

## Women in Islam

*There is only very little that can be said in general about all women in Islam. The differences in the circumstances of life created by the urban or rural environment are too large; the gap between women in Afghanistan and Tunisia, between sternly religious families and secularized Muslims in the Western world, is too great. The question whether the woman concerned obtains access to schooling changes the circumstances of her life just as decisively as does her age at marriage and the view of the individual family about which Islamic regulations are to be applied in this family and how strictly. This article names several of these fundamental guidelines without, thereby, claiming automatically to describe the concrete living conditions of all Muslim women.*

### Up to Four Women

Polygyny (multiple wives) – possibly unlimited – probably existed in pre-Islamic Arabia. In Sure 4:3, the Koran limits the number of a man's wives to four and, beyond this, allows an unlimited number of concubines: "And if you fear not acting justly in regard to the orphans, than marry women as it befits you: two, three, or four. But, if you fear not acting justly, then marry only one, or whatever [female slaves] you possess. In this way, you can most easily avoid doing injustice" (4:3).

A few countries, such as Tunisia, legally forbid polygamy. In the other countries, however – provided that the marriage contract makes no other provision – a woