet, nor Islamic tradition, but simply because those rights conflict with the interests of a male elite...Not only have the sacred texts always been manipulated, but the manipulation of them is a structural characteristic of the practice of power in Muslim societies..."<sup>532</sup>

These are the opinions of some Muslims feminists regarding the distribution of inheritance which is, among other things, based on the verse number 11 of sūra an-Nisa' (4<sup>th</sup> sūra of the holy Qur'an) in which it is stated that "...*li z-zakari mithlu haḍḍ al-unthayayn*" meaning a portion of a son is equal to that of two females". Before elaborating the opinion of Qur'anic Interpreters, namely Shech ash-Sha'rawī and Hasbi al-Ṣiddiqī on this verse, it is worthwhile studying the opinion of a controversial Muslim thinker, Shahrūr<sup>533</sup>, regarding the concept of inheritance in Islam. Shahrūr is of the opinion that the verses regarding the distribution of inheritance could not be viewed as discriminatory

<sup>531</sup> Asghar Ali Engineer. "Islam, Women and Gender Justice", in <http://www.andromeda.rutgers.edu/~rtavakol/engineer/1.htm>

<sup>532</sup> Fatima Mernissi. *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*, trans. by Mary Jo Lakeland (New York: Addison-Wesley, 1987), pp. ix, 8, 24.

<sup>533</sup> Shahrūr, whose complete name is Muhammad Shahrūr, was born in 1938. After finishing Senior High School in Damascus, he went to Moscow to study engineering and returned to Syria in 1964. In 1968 he went to Dublin to pursue his academic career at the University College of Dublin, Ireland. He obtained his Master's Degree (MSc.) and Ph.D from that University in the field of soil mechanics and foundation engineering. He has been a member of the teaching staff at the University of Damascus until the present. He wrote a large number of scholarly works, among others, 1) *al-Islām wa al-īmān*, 2) *Dirāsah Islāmiyya Mu'āshirah fī ad-Daula wa al-Mujtama'*, 3) *Al-Islām wa al-īmān: Manzūmah al-Qiyām*, and 4) *Mashru' Mithāq al-'Amal al-Islāmi*. All these four books were published by *Dār al-Ahli li al-Tibā'ah wa al-Nasyr wa al-Tawzi'* between the period of 1990-1999. Besides writing many books, he is also an active author for some magazines and journals. Apart from this, he often presents his ideas regarding the Qur'an and its relation to social and political matters, such as, human rights, women, pluralism, etc. both in national and international conferences, among other things, the MESA Conference in 1998 in Chicago. Shahrūr is a very controversial Muslim thinker. His courage in expressing ingenious and fresh ideas in Qur'anic studies in particular and Islamic discourses in general has always caused a commotion in the Arab world. His book, *al-Kitāb wa al-Qur'an* (1990), for instance, which contains many new ideas was one of the best selling books in the Middle East. Some people are proud of his work while some others blame him and regard him as an enemy of Islam, or even punish him as a Western and Zionist agent. For more information on Shahrūr, see for instance Peter Clark, "The Shahrūr Phenomenon: a Liberal Islamic Voice from Syria, *Islam and Christian-Muslim Relations*" (1996), p. 337.

or patriarchal biased verses which give advantage to the male gender. He states that the verses pertaining to inheritance, including verse number 11 of Sura al-Nisa, are merely the so-called *al-āyā al-ḥudūdiyyā*, meaning the verses which give certain limits to respective matters. According to Syahrūr, these verses set only a principal of limitation, namely maximum and minimum limits, in the matter of inheritance distribution.

Moreover, Shahrūr says that verse number 11 of sūra an-Nisa' confirms explicitly that the minimum limit of a woman's share is (33.3 %) of a man's share, while a man may only obtain the maximum portion of the inheritance, namely twice as much as a woman (66.66 %). Between these two limitations, the 'ulamas or Islamic scholars are challenged to do their best in deciding a *ijtihād* in accordance with the economic conditions, family responsibility and a woman's participation in family affairs.<sup>534</sup> It is possible, according to Shahrūr that in the process of Ijtihād, both man and woman can obtain a half portion (50 %) based on the consideration that both of them must bear the same economic responsibility in their families. It is clear, of course, that human *ijtihād* may not fall below the minimum limit or above the maximum limit mentioned above. In this connection, one may ask why the decision (regulation) for men is viewed as *al-ḥadd al-a'lā*,<sup>535</sup> whereas that for women is viewed as *al-hadd al-adnā*<sup>536</sup>? What is the principle of doing so? To answer these questions, Shahrūr adopts the so-called axiomatic logic that derives from al-Qur'ān, sūra ar-Rūm, verse number 30, saying:

"If we ask a million people who know the verses regarding inheritance and a million people who do not know the principal of the distribution of the inheritance in Islam: "what is your opinion about contesting the distribution of inheritance for both men and women- does it become closer or fairer? They will answer: "The difference is not too great". This is the so-called human *fiṭrah* (instinct) which the Qur'ān guarantees. It is not subject to change "*lā tabdīla li-khalqī l-Lāhī*".<sup>537</sup> The complete translation of this verse is as follows:

*"So set you (O Muhammad p.b.u.h.) Your face towards the religion (of pure Islamic Monotheism) Hanīf (worship none but Allāh Alone). Allah's fiṭrah (i.e. Allāh Islamic Monotheism) with which He has created mankind. No change let there be in Khalq-illāh (i.e. the religion of Allah – Islamic*

<sup>534</sup> Syahrur. "*Al-Kitāb wa al-Qur'ān*". (Syiria: Dār al-Ahli li at-Tibā'ah wa al-Nashr wa al-Tawzi', 1990). P. 458 and 602-603.

<sup>535</sup> Meaning, *maximum limit*.

<sup>536</sup> Meaning *mimumum limit*

<sup>537</sup> *Shahrūr "Al-Kitāb wal-Qur'ān"*, p. 459

*Monotheism*): that is the straight religion, but most of men know not. (QS. 30:30).<sup>538</sup>

Based on the afore-mentioned explanation, one may come to the conclusion that *Shahrūr* reinterprets this verse in order to give a greater opportunity or advantage to woman in the distribution of inheritance. It can be seen in his suggestion to regard the portion of each woman, which is mentioned in sūra an-Nisa' verse number 11, 12 and 176, as *al-hadd al-adnā*, and to regard the portion of each man as *al-hadd al-a'lā*.<sup>539</sup> From this point of view, *Shahrūr* seems to be more concerned with the struggle for woman's rights, which according to him have the priority over men's rights.

Furthermore, *Shahrūr* adds that since a woman's portion is *hadd al-adnā*, she may therefore obtain a larger portion than the share mentioned in the verses above. On the other hand, because the man's portion is *al-hadd al-a'lā*, he is not allowed to obtain a share or a portion that is greater than that mentioned in the Qur'ānic verses or, *Shahrūr* says, the man even may have to accept a smaller portion. *Shahrūr's* opinions undoubtedly bring a new aspect as well as fresh air to the question of gender equality, especially in the field of Islamic inheritance. Hence, it is not an exaggeration to say that *Shahrūr* should be viewed as an advocate of woman's rights. His other book, *al-Islām wa al-īmān*, elaborates gender equality even more constructively and sharply, particularly regarding the *mawāris* verses (the verses concerning inheritance), marriage, etc.<sup>540</sup>

According to Verse 12 of sūra an-Nisa', before analyzing verse no. 11 of sūra an-Nisa', it is important to raise the question why Allah said "*li az-zakari mithlu haḍ al-unthayayn...*" which means, "to the male, a portion equal to that of two females..." Sha'rawī is of the opinion that this proportion is meant by Allah to make a measure "*miqyās*" between the share of men and women in the case of inheritance. This proportion, according to him, is fair enough and equitable as well, because, he adds, a woman has no obligation to be financially responsible for her husband, while her husband (a man) has to take all responsibilities for both his wife and children. On the contrary, it is not the obligation of a wife to spend her wealth or property to finance her husband and children because this obligation belongs to her husband. She may make use of her wealth as she likes and her husband has no right to take it from her without

<sup>538</sup> Muhammad Taqi-du-Din al-Hilali and Muhammad Muhsin Khan (1997) „*Translation of Meanings of The Noble Qur'ān*“: King Fahd Complex for the Printing of The Holy Qur'ān. Madinah, KSA. p. 544.

<sup>539</sup> For more details about *Shahrūr's* elaboration of this matter, please see his book, *al-Kitāb wa al-Qur'ān*, p. 460-62

<sup>540</sup> For more information on *Shahrūr's* opinion about the matter of Islamic inheritance and gender equality, etc. see for instance, his book, *al-Kitāb wa al-Qur'ān* and *al-Islām wa al-īmān* (Syria: Dār al-Ahli li aṭ-Ṭibā'ah wa al-Nashr wa al-Tawzi', 1996)

her permission. Therefore, Sha'rawī says that Allah has given women a better portion or share than that of men in the case of inheritance. It is due to this fact, according to him, that Allah has chosen her share as the measure (*miqyās*) for distributing the inheritance

Furthermore, Sha'rawī says that Allah, indeed, loves women because they (women) are respectful “*irḍun*.” In other words, the honor of men depends on women, and therefore He will protect her. The share of woman in inheritance is meant to support her in case she is not married. Of course, if she marries, her husband will take all responsibilities for her and this is a mercy from God, the Almighty. Apart from that, Sha'rawī adds, what would happen if a wife dies and her husband would like to remarry? Sha'rawī says that her husband, of course, needs money for the payment of the new dowry as well as for supporting his family (financing his new wife, children, etc.). Such a situation would not happen to a woman. For instance, if a husband dies, she may take the inheritance from him and she is free to remarry but without spending any money, neither for a dowry nor for supporting her family, because all these obligations or duties will be taken over by her new husband. This, among other things, gives her the opportunity to keep or to save more money. Finally, Sha'rawī comes to the conclusion that the proportion of inheritance for men and women as Allah ordains must be accepted by human logic because Allah makes it especially for mankind and therefore it is in accordance with reason.

According to Şiddiqī, Allah, The Almighty, reveals this verse in order to reject the so-called *Jahiliyya* custom that ignored women's rights, especially in the case of inheritance. It is safe to say that this verse is aimed at giving women their rights of inheritance. Like Sha'rawī, Şiddiqī adds that the proportion of inheritance mentioned in verse no. 11 of Sūra an-Nisa' is very fair. It is fair, according to Şiddiqī, because in reality a woman (a wife) has no obligation to spend her money or her wealth for financing the family, i.e. her husband and children. Furthermore she need not spend anything for herself if she is married, because this obligation belongs to her husband. This condition enables her to save her money or whatever she possesses both from her dowry or from whatever she may earn or receive from other sources, such as from an inheritance.

Furthermore, Şiddiqī states that in this verse Allah does not mention the share of two daughters in the inheritance. Therefore, this case is still in dispute amongst the *Ulamas*. Ibn Abbas, for instance, is of the opinion that the share of two daughters is a half (1/2) (or a quarter each) of the whole inheritance, whereas *Jumhūr* (most 'Ulamas) are in agreement that two daughters should obtain two-thirds (2/3)(or one-third each). Some of *Mufasssīrīn* (Qur'ānic commentators) say that two daughters have already been included in the

general meaning of the verse, because a daughter who has a brother, will get one third (1/3), whereas her brother will take two thirds (2/3), because a man obtains double. Therefore, two daughters obtain two-thirds (2/3).

From the above-mentioned opinions Şiddiqī comes to the conclusion that the daughters may never receive the entire inheritance, while a son, if he is an only son, may do so. If he has one or more brothers, they have to share the inheritance equally. Another relevant issue in this verse is the distribution of inheritance to the father and mother of the deceased. According to Şiddiqī, both father and mother obtain one-sixth each (1/6), if their son or daughter, who has died, has children, and the rest must be distributed amongst the children of the deceased. However, if the deceased has no children and no grandchildren either, and he leaves only a father and mother, then his mother obtains one-third (1/3), while the rest will go to his father. This division, according to Şiddiqī, is meant to symbolize that mother and father must be respected without any discrimination and also to determine that the share of mother and father in inheritance is less than that of the decedent's children.

Last but not least, Şiddiqī added that although the payment of debt in this verse is mentioned after the legacies (*waṣīyya*), it does not mean that the payment of the so-called *waṣīyyat* is more important than that of debt. Şiddiqī quotes a Hadith of Rasullāh (Prophet Muḥammad p.b.u.h.) in which he said that a debt must be paid first and foremost. The simultaneous mention of debt and *waṣīyya* in this verse made it safe to conclude that these two things must be paid first before the process of inheritance distribution is done.

#### 4. 4. Polygyny

Apart from the case of the creation of Eve, the leadership rights of women and their rights of inheritance, polygyny issues are also commonly and widely disputed amongst Muslim feminists. Polygyny, i.e. polygyny, could be classified as a matter of family law. It is safe to state that one of the major reforms of Islamic law in this century, which first was introduced in Turkey in 1917<sup>541</sup>, was in the area of polygyny. As a result of this reform, most Muslim countries restricted the practice of polygyny, with some even prohibiting it.<sup>542</sup>

<sup>541</sup> Noel Coulson and Doreen Hinchliffe, "Women and Law Reform in Contemporary Islam", in Lois Beck and Nikki Keddie, *Women in the Muslim World* (Cambridge, Massachusetts: Harvard University Press, 1978), p. 49.

<sup>542</sup> For more information on these issues, see for instance Tahir Mahmood, *Family Law Reform in the Muslim World* (New Delhi: n.p., 1972); Tahir Mahmood, *Personal Law in Islamic Countries* (New Delhi, Time Press, 1987). Both books show the reform of Islamic Family Law in Muslim Countries. A majority of Muslim countries allow polygyny with the permission of the Islamic Court. Some require the consent of a wife, while others permit polygyny while retaining the right of a wife to be divorced. For instance, Albania, the countries of ex-Soviet Central Asia, Turkey and Tunisia prohibited polygyny. See for instance, Tahir Mahmood, *Statutes of Personal*

The restriction and prohibition of polygyny was based on the assumption that the practice is not related to local social structures (matrilinal and patrilineal), particularly in the case of South East Asia.<sup>543</sup>

Although polygyny<sup>544</sup> is allowed in Islam - as an emergency solution for certain family problem - most Muslims, particularly Muslim feminists can hardly accept the concept of polygyny, which gives men the right to marry more than one wife. Most of them are of the opinion that polygyny is one of the patriarchal practices discriminating against women, and at the same time, it reflects the fact that the equality between men and women has not yet been widely and totally actualized in society. Polygyny, according to them, is a product of and an inheritance from the slavery age, i.e. the slavery of women, and that it can therefore no longer be tolerated. Muslim feminists think that polygyny may enable prominent people, such as presidents, kings, princes, and the rich to marry more than one woman and treat them any way they like. Such men often regard and treat women like sex machines whose purpose is to satisfy their sexual or biological needs. It is not surprising then, if men with this viewpoint tend to ignore women's rights and needs.

It is interesting to quote here a verse of the Qur'an regarding polygyny, in which Allah, The Almighty, said: "*And if you fear that you shall not be able to deal justly with the orphan-girls then marry (other) women of your choice, two or three, or four; but if you fear that you shall not be able to deal justly (with them), then only one or (the slaves) that your right hand possess. That is nearer to prevent you from doing injustice.* (QS. 4:3)<sup>545</sup>

Most Muslims view this verse as a divine legitimacy for practicing polygyny, sometimes without considering the background and context in which this verse was/is revealed. From the beginning of the verse, one may clearly understand that it is not aimed at merely legitimating the so-called polygyny, but it explains the way to deal with orphan girls. And the spirit of this verse is actually to treat women in general, and orphan girls in particular, justly. Therefore, it might be useful to look at the background (*asbāb an-nuzūl*) of the revelation of this verse.

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Law in Islamic Countries: History, Texts and Analysis, Revised Edition. (Delhi: ALR, 1995), p. 173-174; Elizabeth H. White, "Legal Reform as an Indicator of Women's Status in Muslim Nations", in Lois Beck and Keddie, Women and Law Reform, p. 60.

<sup>543</sup> Khoiruddin Nasution, The Phenomenon of Polygyny in Contemporary Malaysia, Al-Jami'ah (Journal of Islamic Studies), Vol. 39 Number 1 January-June 2001, p.38.

<sup>544</sup> The Qur'anic verse regarding polygyny could be found in Sūra an-Nisa', verse no. 3. Or see the translation of it on the next page (p. 144).

<sup>545</sup> Opcit. Al-Hilali, Muh. Taqiuddin and Muḥammad Muḥsin Khan, 1984, p. 106.

‘Aysha bint Abubakr, i.e. Prophet’s wife (pbuh), narrated the background of the revelation of this verse. She said that this verse was revealed by God as a solution or answer to the question posed by ‘Urwah Ibn Zubair, a son of ‘aysha’s sister (Asma). ‘Aysha narrated that one day ‘Urwah asked her about the origin of the permission for polygyny<sup>546</sup>, i.e. the possibility for men to marry up to four wives. ‘Aisha replied that this verse was originally revealed to deal with the matter of the orphan girl who was under the supervision of her guardian, and the wealth of this orphan girl was already mixed with that of her guardian. Her guardian, i.e. *wālī*, was interested in the wealth the orphan girl possessed as well as in her beauty and therefore, he wanted to marry her without paying a proper dowry to her. In other words, he wanted to possess her wealth in an unjust way. In response to his unjust intentions, Allah revealed this verse in order to forbid him to marry the orphan girl under his guardianship under these circumstances. He could, however, marry her if he paid a suitable dowry, as he should for other women. It would be better for him, according to this verse, to marry two, three or four other women than to marry the orphan-girl deceitfully.<sup>547</sup>

Based on ‘aysha’s narration mentioned above, it could be understood how there is a relation between the instructions for protecting the orphan girl and the permission to marry up to four women (polygyny). But in view of the aforementioned explanation, one can not understand this verse ( i.e. the verse no. 3 of sūra an-Nisa’ ) as dealing only with the permission to practice polygyny without connecting it with verse no. 2 of sūra An-Nisa’, because verse no. 3 is the continuation of the verse no. 2., in which Allah warns human beings, i.e. us, not to be unjust towards orphans, because injustice towards them is a kind of great sin. Moreover, Islamic law obliges the guardian to return the wealth of orphans under his care when they become adults.

Furthermore, ‘Aysha added that not long after the revelation of this verse sūra an-Nisa’ no. 3, someone came to the Prophet asking his decision regarding women (orphans girls, etc.). Therefore, according to ‘Aysha, Allah revealed verse no. 127 of sūra An-Nisa’<sup>548</sup>, in which Allah says: “They asked your legal instruction concerning women, say: Allah instructs you about them, and about what is recited unto you in the Book<sup>549</sup> concerning the orphan girls whom you

<sup>546</sup> Polygamy is a system of marriage whereby one person has more than one spouse. Polygamy can be of two types. One is polygyny, where a man marries more than one woman, and the other is polyandry, where a woman marries more than one man. In Islam, limited polygyny is permitted; whereas polyandry is completely prohibited. For more information on polygamy in Islam read, for instance; Zakir Abdul-Karim Naik “20 Most Common Questions about Islam”. SABA Islamic Media, SDN BHD. Kuala Lumpur, Malaysia, 2002.

<sup>547</sup> Tafsir Aṭ-Ṭabarī, Vol. III. p. 574.

<sup>548</sup> For more information please see, for instance, Tafsir al-Razī. Vol. IX.p. 177-178.

<sup>549</sup> According to ‘Aishah, as quoted by al-Razi, *wa mā yutlā alaikum fī al-kitābi*, meaning “and about what is recited unto you in the Book” meant in this verse is the third verse of sūra an-

give not the prescribed portions (as regards *mahr* and inheritance) and yet whom you desire to marry, and (concerning) the children who are weak and oppressed, and that you stand firm for justice to orphans. And whatever good you do, Allah is Ever All-Aware of it. (QS. 4:127)<sup>550</sup>.

According to Engineer, this verse stresses indeed just practices towards the orphan girls, but not the practice of polygyny. For Engineer, the context of this verse was actually dealing with the mismanagement of orphans' wealth that was under the supervision of their guardians. At that time guardians often used to treat them in an unjust way, such as marrying them without paying a proper dowry, using their wealth as they liked, etc. This verse was therefore meant to condemn such bad behavior. Engineer adds, by understanding the narration of 'Aysha it could be concluded that if the guardian (*walī*) was afraid of being unable to treat the orphan justly if he married her, then it would be better for him to marry any other women he liked. Therefore, Engineer suggests, this verse must be understood in its context, but not as permission to practice polygyny, which is a common interpretation of the verse.<sup>551</sup>

Understood in this way, Engineer says, the most essential meaning of this verse is to behave justly with regard to the (rights of) orphans (both girls and boys) as well as with all women, especially with the women who are going to be married. One has to take into consideration, according to Engineer, that justice must be viewed as an important requirement for men if they would like to perform polygyny. And therefore, to behave justly with women whom they are going to marry, justice should be one of the essential factors that must be taken into their consideration. As a logical consequence, if they are not able to give justice to women they are going to marry, then marrying only one woman is much better for them. Although, the main concept of the verse no. 3 of sūra An-Nisa' is justice, not polygyny, some people do interpret it as a prerogative or exclusive right given to men as practiced in patriarchal societies.<sup>552</sup>

In addition, Engineer suggest that this verse must be understood in the context of its background i.e. *asbāb an-nuzūl*. This verse, Engineer maintains, was revealed after the *Uḥud* battle in which 70 out of 700 Muslim men were killed. On the one hand, this automatically reduced the number of Muslim men and produced more widows and orphans on the other. In this context, according to Engineer, to marry justly one to four widows or orphans of the martyrs might

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Nisa' i.e. "And if you fear that you shall not be able to deal justly with the orphan girls then marry (other) women of your choice...". Tafsir Ar-Razī, p. 178

<sup>550</sup> *Op.cit.* Al-Hilālī, *et.al.* p. 131.

<sup>551</sup> Asghar Ali Engineer, *Hak-hak Perempuan*, p. 142.

<sup>552</sup> *Ibid.*

have been the best solution.<sup>553</sup> Nevertheless, it should be taken into consideration that this verse is then followed by another verse, i.e. verse no 129 of sūra an-Nisa', in which Allah, The Almighty, says: “*You will never be able to do justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever Oft-Forgiving, Most Merciful.* (QS. 4:129)<sup>554</sup>. This verse states, therefore, that it is not possible to do justice between wives even if it is one’s ardent desire...And therefore, Engineer comes to the conclusion that this verse indicates that Al-Qur’ān does not propose or instruct polygyny. Polygyny, however, is allowed only in special cases or situations and it could only be tolerated as far as the requirements of justice that are mentioned above are fulfilled.

As an additional remark to Engineer’s opinion, it would also be useful to know another opinion regarding polygyny, for example, that of Shahrūr. Shahrūr views verse no. 3 of Sūra al-Nisa', as a *ḥudūdiyyah* verse, which means that the verse contains limits of defining regulations, both quantitative (*ḥudūd al-kam*) and qualitative (*ḥudūd al-kayf*). Therefore, this verse only gives signals about the principals of defining the regulations of polygyny, and he explained it with the word *al-ḥadd al-adnā* (the lowest/minimal limit) and *al-ḥadd al-a'lā* (the highest/maximum limit), viewing it both quantitatively and qualitatively. Both quantitative and qualitative limits must be taken into consideration in the practicing of polygyny.

From the quantitative side, the verse defines *al-ḥadd al-adnā*, which means that a man (a husband) is instructed to marry only one woman (one wife), while in *al-ḥadd al-a'lā* a man is allowed to marry up to four wives. The problem in this case, according to Shahrūr, is that most of the Qur’ān commentators - who both agree and reject the polygyny – fail to give their interpretations according to these quantitative limits. For instance, those who agree with polygyny would assume that this verse permits polygyny without considering the so-called *ḥudūd al-kayf* or qualitative limits of polygamous practice.<sup>555</sup>

Such an approach seems to give rise to the assumption that polygyny is a form of men’s hegemony over women, while those who object to or denounce polygyny prefer to concentrate on the so-called *ḥudūd al-kam*, the quantitative limits. In doing so they pay attention only to the sentence “*wa in khiftum allā ta’dilū fa wāḥida*” meaning; “but if you fear that you shall not be able to deal

<sup>553</sup> Engineer Ibid. p. 143

<sup>554</sup> Al-Hilālī, Muhammad, et.al. Ibid. p. 131.

<sup>555</sup> Shahrūr, “*Al-Kitāb wal-Qur’ān*”, *Op. Cit.* p. 598-599

justly (with them), then only one or (the slaves) that your right hand possesses”. As a consequence, according to Šahrur, they tend to use this sentence to promote the argument for monogamy, which they consider as the proper principle of marriage, while polygyny is only permitted in an emergency situation. This interpretation according to Shahrūr is not satisfactory enough since there is no single verse that prohibits polygyny.<sup>556</sup>

Analyzing Sharūr’s opinion, one can conclude that Shahrūr seems to be moderate in the case of polygyny. To him, polygyny is allowed, but its qualitative limits or *hudūd al-kayf* should not be ignored. What he means by qualitative limits here is the status of the second wife, i.e. whether she is a virgin or widow. If she is a widow, the question would be then whether she is a widow (divorcee) who was divorced by her husband or a widow due to the death of her husband.<sup>557</sup> Shahrūr suggests that this case must be analyzed carefully in order not to be contradictory to the spirit of the verse. He therefore tries to elaborate the logic of the text of this verse by analyzing its linguistic structure. In doing so, Shahrūr analyzes two key words of the verse, namely, “*qasaṭa*” and “*adala*”. As is well known in Arabic lexicology, these two words have two, potentially paradoxical, meanings. The word *qasaṭa*, for instance, could be translated as either (1) *al-‘adl ma‘a al-musā‘ada*, which means to be just and to give some assistance (help) for establishing justice. This meaning may be found, for example, in sūra al-Mā‘idah; verse 42, *sūra al-Mumtaḥana*; verse 8 and sūra al-Ḥujurāt; verse 9. (2) *al-Ẓulm wa al-Jawr* which means to be unjust and unfair. Such an interpretation, according to Shahrūr can be found, for instance, in sūra al-Jinn, verse 14. There are also two potentially paradoxical meanings of the word *al-‘adl* are (1) *istiwwa‘* which means to do things along a pathway (properly), and (2) *i‘wijaj* which means to do things inappropriately. From the two possible above-mentioned meanings, it is safe, according to Šahrur, to say that the meaning that is meant in sūra An-Nisa’ verse 3 is the first one, namely, to be kind and just (fair) with women, especially, those with whom a man is to be married.<sup>558</sup>

Therefore, Shahrūr is of the opinion that the word “*qasaṭa*” is not a synonym for the word “*adala*”. Even though, both words have similar meanings, they have different connotations. For instance, the *justice* that is meant by the word “*qasaṭa*” is only viewed from one side and without comparison with other things. Whereas *to be just or fair* that is implied by the word “*adala*” arrived at between two persons or two different or opposite sides which is called by Šahrur “*musāwah bayn ṭarafayn mukhtalifayn*”.<sup>559</sup>

<sup>556</sup> Ibid. p. 598

<sup>557</sup> Ibid. p. 598-599

<sup>558</sup> Ibid. p. 598

<sup>559</sup> For more information on this case, please see *Shahrūr*: “Al-Kitab wa-al-Qur’ān”. p. 597-598.

Based on the aforementioned explanation according to Shahrūr, the sentence “*wa in khiftum allā tuqsitū fī al-yatāmā fa ankihū mā tābalakum min an-nisā’i mathnā wa thulātha wa ruba’*” of sūra an-Nisa’ verse 3 must be understood as follows: “And if you are afraid of being unable to be kind and careful to the orphans, then marry their mothers (an-Nisa’) if you like, two, three or four. In other words, Shahrūr would like to stress here that from the quantitative point of view the permission for performing polygyny must be linked to the requirement that the second, the third or the fourth wife must be a widow (who is so by the death of her husband) who has orphan children, and not a virgin woman. To support his opinion, Shahrūr analyzes the grammatical structure of the above-mentioned verse (sūra Al-Baqara verse 3) by linking it to the permission of practicing polygyny in the sentence “... *fa ankihū mā tābalakum min an-nisā’i mathnā wa thulātha wa ruba’*” According to him this sentence is a form of *jawb al-sharṭ* structure and therefore, the sentence “*wa in khiftum allā tuqsitū fī al-yatāmā*” is a conditional form (Arabic structure/grammar known as *sharṭ*).

By adopting such an interpretation, polygyny will not only be viewed as a manner in which the orphan’s mother is regarded as the second, the third or the fourth wife, but it will also create an atmosphere in which the orphan children will be seen as the children who have and deserve educational and economics rights, etc. as it is the intention of sūra al-Nisa’ verse 6. It is very logical, according to Shahrūr, that Allah, The Almighty, connects the sentence concerning the practice of polygyny with another partial sentence, namely, “...*fa in khiftum allā ta’dilū fawāḥida*” because if one practices polygyny with two, three or four widows and gathers his children from his widow-wives with his children from his first wife, the financial and educational responsibility will be then more difficult than it used to be. Therefore, Shahrūr interprets the sentence “... *fa in khiftum allā ta’dilū fawāḥida*...” “as follows: “...so, if you are afraid of being unable to do justice among your children from your first wife and your children from your second, third or fourth wives, then it would be better for you to marry only one widow (so that the economics and responsibility will be not so difficult for you).<sup>560</sup>The argument of Shahrūr regarding polygyny, of course, is very interesting and likely to attract the attention of other scholars, especially; whose in the field of Islamic jurisprudence. As a matter in fact, Wael B. Hallaq<sup>561</sup> says that Shahrūr’s opinion regarding polygyny may transform the image of polygyny from a backward to a noble practice.<sup>562</sup>

<sup>560</sup> Ibid. p. 599.

<sup>561</sup> A professor of Islamic Jurisprudence at The Institute for Islamic Studies, McGill University, Montreal-Canada

<sup>562</sup> Hallaq, “A History”, p. 251.

Shahrūr's opinion is actually in agreement with Engineer's. As is mentioned above, Engineer says that the verse regarding polygyny was revealed not long after the Battle of Uhūd, in which 70 Muslims were killed. Amongst the martyrs were men who were married and children. As a logical consequence of this tragedy, the Muslim society faced a dilemma, namely how to deal with the socio-economic or even psychological problems of the widows and orphans of the martyrs. This problem was taken for granted, but it had to be solved. In such a chaotic situation, polygyny was one of the best and most efficient solutions. Furthermore, according to Parvez we must consider the spirit of polygyny in this situation was not to have pleasure or to satisfy biological desires or lust, but to protect and help the widows and the orphans.<sup>563</sup> Therefore, Shahrūr, Engineer or even Parvez are in agreement that the purpose of polygyny is to give assistance to or to provide shelter for widows and orphans. Nonetheless, they are not in agreement in defining whether the status of widow in the case of an additional wife is a requirement for the practice of polygyny or not. To Shahrūr, the widow status is a requirement for performing polygyny, while for Engineer and Parvez it is just a suggestion.

Analyzing Shahrūr's opinions above, it is safe to say that according to him the spirit of the verse regarding polygyny is not polygyny itself and it is also not aimed at introducing or proclaiming polygyny as a system of marriage. Polygyny is really to provide humane care, i.e. human rights, which is in this case is to protect widows and the orphans. On the one hand, it can be clearly seen that Shahrūr tries to argue for woman's rights on the basis of justice but he also strives not to be trapped as a supporter of reactive feminists on the other. One may differentiate between the approach applied by Shahrūr and that adopted by reactive feminists. Shahrūr, for instance, does not reject or oppose Qur'ānic verses which, taken literally, seem to oppose woman's rights. Instead he tries to analyze them logically in the spirit or even against the background of their times, and with a view to the reasons for their revelation.

Shahrūr's approach to the Qur'ānic verses, especially those regarding gender issues, involves re-reading and re-interpreting the Holy Qur'ān. This methodology is aimed at catching the closest meaning as it was intended by divine scripture (Al-Qur'ān).<sup>564</sup> Both reactive Muslim feminists and reactive non-Muslim feminists, on the other hand, as Muhsin states, reject and oppose the Qur'ānic verses which seems literally against woman's rights or the spirit of

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<sup>563</sup>Parvez, in Engineer, "*The Rights of Woman in Islam*" (New York: st. Martin's Press, 1996).p.. 102

<sup>564</sup> As an example of how Shahrūr reinterpretes or approaches the so-called divine texts, see, among others, his book "*Al-Kitāb wa al-Qur'ān*", in which, in my opinion, he is successful in introducing a liberal and moderate method or approach to interpreting the Qur'ānic verses regarding inheritance and polygyny.

feminism. Most of them tend to use women's fates and their status in Islamic society, which is far from or even contrary to the Qur'ānic spirit, to justify their reactive opinion. According to Muḥsin, their reactions indicate their weakness in determining or differentiating between Qur'ānic texts and the interpretation of the Qur'ānic texts.<sup>565</sup> As an example of this, the reader should look at the comment of Bonvillain regarding Islamic doctrine related to gender issues, in which she says, "Islamic doctrine developed, in part, from prior teachings derived from Judaism and Christianity. It continues, and in fact, intensifies, gender inequality. Subordination of women in Islamic culture is severe".<sup>566</sup> From her statement, one may clearly see that she is not able to differentiate between normative and historical Islam. It seems that she confuses between Islam as it is interpreted in some places today and pure Islam.

In view of the above discussion, I am of the opinion that if polygyny fails to solve social and human problems or if it even brings forth other critical and social problems, it must be prohibited, because no longer fulfils its purpose its spirit as intended by the Qur'ān. This seems very logical to me because the message behind the verse regarding polygyny is to benefit and help (*jalb al-maṣālih*) human beings in solving their socio-cultural problems. This opinion is also in agreement with the so-called *qā'idah uṣūl al-fiqh* regulation of *Uṣūl al-Fiqh*, which states that rejecting things that cause harm or disintegration is more important than creating advantageous things themselves (*dar'u al-mafāsīd muqaddam 'alā jalb al-maṣālih*). In commenting on this *qā'idah* (principle or regulation), Rashid Riḍā adds that the so-called *maṣlahāt* or benefits must be an integral element or factor that should be considered in the process of *ratio logic* or making decisions for determining a verdict or a legal judgment, by both implementing the so-called appropriate (*muḥāsaba*) and relevant (*mulā'ama*) way.<sup>567</sup>

Like Shahrūr, Sha'rawī tries to understand the divine text regarding polygyny by analyzing its logical and lingual context. In analyzing this verse, Sha'rawī begins for instance, with the interpretation of the sentence "*mā tāba lakum*", which according to him, plays an important role in the context of marriage because it deals with the criteria or status of women who are allowed to marry. Sha'rawī is incline to say that this sentence, i.e. "*mā tāba lakum*", in this verse means refers to the women who do not belong to the so-called „*Maḥramat*” or the women whom a man is prohibited from marrying. To support his opinion

<sup>565</sup> Aminah Wadud Muhsin, "Qur'ān and Women", p. 128.

<sup>566</sup> Nancy Bonvillain. "Women and Men: Cultural Constructs of Gender" (New Jersey: Prentice Hall Inc., 1998), p. 231.

<sup>567</sup> Rashid Riḍha in Wael B. Hallaq, *A History of Islamic...*; p. 217

Sha'rawī quotes verse 23 of sūra an-Nisa', which tells us some women (*maḥramat*) who cannot be married.<sup>568</sup>

Furthermore, Sha'rawī states that the phrase „*mathnā wa thulātha waruba*“, or the quantity of women whom a man is allowed to marry, namely, two, three and four, is aimed at providing for the marriage of the orphan women who are under oppression (*maḍlūm*), but not in order to master their wealth with greed. This is really forbidden, because the spirit of polygyny is to help or to protect women from any despotism or cruelty.<sup>569</sup> From this point of view, one may find that Sha'rawī's opinion is also the same or in line with the opinion of Shahrūr, Muḥsin, Engineer or even with Parvez.

Sha'rawī argues that the responsibility to protect and treat women, i.e. widows and orphan girls, fairly and equitably must be seen as one the most important aspects of the permission to practice polygyny. He adds that if one chooses to follow such a rule or law of God, one must also take into account the other aspects related to the rule chosen. In addition to this opinion, Sha'rawī tries here to define the concept of justice linked to the context of polygyny. He states that a man has to be fair in companionship, paying expenses, arranging the nights (of visiting his wives) as well as just in the matter of place and time, and should not prefer one to another. In short, it is safe to say that the justice meant here is material justice, i.e. justice related to physical form rather than spiritual or ideal justice. This is in accordance with a hadith from Aisyah<sup>570</sup>, in which Muhammad (p.b.u.h) prays to Allah not to blame him for the tendencies of his heart, which surely could not be fair. This means that the justice discussed here is not the justice of the heart but rather the justice of actions, because the justice of heart is hard to measure.<sup>571</sup>

Sha'rawī criticizes the misunderstanding found in most of society regarding the practice of polygyny, which is mostly taken partially and fragmentarily without, regarding its total aspect.<sup>572</sup> He stresses that whoever takes one part of Allah rule (His system), must also take the whole. In other words, Sha'rawī would like to say that in practicing polygyny it should be taken into consideration that its purpose is not to have sexual or biological advantages but to promote social order and stability in a society.<sup>573</sup> Sha'rawī is of the opinion that Allah gives the so-called *rukḥṣa* or permission to practice polygyny in

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<sup>568</sup> Muhammad Mutawalli al- Ša'rawi, "Tafsir ash-Sha'rawī", Vol. IV. (Akḥbār al-Yaum Press, Cairo), p. 1997-2001.

<sup>569</sup> Ash-Sha'wi, p. 2002

<sup>570</sup> Hadith narrated from Ahmad, Abu Daud and Darimy

<sup>571</sup> Sha'rawī, p. 2003-4

<sup>572</sup> Sha'rawī, p. 2001.

<sup>573</sup> Sha'rawī, p. 2006-7

order to preserve the stability and security within a society. Sha'rawī points out that in reality, the quantity of women tends to be higher than that of men. Due to this inequitably quantity, which he calls "*fā'idān*", or the flowing of "women-quantity" Allah makes it possible or gives permission for men to marry up to four women. Sha'rawī, however, stresses that the principal of quantity context „*matsna wa tsulātsa waruba*“, in this verse does not mean that Allah instructs us to perform polygyny or to marry more than one wife. This verse offers only the possibility as an emergency solution dealing with marriage cases. In other words, it can only be used in a special situation, and with special requirements and criteria.<sup>574</sup>

Analyzing Sha'rawī's opinion, it is clear that he is inclined to say it is better to marry only one wife than two, three or four wives. This is evident from the way he analyses the verse regarding polygyny. For instance, he repeats at least three times the verse no. 129 of sūra al-Nisa' in which Allah, The Almighty says: "You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever Oft-Forgiving, Most Merciful".<sup>575</sup> Sha'rawī is aware that the justice meant in this verse is not the justice of feeling or desire,<sup>576</sup> and his repeating this verse up to three times, clearly indicates that he would like to say that to do justice among wives is not an easy task, even if to do so is one's ardent desire. Allah, The Almighty himself says, "*you will never be able to do perfect justice between wives*" as quoted above. In comparison to Muḥamad 'Abduh or Rashid Ridhā, Sha'rawī seems to be more moderate in justifying polygyny. As it is well known, 'Abduh sharply criticizes polygyny in Islamic society, especially in his own country of Egypt. He blames polygyny as the destructive factor that gives rise to disorderliness within Egypt society.

Like Hallaq, he is also inclined to adopt the regulations of ushul fiqh in which it is said that „*dar'u al-mafāsīd muqaddam 'alā jalb al-maṣālih*“. This means that rejecting things that cause disintegration or disorder must be given priority over creating advantageous things themselves. Based on this concept, he afterwards says "*inna ta'adduda al-zaujaini muḥarraman qaṭ'an 'inda al-khawfi min 'adami al-'adl*", meaning indeed, that the practice of polygyny is strongly prohibited to those who are afraid of being unable to do justice among them (wives).<sup>577</sup> Therefore, 'Abduh is of the opinion that if polygyny fails to bring

<sup>574</sup> Sha'rawī, *ibid.* p. 2006

<sup>575</sup> Muhammad Taqiuddin al-Hilali, *ct.al. Op. Cit.* p.131.

<sup>576</sup> Sha'rawī p. 2003

<sup>577</sup> Muhammad 'Abduh in Rashīd Riḍā, "*Tafsir Al-Manar*, Vol. IV. p. 348

forth justice and welfare among or between wives, i.e. the justice between and within families, then polygyny is strongly prohibited. Apart from ‘Abduh, Rashīd Riḍā, who was a student of ‘Abduh, clearly says that the most ideal form of marriage is monogamy, not polygyny. Polygyny therefore, is only permitted in an emergency situation or case. Moreover, he adds, although practicing polygyny is allowed, the fulfillment of the requirements for avoiding injustice or oppression or the like must be first and foremost fulfilled. In this context Rashīd Riḍā is in agreement with his teacher. Both of them are of the opinion that polygyny is allowed only if the justice aspect among or between wives is satisfied. The consideration of justice is vital with regard to polygyny, the purpose of which is to avoid disorder, injustice, oppression, as well as unhappiness and other negative impacts on society.<sup>578</sup>

Not only Sha‘rawī, but also Ṣiddiqī starts his analysis in interpreting the verse regarding polygyny by examining the so-called *tafsīr al-Alfāḍ* and interpreting the verse through its words and sentences. According to Ṣiddiqī, the word “*mā ṭāba lakum min an-nisā’i*” in this verse means “women whom you would like to marry”, whereas “*aw mā malakat aymānukum*” is interpreted as women who belong to you (mistress). Like Shahrūr, Sha‘rawī, Muḥammad ‘Abduh, Rashīd Riḍā, and others, Ṣiddiqī is also of the opinion that to be fair and just in a marriage is the most essential thing and it is a requirement that must be achieved before a man can marry the next woman. If a man fails in this, he should not be permitted to marry again. In other words, Ṣiddiqī is inclined to say that before a man is allowed to enter a polygamous state, that is, to marry the second, third or fourth wife, he must first prove that he is successful in providing justice and good companionship, *mu‘āshira*, with his first family members, i.e. his first wife and children. In this context, his first family (marriage) is a barometer indicating his potential ability to practice polygyny with a further wife or wives.<sup>579</sup> This verse (verse no. 4 of sūra an-Nisā’) according to Ṣiddiqī stresses that polygyny is only allowed to those who are really able to do justice in practicing it.<sup>580</sup> Ṣiddiqī is also in agreement with the principle of Ushul al-Fiqh, as advocated by both Hallaq and Muhammad ‘Abduh, namely “*dar’u al-mafāsīd muqaddam ‘alā jalb al-maṣāliḥ*”, meaning

<sup>578</sup> In his book “*Nida’ li al-Jins al-Laṭīf*”, Rashīd Riḍā says that the verse no. 129 of Sūra an-Nisā’ quoted above indicates that polygyny is prohibited to those who would practice injustice or oppression towards his wives, for instance, through a deeper desire for one of them, due to her beauty or for other reasons. This also holds true for a man who hates one of his wives, for instance, due to her ugliness or other negative characteristic. The essential reason or requirement for polygyny is justice, but this is in fact, very hard – if not impossible to achieve, as Allāh mentions in the verse above. Therefore, Rashīd Riḍā comes to the conclusion that both verses no. 4 and no. 129 of Sūra an-Nisā’ imply that monogamy as the most ideal form of marriage. For more information on Rashīd Riḍā’s opinion pertaining to polygyny please see his book “*Nida’ li al-Jins al-Laṭīf*”, p. 50-55.

<sup>579</sup> Hasbi aṣ-Ṣiddiqī, *Tafsīr an-Nūr*, Vol. I.p. 756-759.

<sup>580</sup> Ibid. p. 57

rejecting things that cause harm or disintegration must be given priority over creating advantageous things themselves.<sup>581</sup>

Moreover, Şiddiqī adds that the meaning of the word „*‘adl*” in this verse is the intention of the heart or spirit, and not *‘adl* in the material or physical sense. This opinion is more or less the same as that of Sha‘rawī. Therefore, Şiddiqī states, to be fair in this heartfelt sense of the word „*‘adl*” is not an easy task. Moreover, in reality, experience indicates that it is impossible to share love between women equally. And it is hard for wives in general, both psychologically or emotionally to share their husband’s love with other women. It is, therefore, important to state here that this verse is not meant to instruct men to take up polygyny without considering justice and other essential requirements before doing so, it is only intended to confer the legal right to practice polygyny should a special need or emergency occur in a family life.<sup>582</sup>

Finally, Şiddiqī comes to the conclusion that this verse is intended to provide a small opportunity for men to have two, three or four wives at the same time, but this permission must take into account that polygyny is valid only under emergency conditions and only as far as a man is able to do justice to all his wives.<sup>583</sup> Like Rashīd Riḍā, Şiddiqī is of the opinion that justice is the requirement for performing polygyny, and this is almost impossible to achieve. In other words, we can fairly say that Şiddiqī would implies that if a man intends to be just and fair towards his wife (wives), then he should please marry only one, because it would be easier for him to do so. To support his opinion, Şiddiqī quotes Amir ‘Alī. According to Şiddiqī, Amir ‘Alī said in his *Sirr al-Islām* that most great Mu‘tazila’s ulamas think that it is strongly forbidden for a man to marry another woman as long as he still has his first wife. These ‘Ulamas support their opinion with examples of all kind of disasters and difficulties as a result of polygyny. They therefore, encourage the avoidance of disaster rather than the seeking of any benefits (*maşlahat*).<sup>584</sup>

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<sup>581</sup> Ibid. p. 759.

<sup>582</sup> Ibid., p. 757

<sup>583</sup> Ibid. p. 757

<sup>584</sup> Ibid. p. 758



## Chapter V

### Factors of the Qur'ān that Influence Differences in Commentators' and Feminists' Thinking.

This chapter discusses some influential factors that could bring about the differences in opinion between 'ulamā', especially Islamic jurists/scholars, Qur'ān commentators, feminists and many other scholars in various fields. The aim of this chapter is to help the reader of this dissertation and other Arabic gender related texts or sources to analyze and understand the reasons why Qur'ān commentators, *mufasssirs*, feminists, and others tend to differ from each other in interpreting the Qur'ān or divine texts. As can be seen in Chapter V, the interpretation of Qur'ānic verses is not always identical. While there are surely many similarities between some *mufasssirs* and feminists interpretations, in some cases there are also some major dissimilarities, as between Shahrūr and Ali Ashghar Engineer, between ash-Sha'rawī and aṣ-Ṣiddiqī. These dissimilarities, however, are not based on a question of the core matter, but rather on the way they express their reasons and analogies in supporting their opinions.

It should be taken into consideration that before analyzing a text, both Qur'ānic and other texts, some philological aspects and elements must first be examined. Among other considerations, where did/do the texts come from? What is the origin or authenticity of the text? Is the text corrupt or even fabricated? In what language were the texts written or revealed? Who translated the texts<sup>585</sup>; are the translators anonymous or known authors? Is the translation from the first or original language or from a second or third language, etc.? Here, the aspects regarding the translation of a text must be paid serious attention because it is very logical that the transformation as well as the interpretation or even the transliteration of a text to another language and its style or grammar may well alter or omit some important message or sense. Moreover, it is also understandable that each language has its own historical and cultural backgrounds, so that it is also essential to study these aspects of a text.

There are many approaches that could be used to analyze the above-mentioned aspects of a text, including first, *semantic theory*. Semantics, is the historical and psychological study of the meaning and origin of a word as well as the changes in its meaning over time. A second aspect involves *semiotic theory*, which is a knowledge of the symbols and the signs of a text, especially their function. According to Thiselton, this theory is commonly used as a method of

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<sup>585</sup> In this case it is also important to examine and trace the identity, socio-economics as well as educational background or scholarly level of the translators.

analyzing a reality of mind that derives from illusion reality.<sup>586</sup> The interpretation of symbol, Thiselton adds, does not only examine the physical aspect of a thing, like signals, initials and linguistic expressions, but it also examines human thoughts, because according to this theory human thought may also be considered as a symbol. This theory was introduced for the first time by Charles Sanders Peirce (1893-1914) and was further developed by Ferdinand de Saussure (1857-1913) amongst others.<sup>587</sup>

Finally, we should consider *hermeneutic theory*. The term *hermeneutic* derives from the Greek “*hermeneus*”, which etymologically means “interpreter or translator”. This theory is mostly used to interpret texts from ancient times and aims to discover the life of the historical maker. The process of interpreting a text according to this theory, as illustrated by Ankersmith,<sup>588</sup> involves the following steps. First of all, one must have an ancient text. The text is viewed as a coherent unity, then it is interpreted, and finally the deeds of the characters are explained and illustrated in accordance with historical clues and symbols which are found in the text. It is clear, therefore, that this theory is useful to analyze as well comprehend and explain an ancient or classical text, especially, holy scripture.<sup>589</sup> Based on this consideration, I adopted hermeneutic theory in analyzing and interpreting Qur’anic verses in this work because it is very relevant to my present study dealing with the interpretation of divine texts, *tafsir* (to give explanation or commentary on a thing).

By adopting hermeneutic theory, one should be able to dive into the depths of the past. In other words, the researcher has to try to feel as if he/she lives in the same time as the writer of the text. This attitude will enable the student of an old text to enter the background surrounding the life of the text writer; for instance, his/her socio-cultural and political background. Since each text writer is a part of his time, such aspects must be taken into consideration by everyone who is dealing with ancient texts. Neglecting this aspect will detract from the accuracy of the interpretation. With this in mind, a student or reader of an ancient text should examine and try to understand the text carefully as well as deeply. It is not a wise attitude to analyze and examine a classical text by

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<sup>586</sup> Anthony C. Thiselton, “New Horizons in Hermeneutics”, in Nasaruddin Umar, “Argumen Kesetaraan Gender, 1<sup>st</sup> Edition, Paramadina Press, Jakarta, Indonesia, 1999 p. 266.

<sup>587</sup> For more information, see for instance Anthony C. Thieselton, “New Horizon in Hermeneutics”, Michigan: Zondervan Publishing House, 1992. See also Hans-georg Gadamer, “Kleine Schriften”, 3 Vol. Tübingen: J.C.B. Mohr, 1967-1972). Compare with other work by Gadamer, “Wahrheit und Methode: Grundzüge einer philosophischen Hermeneutik “. Tübingen: J.C.B. Mohr, 1973.

<sup>588</sup> Ankersmith, F.R., “Refleksi tentang Sejarah Pendapat-pendapat Modern tentang Sejarah”. Trans. Dick Hartoko, Jakarta, Gramedia (1987), p. 155-156.

<sup>589</sup> This theory was developed by F.D. Schleiermacher, who lived between 1766-1834. The theory was then further and widely developed and improved by, among others, Hans-Georg Gadamer, Richard E. Palmer, James M. Robinson, Manfred Riedel, etc.

adopting modern criteria; because according to H. White, the past itself is also a text.<sup>590</sup> Hence, if one wants to study a classical text, he or she has to understand “the past text” of the time in which the text was probably written.

Furthermore, a text cannot be separated from three essential things, namely a) the creator of the words or expressions, b) the person who uses and adopts the expression, and c) the person who simply understands the expression. In analyzing a text, one has to pay careful attention, for instance, to finding out whether the user of the expressions is their creator or whether he or she is no more than someone who uses and understands the them. It is also often the case that the expression user is, at the same time, the creator of it, such as in the case of the revelation of the Qur’ānic verses. In this case, one may find, among others, how God, The All Mighty, creates certain characters (*huruf*) - in the opening part of *sūra* - as He likes. These kinds of characters are known as “*fawātih as-Suwari*”, which means the opening of *sūras*; for example: *Alīf-Lām-Mīm*, *Alīf-Lām-Ra*, *Ḥā-Mīm*, *Nūn*, etc. Nobody knows the real meaning of these characters and most Qur’ānic commentators are of the opinion that God knows best the meaning of them.<sup>591</sup>

To understand a text correctly, a reader must also have a sufficient knowledge of semantic and hermeneutic theory. Without it, a student will face serious problems in understanding a classical text. It commonly happens that a meaning of a word that is created can be used or interpreted by the reader in a way quite different than that meant by its creator. Sometimes a word is used in a denotative manner, explicitly or literally indicating a fact or meaning, while in other cases it is used in a connotative or suggestive way. This latter is normally used to convey metaphorical meaning, such as in the case of God’s word, *yadullāhi fauqa aidihim* (48:10). Denotatively this phrase must be interpreted as follows: “God’s hand is above their hands”; connotatively, however, it could be understood as follows: “God’s assistance (help) will be with them” or “God will have (help?) and support them”. A student or reader of a text must be able to differentiate between connotative and denotative usage and must understand that he/she will constantly find them in each text. The difference between connotative and denotative sentences is one of eternal considerations in semiotic studies.

Another difficulty that occurs in the study of texts – particularly in the study of religious texts or holy scripture - is whether a text refers to the literal sense of the expression (*al-ḥaqīqa al-lughawīyya*), its customary sense, (*al-ḥaqīqa al-urfīyya*) or the sense of *shara’* (*al-ḥaqīqa ash-shar’īyya*). These may be found

<sup>590</sup> H. White in F. R. Ankersmit. *Op. Cit.* p. 157.

<sup>591</sup> Nasaruddin Umar, “*Argument Kesetaraan Gender*”. *Op. Cit.* 287-8.

for example, according to Nasaruddin, in the Qurʾān where God says: “*wa aqīmuṣṣalāta*” (perform shalat!). The word “*ṣalāh*” literally means “prayer”, but according to custom or the tradition of the people at that time, the word “prayer” could be interpreted as an instruction to worship *Latā* and *ʿUzzā*. In the sense of *sharaʿ*, on the other hand, it means performing “*ṣalāh*” (prayer) which starts with *takbīr ihrām* and ends with *salām*.<sup>592</sup>

Based on Islamic tradition, the gender bias in interpreting texts can be traced to at least to two factors. The first are *non-language factors*. As it is well known that there are many non-language factors i.e. not purely Arabic factors that may influence and play an important role in causing gender bias in dealing with divine scriptures or texts. Among other things, the bias in using Tafsir methodology, the bias in the codification of standardization of fiqh books and the bias due to the influence of isrāʾīliyyāt stories, etc. The second are *language factors*. The following may and deserve to be viewed as language factors i.e. Arabic that influence gender bias in interpreting divine texts. Among the languages factors involved in this context are the bias in interpreting and understanding words (*mufradat*), the bias in determining pronoun (*damīr*) reference, the bias derived from the standardization of characters (*ḥurf*) and the symbol of recitation (*shakl*), as well as pronunciation of the recitation (*qiraʿa*), the bias in limiting the meaning of *Istishnaʿ* (exceptional form), the bias caused in the determination of the meaning of *ḥurf ʿataf* (combining character, like “*al-wāw*” [w] meaning “and”, etc.), the bias derived from language structure (*al-uslub al-lughawī*) and the bias derived from Arabic dictionaries (*al-qāmūs al-ʿarabī*).

## 5. A. Non-Language Factors

### 5. A.1. The Bias in Tafsir<sup>593</sup> Methodology

There are many methodologies that could be adopted in interpreting the Qurʾān. Nevertheless, the most dominant and widely used is *ṭarīqa taḥlīliyya*. With this methodology, the Qurʾānic verses are analyzed chronologically and interpreted in accordance with the chronological order of *muṣḥaf Utsmani*.<sup>594</sup> This method is also well known as the *tajziʿī* method.<sup>595</sup> It is called *tajziʿī* because it

<sup>592</sup>Nasaruddin Umar, Ibid. p. 268.

<sup>593</sup>The word *Tafsīr* is commonly used to denote the interpretation of the Qurʾān, which is also well-known as Qurʾān exegesis.

<sup>594</sup>Zahir ibn ʿAwad al-Almaʿī, “*Dirāsāt fī at-Tafsīr al-Mauḍūʿī li al-Qurʾān al-Karīm*”, Riyadh: 1984. p. 18.

<sup>595</sup>See for instance Muhammad Baqir al-Shadr, “*al-Madrasa al-Qurʾāniyya; at-Tafsīr al-Mauḍūʿī wa at-Tafsīr al-Tajziʿī fī al-Qurʾān al-Karīm*”, Beirut: Dār at-Taʿarruf li al-Maṭbaʿa. p. 7-9

discusses the Qurʾānic verses in certain parts of the Qurʾān. Since most Ulama commonly use this method, it has become very dominant compared to others, such as the *mauḍūʿī* method. One of the characteristics of the *mauḍūʿī* method is that it makes the text its central focus of attention. In analyzing a case, for instance, attention is focused directly on the text or concept to be studied. A concept of instruction and/or prohibition in the Qurʾān usually appears in a general form “*ṣīghah ʿammiyyah*”, even though it was revealed based on a special reason or background “*khusūṣ al-ṣabāb*”. Most Ulama “*jumhur ulama*” have decided on the rule that “the key word is the generality of the word (pronunciation/utterance) “*al-ībratu biʿumūm al-lafḍhi*”. If a case occurs for instance, the main attention must be focused first and foremost on what the text says on this case, not where and how this case occurs.

Unlike the *taḥīlī* method, the *mauḍūʿī* method is defined by Quraish Shihāb as a tafsir method that decides a certain topic and then collects all related verses from some *sūras*. The related verses will then be analyzed and studied as well as connected one to another, so that finally a whole and compact conclusion will be reached.<sup>596</sup> This method focuses on the general sound or pronunciation of the Qurʾānic verses on certain topics. For instance (Q.s. an-Nisaʾ / 4:3), God The All Mighty says: “And if you fear that you shall not be able to deal justly with the orphan-girl then marry (other) women of your choice, two or three, or four; but if you fear that you shall not be able to deal justly (with them), then only one or (the slaves) that your right hand possess. That is nearer to prevent you from doing injustice.” (4:3).<sup>597</sup>

This verse uses the so-called *shighah ʿammiyyah* general form, i.e. using a plural pronoun (khiftum, tuqsithuu, fankihuu, aimaanakum and taʿuuluu). This verse, however, in reality was revealed while dealing with the case of Urwah ibn Zubair, as is stated by a Hadith that is narrated by Bukhari from Aisha: that Urwah had a beautiful orphan girl, who lived under his guardianship. This orphan girl was not only beautiful, but she also had property. These considerations persuaded Urwah that he wanted to marry her. To this end, God revealed this verse so that Urwah cancelled his intention.<sup>598</sup> This verse, however, is valid not only for Urwah but also for all mankind.

<sup>596</sup>Quraish Shihab, *Op. Cit.* p. 114. Compare with al-Farmawi, *Op. Cit.* p. 62.

<sup>597</sup> Al-Hilali, *Op. Cit.* p. 106

<sup>598</sup>Muhammad ʿAli al-Ṣabuni, *Tafsir Ayat al-Aḥkam*, Vol. I, p. 464.

## 5.A. 2. The Bias in the Codification of Standardization of Fiqh Books

Apart from the Qur'ān and the Hadith, Islamic views of *fiqh* (Islamic jurisprudence) plays an important role. *Fiqh* is a cultural interpretation of Qur'ānic verses and Hadith. From an Islamic point of view, the *fiqh* differs from *shari'a*. As a cultural interpretation, *fiqh* is not fundamental teaching. It has a local, elastic, flexible and non-permanent character. Unlike *fiqh*, *shari'a*, is fundamental teaching, which has a universal, permanent and compact character. The *fiqh*, therefore, is a cultural interpretation of *shari'a* that has been developed by *fiqh* scholars since the second century of the Islamic calendar (*hijra*). Among *fiqh* scholars (*ulama'*) were *Imām Abū Hanifa*,<sup>599</sup> *Imām Mālik*,<sup>600</sup> *Imām Shafī'*<sup>601</sup> and *Imām Aḥmad ibn Ḥambal*,<sup>602</sup> who were also

<sup>599</sup>Imam Abu Hanifa was born in Kufa in the 80<sup>th</sup> year of the Islamic calendar (*hijra*). His complete name was Imam Abu Hanifa Nu'man ibn Thabit ibn Zutl. He was a Persian man who lived 52 years in the time of *Banī Umayya* and 18 years in the time of *Banī Abbasiyya*. He was one of the eyewitnesses of the increase and decrease period of Bani Umayya administration. He also witnessed the development and the progress of Bani Abbasiyya. As is known in Islamic history, Bani Umayya chose Damascus, which was formerly under Byzantine Rome, for his government center, whereas Bani Abbasiyya choose Baghdad (present Iraq) –which was formerly under Persian authority. Abu Hanifa was an outstanding scholar. He visited many cities that were educational centers and learned from many prominent persons and teachers. Among others, he learned from the students of 'Umar ibn Khattab, 'Ali ibn Abi Thalib, Ibn Mas'du. Apart from this he also had learned from the *Zaidiyya*, *Ismā'iliyya* and *Imāmiyya* sects. He mastered not only *fiqh* knowledge, but architecture, business and textiles as well. Therefore, it is no wonder it is said that it was he who designed the famos Baghdad fortress. It is narrated that to build this fortress, Abu Hanifa made comparative studies (researches) in some East Asian cities. Such a journey, at least, enabled him to be a moderate Ulama (scholar) compared to other ulama who lived at that time. Even though Abu Hanifa had never written a specialized book, his fatwa (verdict) and preaching collectives were written down and collected by his students. Among these was Imam Malik. Malik was one of his most brilliant students. See for instance H.A.R. Gibb and J.H. Kramers, "*Shorter Encyclopaedia of Islam*", Ithaca: Cornell University Press, 1953, p. 131. See also Hasbi aṣ-Ṣiddiqī "*Pokok-pokok Pegangan Imam Mazhab*", Vol. II, Jakarta: P.T. Bulan Bintang, 1974, p. 198-199.

<sup>600</sup>There is no fixed information about the date and place of birth of Imam Malik. His was born approximately between the 90<sup>th</sup> and 97<sup>th</sup> of Hijra. He died in Medina at – approximately- 85 years of age. Unlike Abu Hanifa, Malik did not take a long journey, except to Mecca and Medina. Nevertheless, he knew and mastered well the tradition that was built and practiced by the Prophet (pbuh) and his companions in Medina, so that he considered the tradition (atsar) of Medinah society as one of the sources of law. His authoritative book, which can be regarded as his *Magnum Opus*, is *al-Muwaththa'*, a hadith collective which was composed based on THE Islamic Jurisprudence (*fiqh*) system. (Read H.A.R. Gibb, Op. Cit., p. 321-324 and compare with Hasbi Aṣ-Ṣiddiqī, Op. Cit., h. 17-233).

<sup>601</sup>Imam Shafī'ī was born in Gaza in 150 H (*Hijriyya*) /767 M (*Milādiyya*). His complete name is Muhammad ibn Idris ibn 'Abbas ibn 'uthmān ibn Shafī'ī ibn Saīb. His genealogy is still that of the Prophet (pbuh) . He made journeys for the sake of knowledge, among others to Baghdad, Egypt, Medina, and Yemen. He studied basic *fiqh* which may be called textual (*naqli*) hadith in Medina before he afterwards studied rational (contextual) *Fiqh* in Baghdad. Ash-Shafī'ī was an outstanding Islamic scholar, no one doubts the depth and width of his knowledge. His thinking was, among other things, much influenced by *Hellenism*, through the translations and intellectual inheritance of his predecessors. He was well familiar with *Mu'tazilite* and *Shi'ite* thinking. His encounter with these two ways of thought enabled him to be a prominent *mujtahid* (reformer) in his time; his ideas and works were called al-qawl al-jadid (new statement). For more information, see H.A.R. Gibb. Op. Cit. h. 512-516 and Hasbi Ash-Shiddiqī. Op. Cit. p. 234-264.

widely known as the Imām of their *mazāhib* (*Arabic*: Plural form of *mazhab* i.e. the school of thoughts), i.e. mazhab Ḥanafī, Malikī, Shāfi‘ī, and Ḥanbalī. They were viewed as moderate scholars in their time.<sup>603</sup> Even though their *mazāhib* are viewed as the four most important and official in Islam, their works were never proclaimed as legitimate *mazāhib* by a particular community or country. Furthermore, they never declared or standardized their verdicts to be the most legitimate and eternal ones that must be practiced by Muslims. They were very tolerant and moderate, both in their opinions and daily life. All of them may be considered worthy and pure scholars. Even though they had different opinions regarding certain cases, all of them were very independent. They never compromised with any authorities if that authority was against them or their opinion. They therefore often lived under oppression and mistreatment or torture by the authorities. For these *‘ulamā*, *it was still better to live under these terrible conditions than to cooperate with and be dependent on tyrannical authority*. Unfortunately, some of their students and certain authorities or political powers were sometimes overzealous in forcing people to adopt their *mazāhib*. For instance, on behalf of uniformity and other political reasons, one of the above *mazāhib* was proclaimed as the most legal and authorized state *mazhab* in a country.<sup>604</sup> Consequently, anyone who was against the state *mazhab* was regarded as being astray and could be socially punished.

Nevertheless these were moderate and non-fanatic scholars. Sociologically, they cannot be separated from their society and time in which they lived and their opinions were much influenced by the culture and social values of their time. History tells us that society in the lifetimes of these scholars was very male-oriented or male-dominated. In other words, they lived in a patriarchal society. As a logical consequence, their *fiqh* judgments (verdicts/fatawā) naturally reflected the patriarchal system. This in its turn influenced the so-called male bias of opinions. It is important to note here that most of *fiqh* books that have been compiled and widely used in Islam up to the present day were

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<sup>602</sup>Imam Ahmad ibn Hambal was born in Bagdad in Rabi‘ al-Awal 241 H/November 780 M. His complete name is Abū ‘abdullah ibn Muḥammad ibn Ḥanbal ibn Ḥilāl ibn Asad ibn Idris ibn ‘Abdullah ibn Ḥassān al-Shaibānī al-Marwazī al-Baghdādī. He was not only known as an outstanding fiqh (Islamic jurisprudence) *‘ulama* (*Arabic*: Plural form of *‘ālim* means scholar), but also as an important and prominent Hadith (Muslim tradition) *‘ulama*. His *magnum opus*” Musnad Aḥmad ibn Ḥanbal” is one of the best Hadith books in the field of Hadith, which contains thousands of Hadiths. Apart from this, his expertise in the field of Fiqh is highly extraordinary, as proved by the fact that he has more than sixty thousand (60,000) fatawā (verdicts) in this field. Living in his home town, Baghdad, which was one of the most important Islamic centers of civilization and knowledge in history, enabled him to become a matured and famous scholar. He was known as a gifted scholar, able to combine *al-wahy* (the revelation of God) and *al-‘aql* (logic/ration). Most of his fiqh works, however, were compiled by his students. For detailed information read H.A.R. Gibb. *Op. Cit.*, p. 20-21. Read also Hasbi Aṣ-Ṣiddiqī, *Op. Cit.*, p. 265-87

<sup>603</sup>Nasaruddin Umar, “*Argumen Kesetaraan Jender*”, *Op. Cit.* p. 292.

collections of the verdicts or students' notes that they had always heard from their teachers. Such notes were gradually compiled and became like a big book of collected verdicts (*Arabic: al-fatawā* means collection of *fatwa*). The *fatawā* compiled in these books were regarded as the most legitimate and authoritative one of their times.

In this context, it is also important to take into account that the moderation of the four above-mentioned Imams, their *mazāhib* had something to do with the time in which they lived. For instance, the opinions of Aḥmad ibn Ḥanbal, who lived about 161 years after Imām Abū Ḥanifa, were less moderate than that of Imām Abū Ḥanifa's thoughts. This historical fact implies that the nearer the Imām lived to the period of the Prophet (pbuh), the more moderate and liberal his views were.

History informs us that besides writing *fiqh* books, the 'ulama at that time – like the aforementioned Imāms - were also very active in collecting and writing Hadiths. Therefore, it is no wonder that the compilation of Hadith books was very much influenced by the *fiqh* system. Among others, there is *al-Muwatta'* which was Mālik's most important work, which may be regarded as his *magnum opus*. *Al-Muwatta'* is considered one of the oldest books of Hadith. Due to many wars between Muslims and the unbelievers at that time, which caused a heavy loss of Hadith scholars, Chaliph 'Umar ibn 'Abdul 'Azīz - the eighth Chaliph of Banū Umayya – instructed his governors to promote and support the collection and compilation the hadiths.<sup>605</sup> This period is known as the most important period of Hadith compilation, because in this period Hadiths were officially and widely collected and compiled as well.

Furthermore, the books of Islamic *jurisprudence (kitāb al-fiqh)* that were written in this period are based on these classical books. This assumption is supported by research held by Johan H. Meuleman. This research finds that among the 56 books that were widely published in Indonesia and in which discussions about women's issues are commonly found, "they seem to be more classical and more inclined to represent a certain tradition – if not inserting a fake tradition – than to improve and develop Islamic messages, that derive from God, The All Mighty, that is revealed to the living, real and historical mankind".<sup>606</sup> This holds also true for others or all people who live outside Indonesia.

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<sup>605</sup>Jamāluddīn al-Qāsīmī, "*Qawā'id al-Taḥdīth*", Mashr (Egypt): Dār Ihyā' al- Kutub, n.d. p. 70.

<sup>606</sup>Johan Hendrik Meuleman, "*Analisa Buku-buku tentang Wanita Islam yang Beredar di Indonesia*", in Marcoes "*Wanita Islam Indonesia dalam Kajian Tekstual dan Kontekstual*", Jakarta: Jakarta: INIS, 1993. p. 183.

In connection with the development of Islam with the passage of time and history, these books are inevitably questioned and criticized by most people, especially by women who live outside this society. They express their objection towards these books (*kitāb al-Fiqh*) because some of their contents (teachings) are not compatible or appropriate anymore for women who live in modern times, and for whom many things are changing. For instance, this globalization era enables some women – if not to say all - to work outside their homes. Many women enjoy the same privileges and have the same responsibility as men with regard to children and other social aspects of life. Such a phenomenon automatically causes many to reject the so-called male *status quo*, in which men are given special rights as was practiced in ancient times. And if these *fiqh* books still uphold such teaching, they will lose authority and must therefore be questioned. If history shows that men were indeed given more special rights or privileges in the past, it might be accepted that this was because their responsibility was also bigger and more difficult. These classical jurisprudence books, *kitāb al-fiqh*, are apparently not only criticized by non-Muslim women or feminists, but also by Muslim feminists such as *Fatima Mernissi* and *Riffat Hasan*. The first even criticizes several *ḥadīths*, including *ḥadīths* narrated by *Bukhari*<sup>607</sup> and calls them *misogynic*<sup>608</sup> *ḥadīths*.

<sup>607</sup> Among the Bukharī *ḥadīths* that are criticized by Mernissi is a *ḥadīth* narrated by Abū Bukra, namely a *ḥadīth* concerning a spontaneous reaction toward the case of the Persian King who had just given the authority to his daughter to lead and manage the country, whereby The Prophet said “It will never be successful the people who give their daughters (women) the right to lead or to manage. Mernissi criticizes both the *sanad* and *matn* of the *ḥadīth*. First of all, she questions the life of Abū Bukra, who was, according to her, a former slave and had a negative reputation, particularly, after the death of the Prophet. Moreover, Mernissi doubts the authenticity of the *ḥadīth* while questioning why was this *ḥadīth* became famous only after the conflict between ‘Aisha and ‘Ali developed. Mernissi adds that “Apparently Abū Bukra belonged to ‘Ali’s group; and therefore he wanted to support ‘Ali’s position by quoting this *ḥadīth*. And if this *ḥadīth* is true (legitimate), the Prophet’s perception on the Persian King’s case is only valid under the condition that his daughter was not prepared to take over his father’s position. For more detailed information on Mernissi’s reaction towards - as she prefer says “*misogynic ḥadīths*”, see her book, “*Beyond the Veil Male-Female Dynamics in Modern Muslim Society*”, Indiana: Indiana University Press, 1987. The ideas of Mernissi, which seem to be very feminist and blame several *ḥadīths* as misogynic, has been sharply criticized by Hidayat Nur Wahid in a special article concerning only Fatima Mernissi i.e. “*Kajian Atas Kajian Dr. Fatima Mernissi Tentang “Hadis Misogini”*”, in “*Membincang Feminisme: Diskursus Gender Perspektif Islam*”, p. 3-36. In this article Wahid says that Mernissi’s opinions are very much influenced by her emotional feelings, which he calls an “*inferiority complex*” and her carelessness. Wahid adds that there is no evidence to say that the *ḥadīth* of Abū Huraira and Bukharī are misogynic *ḥadīths*. For more information, see Hidayat Nur Wahid “*Kajian Atas Kajian Dr. Fatima Mernissi Tentang “Hadis Misogini”*”, in “*Membincang Feminisme: Diskursus Gender Perspektif Islam*”, Risalah Gusti: Surabaya, August 2000., p. 3-36

<sup>608</sup> *Misogyny* means “hate towards women”. According to psychoanalysts, misogyny was initially derived from children’s anger towards their mothers, because society gives the duty of educating and looking after the children to women. They add that only with the full participation of men in looking after and educating children, can misogyny be uprooted from society. See for instance, Chodorow “*The Reproduction of Mothering: Psychoanalysis and the Sociology of Gender*”, University of California: Berkeley, CA. 1978. See also, Dinnerstein, “*The Mermaid and the Minotaur: Sexual Arrangements and Human Malaise*”. Harper & Row: New York

It may be reasonable to assume that the emergence of the gender equality reformation movement in several countries such as Indonesia, Egypt, Algeria, Tunisia, Nigeria, etc., is motivated by a local reaction toward certain *fiqh* books that were compiled in a certain time and socio-cultural environment. A long time ago, i.e. in the early 19<sup>th</sup> century, such a reformation was also pioneered, namely the so-called *tanzīmāt reformation*, a reformation for adjustment. This was introduced by Mustafā Rashīd Pashā and Sultān Maḥmūd II in Turkey and reached its culmination at the time of Kemal Atatürk's reign. By this time it was not a reformation anymore, but a revolution and well-known as Kemal Atatürk Revolution. This revolution, too, was a reaction against the opinions of the 'ulamā' who were viewed as irrelevant to the contemporary situation. Unfortunately, a high price was paid for this revolution, i.e. many 'ulamā' were killed, expelled from their home towns or - like Badi'uzzamān Sa'īd Nursī - kept in jails.<sup>609</sup>

Apart from physical reformations - i.e. a reformation which uses physical power as its tool or instrument - there are also other kinds of reformation, such as the intellectual reformation, which strives to improve or reform the situation in systematic and diplomatic ways - for instance, through the books of Qāsim Amīn from Egypt, who was a close friend of Muḥammad 'Abduh. He wrote a monumental book concerning women's issues, entitled "*Tahrīr al-Mar'a*", which means "liberating women". In this book, he wrote that the Qur'ān actually and in principal gives a high position to women, but the intense tradition derived from outside Islam has become a main factor in the reduced position of Muslim women. The backwardness of (Muslim) women, in its turn has contributed towards retarding the Muslim community as a whole. This is because half of Muslim people are women. Therefore, he said, there is no other alternative to improve Muslim community but to give freedom to women.<sup>610</sup>

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(1976). According to Adrienne Rich, *misogyny* is a form of violence and aggression against women that is commonly considered as normal, institutional and well-organized. For Rich's ideas and more detailed information on violence toward women, read for instance, Rich, "*Blood, Bread and Poetry*", W.W. Norton: New York, 1986. Read also, Rich, "*Toward a Women-Centered University; in On Lies, Secrets and Silence*", W. W. Norton: New York, 1979. Compare with, Rigney "*Madness and Sexual Politics in the Feminist Novel*", University of Wisconsin Press: Madison, 1978. Compare also Reed, "*Women: Caste, Class or Oppressed Sex?*" in "*Feminist Frameworks*, Jagger, et. al. (eds), McGraw-Hill: New York, 1978.

<sup>609</sup>Badi'uzzamān Sa'īd Nursī was born in the East Anatolian village of *Nurs* in 1876. He was born into a farming family. Sa'īd Nursī was a very prominent and outstanding Islamic scholar 'ālim (singular form of 'ulamā'). He was even regarded as a saint, who had (enjoyed) the so-called *karama* (magical power as a give from God, The All Mighty, to His pious slave) . Sa'īd Nursī died on 23 March, 1960 at the age of 84. See for instance magazine "*Nūr: Das Licht*", special edition, 1997, in memorial of Badi'uzzamān Sa'īd Nursī's, 37 years after his death, published by the Islamische Gemeinschaft, Jama'at-un Nur e.V. Köln, Germany.

<sup>610</sup>See footnote no. 38.

### 5.A. 3. Bias Due to the Influence of *Isrā'iliyyāt* Stories

It is undeniable that *Isrā'iliyyāt*<sup>611</sup> stories have been widely known and read, not only in Jewish society, but also among Christians and Moslems. *Isrā'iliyyāt* are stories derived from Semitic “samawi” religions before Islam, such as from Judaism and Christianity.<sup>612</sup> These stories re-emerged in many Qur'ānic commentaries or exegesis as well as in books of hadith commentaries (syarh hadith). It might be that these stories infiltrated through former members of these religions who converted to Islam, or they might also have entered through adherents of these religions in a systematic way, in order to influence Islamic teaching. In any case, many prominent Islamic scholars approve of the existence and dissemination of these stories to Muslims. According to them, *Isrā'iliyyāt* stories are important in explaining the meaning of some concise Qur'ānic expressions, which in some cases seem to be very dense and difficult to understand, and to require not only a high level of knowledge of especially Arabic literature (*balagha*), *nahwu*, *sarf*, *adāb an-Nuṣūs*, *fiqh al-lughā*, *mantiq* (knowledge of debate and logic), but also of history, sociology, etc. Some famous Qur'ānic exegeses introduce and adopt *Isrā'iliyyāt* stories. For instance, *tafsīr aṭ-Ṭabarī*, *tafsīr al-Qurtubī*, *tafsīr al-Alūsi*, among others. As is mentioned in Chapter Two of this dissertation, the attitude of the Jewish religion towards women – as its holy scripture shows - is very unfair. Women hardly enjoy the civil rights that men have.<sup>613</sup> It is very logical that the more *Isrā'iliyyāt* stories that are introduced and quoted, the stronger their influence affects the interpretation of the texts, i.e. Qur'ānic verses, and the greater the so-called gender bias in understanding religious teachings.

Moreover, since Judaism and Islam are classified as Semitic religions, their teachings are similar in some aspects, especially regarding the social hierarchy. This makes it difficult to trace the sources of religious teaching; it is hard to differentiate between the sources of Jewish teaching and those of Islam. Qur'ānic scholars (*mufasssirs*), as mentioned above, might have had good

<sup>611</sup> *Isrā'iliyyat* derives from the Ibrani language: *isra* means “slave” and *El* means “God”, so Israel literally means “the slave of God”. Whereas *Isrā'iliyyah* is a plural form of Israel, which means here the stories that derive from Israelite sources. *Isrā'iliyyat* is connected to the second son of the Prophet Abraham, i.e. Ya'qub and Ishaq, who had twelve descendants..

<sup>612</sup> Sayid Husain al-Zahabi, “*al-Isrā'iliyyat fī at-Tafsīr wa al-Hadith*”, Damsyiq: Lajnah al-Nashr fī Dār al-īmān, 1985. P. 19

<sup>613</sup> As evidence of this, see, for instance, Article 36 of the Israelite Civil Rights book, as quoted by Salim El-Bahnassawi in “*Die Stellung der Frauen zwischen Islam und Weltlicher Gesetzgebung*”, Op. Cit. p. 14.

intentions in adopting some relevant *Isra'iliyyāt* stories, for example, they wanted to make their interpretations of certain Qur'ānic verses clearer and easier to understand. It is also possible that they themselves were not really able to differentiate between Jewish sources and Islamic ones. One may clearly see, for instance, in *tafsir aṭ-Ṭabarī*, how many *Isra'iliyyāt* sources<sup>614</sup> are used as an additional instrument in interpreting gender-related verses.

One reason for this situation was that during the revelation of the Qur'ānic verses - particularly those related to social life - Jews lived alongside Muslims in *Medina*, in an integrated society. Because of this, some Qur'ānic scholars connected and integrated Jewish tradition into their interpretation. Nevertheless, The Prophet (pbuh) himself, from the beginning, did not respect some Jewish traditions, which were contrary to Islamic teaching and were against the Islamic doctrine of absolute monotheism (*tawḥīd*). The Prophet Muhammad (pbuh), for instance, asked God to change the direction of *qibla* from Jerusalem to Mecca, which was finally accepted by Allah as shown in Sura al-Baqara verse no. 44.<sup>615</sup> Afterwards, he changed the name of *Madīna al-Munawwarah* from the former *Yastrib*, because this was Jewish. The Prophet (pbuh) successfully demonstrated the equality and just position of men and women in social life, from entrepreneurship and politics, to the participation of women on the battlefield. It is really regrettable that after the death of God's Messenger, the spirit of gender equality *al-musāwa al-jinsiyya* was not continued by Islamic leaders or authorities. This is admitted by, among others, David Powers, who wrote in his dissertation that in the early period of Islam - the time of *proto* Islamic law - women's freedom in various fields was very clear.<sup>616</sup>

Unfortunately, this laudable situation gradually disappeared. Such a tragic fate is also acknowledged by Wiebke Walther.<sup>617</sup> Still in the same vein, Qāsim Amīn - who was a close friend of Muḥammad 'Abduh and who wrote a book entitled *taḥrīr al-mar'a* - stated that the Qur'ān has indeed given rights and a high position of women, in principle, but that strong traditions and customs

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<sup>614</sup>*Isra'iliyyat* sources here, e.g. the tradition of Jewish social life such as adat (custom) law, which also includes the Jewish idea of value, good, bad, etc.

<sup>615</sup>God, The All-Mighty says: "Verily! We have seen the turning of your (Muhammad's p.b.u.h) face towards the heaven. Surely, We shall turn you to a Qibla (prayer direction) that shall please you, so turn your face in the direction of al-Masjid al-Haram (at Makkah). And wheresoever you people are, turn your face (in prayer) in that direction. Certainly, the people who were given the Scripture (i.e. Jews and Christians) know well that, that (your turning towards the direction of the Ka'ba at Makkah in prayers) is the truth from their Lord. And Allāh is not unaware of what they do. (2:144). Al-Hilali, Op.Cit. p. 29-30.

<sup>616</sup>David S. Power, "*Studies in Qur'ān and Hadith; The Formation of Islamic Law of Inheritance*", Berkeley: University of California Press, 1986, p. xii.

<sup>617</sup>Wiebke Walther, "*Women in Islam: From Medieval to Modern Times*", New York: Markus Wiener Publishing Princeton, 1993. p. 51

which derived from non-Islamic power had altered this. As a consequence, he added, Muslim women are up to the present day, still in an unprogressive position. The backwardness of (Muslim) women, according to Qāsim Amīn, has inevitably contributed to the backwardness of Muslims as a whole, because half or more of the Muslim population are women. Therefore, he said that to improve Muslim society there is no alternative but to give freedom to women. This goal is impossible if they have no skills or education.<sup>618</sup> And to have skills and adequate knowledge, I am convinced, Muslim women must be given the same rights as men - to have and enjoy the same so-called educational opportunities and privileges.

Some *Isra'iliyyāt* influences in Qur'ānic commentaries may generally be found, among others, with regard to the origin of woman's creation. As I have mentioned in the first chapter of this dissertation, the Old Testament narrated many stories which generally give a negative image of women. For instance, woman is portrayed as God's second creation (complementary creation) (2:20) and regarded as a subordinate of man because she is created from man's rib (Adam's rib) (2:21-22). Moreover, the woman is blamed and cursed in the cosmic tragedy for having caused mankind to be expelled from Paradise (3:12). Women, therefore, must assume a larger share of the responsibility for this inherited sin than men (3:12). These verses are clearly explained in the Book of Talmud, a book that comments and reviews verses of the Old Testament.<sup>619</sup> The *Isra'iliyyāt* stories, furthermore, may also found in the commentary of verses relating to the following issues, among others, of *Ya'jūj and Ma'jūz* (Q.S. Al-Anbiya'/21:96), *Dhū al-Qarnain* (Q.S. Al-Kahfi/18:83), *Ashāb al-Kahfi* (Q.S. al-Kahfi/18:9), and the stories about some Prophets, the story of Fir'aun (Ramses), as well as the story related to the creation of the cosmos and mankind.

## 5.B. Language Factors

### 5.B. 1. Bias in Interpreting and Understanding Words (*mufradat*).

It is commonly found that the different meanings of a word or phrase may influence the process of setting or producing a law or regulation. This may be seen in the following example: Allah says in the Qur'an, *sūra al-Mā'ida*, verse no. 6 (5:6) "*aw lāmastum an-nisā'*". The word *lamasa* in this context could be interpreted in several meanings namely, a) "to touch" or b) "to make love", c)

<sup>618</sup>For more information on Qasim Amin's thoughts, see, for instance, his book, "*Tahrīr al-Mar'a*", (*Masr: Al-Markaz al-'Arabī li al-Baḥth wa al-Nashr*, 1994. See also his other book entitled "*al-Mar'ah al-Jadida*", *Mishr: Sina li al-Nasyr*. n.d.)

<sup>619</sup>Nasaruddin Umar, "Argumen Kesetaraan Gender: Perspektif Al-Qur'an", *Op. Cit.* p. 286-290

to touch with lust, etc. Let us interpret this according to the first meaning; which in this context may lead to the following meaning i.e. if a man touches a woman or vice versa whom do not belong to his/her *muḥrim* (blood relative), according to *ash-Shāfiʿī* (Shāfiʿite mazhab/Shāfiʿite<sup>620</sup> Islamic school of law) will vitiate his/her ritual ablution (*wuḍūʿ*). According to *Mālik*,<sup>621</sup> nevertheless, if he or she does not touch with lust – this will not vitiate his *wuḍuʿ* (ritual ablution). Whereas, according to *Imām Abū Hanīfa*, the *wuḍuʿ* is only invalid if one makes love, because he interprets the word “*lamasa*” in this context with “*al-Jima*” or making love (the interpretation of no. b). So that if one is not making love, according to his *mazhab*<sup>622</sup> means that his or her *wuḍuʿ* is still valid or not vitiated.<sup>623</sup>

### 5.B. 2. Bias in Pronoun (Ḍamīr) Reference

As we know, relating a pronoun to its object in the Arabic language is not an easy task. This will always lead to disagreements between ‘ulama (Islamic scholars) and scholars in other fields whose work involves Arabic- for instance, the reference of pronoun (*ḍamīr*) to the *huruf* (character) *hā* in *sūra an-Nisaʿ* verse no.1 (4:1) i.e. *wakhalaqa minhā*.

*Jumhūr* (the majority of Islamic jurists), as well as Qurʾān commentators, say this pronoun “*hā*” refers to the phrase *nafsīn wāḥidatin* (one soul), i.e. *Adam*, while some others, like *Abū Muḥammad al-Asfāhanī*, think it refers to the word “*nafsīn*”, which means “*jins*” (sort, species, material). An understanding of the pronoun’s use in the first case will lead to the interpretation that woman is the second creation, whereas in the second case, it implies that woman, i.e. Eve, was created from the same sort, species or material from which Adam was created.

<sup>620</sup> *Shāfiʿī* was the founding father of Shāfiʿite Mazhab. He was born in Gazza/Gizza Egypt (some people said in Askalon oder Minā, etc.) in 150 H. / 767 M. The complete name of Shāfiʿī was Muḥammad bin Idrīs Ash-Shāfiʿī al-Qurayshī. His father belonged to Quraysh tribe, and his mother derived from Azḍ tribe. He spent his childhood in Mecca, where started learning Tradition (Ḥadīth), etc. In 170/786 he went to Madīna to learn with Imām Mālik bin Anas, who is well-known as founding father of Malikite mazhab. Shāfiʿī died on 31 Raʿjab 204/20 January 820 in Fustāt. For more details see Carl Brockelmann, “Geschichte der Arabischen Literature”, zweite den Supplementbänden Angepasste Auflage, Erste Band, Leiden: E.J. Brill, 1943, p. 188-192.

<sup>621</sup> *Mālik* or Abū Al-Mālik bin Anas bin Aīmad 0221 Amīr bin ʿamr al-Aṣbahī was born in Madīna in 93/711 and died also in Madīna in 179/795. He was the founding father of Malikite mazhab, and one of an important teacher to Ash-Shāfiʿī. For more information on Mālik see among others, Carl Brockelmann, *Ibid.* p. 184-188. See also H.A.R. Gibb, *Op. Cit.*, p. 321-324 and compare with Hasbi Aṣ-Ṣiddiqī, *Op. Cit.*, h. 17-233).

<sup>622</sup> Mazhab means school of thought concerning Islamic law

<sup>623</sup> Muhammad ʿAlī aṣ-Ṣabūni, Vol. I. p. 359.

### 5.B. 3. Standardization of Characters [*huruf*] and the Symbol of Recitation (*qirā-at*).

In the Qur'ān there are many words and *hurfs* (characters) that are likely to be read in several ways, which is well known as *sab'ah ahruf*<sup>624</sup> (seven kinds of character) and *qirā'a sab'ah*<sup>625</sup> (seven kinds of recitation). These seven kinds of recitation style are allowed in the Islamic point of view. It is not only legitimized by some Hadith narration but also legitimized by the Qur'ān itself: "...so recite as much of the Qur'ān as may be easy (for you)...(74:20).<sup>626</sup>

The standardization of the symbol of recitation (*ḥaraka, nuqṭa, and shakl*) inevitably eliminates some versions of these *qirā'ah* in the Qur'ān. After the codification of the Qur'ān, the *qirā'a* that was then used is the *qirā'ah* that was in the *mushhaf al-Imām*, the *mushhaf* that the Muslims use today. According to *Ibn Jarīr at-Ṭabarī, mushhaf al-Imām*, which is also known as *mushhaf uthmanī*, contains only one *huruf* (character) from the seven *hurfs* used before. In standardizing the Qur'ānic *rasm* that is, the form of Qur'ānic words or *hurfs*, some steps were adopted. First, the Qur'ān was revealed gradually. At this time, each new verse that came was directly arranged by the Prophet (pbuh) under the guidance of the *Angel Jibrīl*. Afterwards, God's messenger spread the word both through the so-called "*tadārus*" (reciting the Qur'ān together with companions) and recitation in prayer in front of companions.

The problem of Qur'ān recitation emerged with the spread of Islam to non-Arab regions and countries. Since not all Muslims are Arab, the need of giving *ḥarakāt* (i.e. putting in the vowels between consonants) in the Qur'ān texts became very urgent. The first meeting of linguists to standardize the so-called *shakl* (*ḥarakāt*) was held in the reign of *Mu'awiya ibn Abī Sufyan* (661-680M). The different *rasm* (the form of a word or *huruf*) and *qirā'ah* (the recitation of a

<sup>624</sup>The Ulama have different opinions on the interpretation of *sab'ah ahruf*. Some of them say that that it means the seven dialects that were widely known in Arab society at that time, i.e. Quraish, Huzail, Saqif, Hawazin, Kinanah, Tamin and Yaman. While some other said that *sab'ah ahruf* here means the seven aspects of law, i.e. instruction, forbidden things, halal, haram, muhkam (clear), and mutashabihat (allegorical) and amtsal. Some others said that they were parts of speech: ism (noun), fi'il (verb), ibdal, ta'khir, i'rab, ziyadah, nuqsh and lajhah. For more information on this, please see, among others, Muhammad Ali al.Sabuni, "Al-Ṭibyān fi 'Ulūm al-Qur'ān", 1980. p. 214-216.

<sup>625</sup>*Qirā'ah Sab'ah* refers to the seven prominent companions of the Prophet (pbuh) who learnt the Qur'ān by heart (hafidh), namely; Ubai ibn Ka'ab, 'abdullah ibn Mas'du, Abu al-Darda', Usman ibn Affān, Ali ibn Abi Ṭālib, Abu Musa al-'ash'arī and Zaid ibn Sabit. See, for instance, Manna Khalil al-Qaththa, "Mabahith fi 'ulūm al-Qur'ān", 1973. p. 170.

<sup>626</sup>Al-Hilālī. *Op. Cit.* p. 795.

word) will surely change the meaning. One example is the word “*yaṭhurnā*” in sūra al-Baqara/2: 222. If this word is recited with *tashdīd* (stress/double), then the meaning will be that a woman who just has finished her menstruation must take a complete bath using clean water which has to clean all parts of her body . If, on the other hand, “*yaṭhurnā*” is recited without *tashdīd*, it means that there is no stress on the obligation to take complete bath, because the *tuhūr* (clean status) that is aimed by this form is only *al-inqīṭa’ dāmi l-ḥaiḍ*, meaning the cessation or ending of menstruation blood. Based on this verse, Abū Ḥanifa is of the opinion that a woman whose menstruation blood has already ceased can be considered clean, even though she does not take bath.<sup>627</sup> From this example it is clear to us how the difference in the *rasm* (form) of the *huruf* (character) significantly changes the meaning.

#### 5.B. 4. The Limitation of the Meaning of *Istithnā*<sup>628</sup> (Exception)

The meaning of the exceptional word form may also change the meaning of one word to another. As an example, God says in sūra an-Nur / 24: 4-5: “And those who accuse chaste women, and produce not four witnesses, flog them with eighty stripes, and reject their testimony forever. They indeed are the *fāsiqūn* (liars, rebellious, disobedient to Allah). Except those who repent thereafter and righteous deeds; (for such) verily, Allah is Oft-Forgiving, Most Merciful. (24: 4-5)”<sup>629</sup>

The penalty against lying or false accusation as stated in the above-mentioned verses comprises:

- 1) The doer must be whipped 80 times.
- 2) His testimony is rejected forever.
- 3) He is stigmatized as a bad man (or woman)

<sup>627</sup> Ibn Rush, *Bidāyah al-Mujtahid*, Vol. I. Misr: Shirkah Maktabah wa Mathba’a Musthafā al-Babī al-Halabī, 1960, h. 58. See also, *fakhr al-Razi*. Vol. II. p. 419-420

<sup>628</sup> *Istithnā* is an Arabic term or word which means “except”. *Istithnā* is the usage of an exceptional form in Arabic grammar. An example is “*Lā ilāha illā l-Lāh*”, which means “There is no God but Allāh”. The word “*illā*” (which means but) in this sentence is a so-called *adawāt al-istithnā*, which means that is special grammatical tool that is used to express an exception between on object and another.. In the context of the above example “God” i.e. God, The Almighty , is an exception from other beings because He is the only Supreme Being. The use of “*illā*” in this way is not the only *Istithnā* form. There are another uses of *Istithnā*, such as “*in nāfiya* or *in-negative*” which has to be combined with *illā* . For example, “*wa mā yanṭiqu ‘an al-hawā in huwā illā wahyun yūhā*” means “Nor does he (Muhammad pbuh) speak of his own desire. It is only a Revelation revealed!” (QS.An.Najm/53:3-4). See al-Hilālī. Op. Cit. 717.

<sup>629</sup> Al-Hilali. Ibid. 467.

In verse no. 5 of this sūra (an-Nisa') God says "*illā l-lazīna tābū*" (except those who repent). The majority or *jumhur Ulama'*, including Imām Mālik, Shāfī'ī and Imām Aḥmad-, are of the opinion that the exception in this verse applies to only two aspects, namely to 1 and 3. Abū Ḥanīfa, on the other hand, thinks that the exception is only valid for point 3. Abu Hanifa's opinion is more strict, because according to him the word *tābū* (they who repent) cannot cancel the first (1) and second (2) punishments.

### 5.B. 5. Determining the Meaning of Hurf 'Aṭaf

*Hurf 'aṭaf* in Arabic plays an important role. It is not seldom that the interpretation of *hurf 'aṭaf* leads to an endless disagreement. This is because the *hurf* [letter/character] *'aṭaf* has several meanings and functions; it sometimes functions as *wāw al-'aṭaf*, *wāw al-ḥāl*, and *wāw al-Qasm*. In its function as *wāw al-'Aṭaf*, it could also be interpreted understood as a serial comma in the text (,) or it may be translated as "or", or it sometimes means "and" as in an addition. For instance in sūra an-Nisa' (4:3). in which God, the almighty says "And if you fear that you shall not be able to deal justly with the orphan girls then marry (other) women of your choice, two or three, or four, but if you fear that you shall not be able to deal justly (with them), then only one or (the slaves) that your right hand possess. That is nearer to prevent you from doing injustice (4:3)<sup>630</sup>.

The *hurf "wāw"* in this verse is understood differently by *'ulama'* (Islamic scholars). Some interpret it as an alternative or choice, so that it may be interpreted "or", i.e. 2 or 3 or 4. There are a minority of *'Ulamā'* who are inclined to interpret "*wāw*" in this verse as being a symbol for an addition, i.e.  $2+3+4=9$ , the same number of wives of the Prophet. Furthermore, a minority of *'ulamā'* is of the opinion that the *hurf (letter/character) "wāw"* in this context is a symbol of multiplication, i.e.  $2 \times 3 \times 4 = 24$ . There are even people who do not limit the number of wives at all.<sup>631</sup> The second and the third opinions are not merely unpopular among most *'ulamā'*, but also have no reference basis to a relevant passage of the Qur'ān and Ḥadīth i.e. *dalīl*.

### 5.B. 6. Bias in the Language Structure (*al-uslūb al-lughawī*)

The Arabic language, in which the Qur'ān was revealed, has many tendencies of gender bias, both in its vocabulary and sentence structure. For instance, the word "*ar-rajul* or *ar-rijālū*" is sometimes interpreted as "man", i.e. mankind,

<sup>630</sup> Al-Hilali, p. Op. Cit 106

<sup>631</sup> Sayid Sabiq, "*Fiqh as-Sunnah*", Beirut; Dar al-Fikr, 1983, h. 96

which refers to both men and women (QS. at-Tawba / 9:10), but also as the Prophet or the Messenger of God (QS al-Anbiya / 21:7), as a prominent person of a society (QS. Yā-Sīn/ 36:20) and as someone of the male gender only (QS. Al-Baqara/ 2:228). This is very different if compared to the words “*imra’ā*” or “*an-Nisa’*” which can only be interpreted in one way, i.e. to refer to the females, for example, (QS. An-Nisa’ / 4:32) and wives (QS. Al-Baqara/2:222).

It is well known in the Arabic tradition, that if the object(s) to which the speaker is referring are men *and* women, the form that is used in the sentence must be *ṣiġḥah muzakkar*, namely the masculine form. For instance, concerning the instruction on the performance of *ṣalāh*, prayers, “*wa-a-qīmuṣṣalāta*” is said and there is no need to say “*wa-a-qīmunnaṣṣalāta*”. This also holds true in the case of greeting; it is enough to say “*assalāmu’alaikum*”, and it is not suggested or instructed to say “*assalāmu’alaikunna*”, even though women are included in the group. This system is based on a *qā’ida*, i.e. the grammar rules of the Arabic language, which say that if men and women gather in a certain place, it is sufficient to use the masculine form in referring to them both and women are automatically included, unless any other situation is specified. Otherwise, this usage is not valid in reference to females only. That is, if a phrase uses the female form “*ṣiġḥat muannath*”, this form or *ṣiġḥa* is only valid to refer to a woman or women, but not men. For example, when God, The Almighty, says “*waqarna fī buyūtikunna!*” which means “And stay in your houses!”<sup>632</sup>, the instruction to stay home applies only to women but not to men. In other words, it is different with the case of “*wa-a-qīmuṣṣalāta*”. The gender bias of this grammar rule does not mean that God takes side with men and idealized them. This also holds true where He is always the male pronoun “*ṣiġḥah muzakkar*”, as in the case of sura al-ikhlaṣ/112:1, “*qul huwa l-Lāhu aḥad*”, Say O Muhammad! He is Allah, the One!<sup>633</sup>

The transfer of God’s ideas and concepts through the Arabic language (*qur’ānan ‘arabiyyan*/Q.s. Yusuf/12:2), or in accordance with Arabic taste (*lisānan ‘arabiyyan*/Q. s. al-Aḥqāf/46:12), or with the language of his tribe (*qaum*) (*bi lisāni qawmih*/Q. s. Ibrahim/14:4), indeed needs careful and deep analysis. It is surely, not an easy task, because every language has its own particular cultural background. And if an idea is translated into yet another language, the probability of losing and adding meanings between languages is very high.

As a another example, God says in sūra an-Nisa’ / 4: 34: “*al-rijālu qawwāmūna ‘alā an-nisa’i bimā faḍḍala l-Lāhu ba’ḍahum ‘alā ba’ḍin wa bimā anfaqū min*

<sup>632</sup> Al-Hilālī, *Op. Cit.* p. 565

<sup>633</sup> *Ibid.* p. 854

*amwālihīm...”(34) “Men are the protectors and maintainers of women, because Allah has made one of them to excel the other, and because they spend (support them) from their means...”<sup>634</sup>*

The word *qawwāmūna* in this verse is interpreted quite heterogeneously. For instance, Al-Ḥilālī *et. al.* interprets it as “*the protectors*”, while Yusuf Ali translates it into English as “the protectors and maintainers”. Otherwise, in the Tafsir of the Department Agama (Religious Affairs Departement of Indonesia) one may see the word “*qawwāmūna*” is interpreted as “the leaders” (of or for women). From the above comparison, it is clear that the interpretation of the word “*qawwāmūna*” in the Indonesian Tafsir, seems to be more arrogant and authoritarian than that of Al-Ḥilālī and Yusuf Ali.

### 5.B. 7. The Bias Influenced by Arabic Dictionaries

There are many gender-biased words (*mufradāt*) adopted in many Arabic dictionaries. For instance, in *Lisan al-‘Arab*, which is considered to be the most standard Arabic dictionary and comprises of 14 volumes, it is found that the word *imām* and *khalīfah*, two words that represent concepts of leadership and authority in the Arabic language, do not have *ṣīghah muannath* or the feminine form.

The word “*imām*” is discussed in about three pages in this dictionary and seems to refer to males. For instance, when it discusses the concept *imām* as the leader of the prayers or the leader of a society, it implies that the authority of the *imām* is a prerogative right only of men.<sup>635</sup> Yet the word *khalifa* which is actually a feminine form or *ṣīghah muannath*, is also only used for men. It is stated, for instance, *lā yakūna illā li al-muzakkar*,<sup>636</sup> which means it is specifically for males (men).

Apart from this there is another ironical use of language, namely women are called *al-untha* from the word “*antha*” meaning “weak, soft, not hard”<sup>637</sup>. The person who is gracious and gentle or has a polite character is called “feminine” or *unātsah*.<sup>638</sup> Men, on the other hand, are called “*adh-Dhakaru*” which derives from the word “*zakara*”, which means to remember, to mention, to recite God’s names; *asmā’u l-husnā*.<sup>639</sup> This word derives from the same word, i.e. “*az-*

<sup>634</sup> *Ibid.* p.113.

<sup>635</sup> *Lisan al-‘Arab*, Vol. XII, p. 24-6

<sup>636</sup> *Ibid.* Jilid IX. p. 83.

<sup>637</sup> *Al-Munawwir*. P. 46-47

<sup>638</sup> *Al-Mawrid*, p. 342.

<sup>639</sup> *Al-Munawwir*, p. 432-433.

*zikru*” which means to learn by heart or to keep things by mentioning it (*al-ḥifḍu li sh-shai’in tazkuruhu*). The word *zakar*, too, indicates the substance of power, brevity as well as harshness, like in the phrase “*rajulun zakarun*” (a strong, brave and powerful man), “*maṭarun zakarun*” (a strong and hard rain)<sup>640</sup>. The influence of such definitions and implications, will unconsciously infiltrate the minds of the readers of this dictionary, who will finally come to the conclusion or assumption that women are weak creatures because they are called in Arabic “*al-unthā*”, whereas men will be regarded as a strong and powerful creatures because the Arabic word “*az-zakar*” which means strong, brave, is used for them.

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<sup>640</sup>Lisān al-‘Arab, Vol. IV. p. 308

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The issue of women in Islam is highly controversial. It is generally agreed that the rights granted to women in the Qur'an and by the prophet Muhammad were an improvement in comparison to the situation of women prior to the advent of Islam. After the Prophet's death the condition of women in Islam began to decline and revert back to pre-Islamic norms. In the twentieth century women's movement raised the issues of women's right. But the feminists in the Muslim world mostly were upper class women whose feminism was modeled after theories from the Western world. Modern socio-political models in the Muslim world after the colonial period began to shift from Western models of society and government to "Islamic" models, feminism in the Muslim world began to take on Islamic forms rather than following the Western feminist theories. Therefore, one of the main purposes of this book is to try to present an Islamic perspective i.e. Sūra an-Nisa' (the forth sūra of the glorious Qur'an) which is based on the interpretation of Schech Muḥammad Mutawallī Ash-Sha'rawī and Mūhammad Ḥasbi Aṣ-Ṣiddiqī along with other Muslim feminists and thinkers.



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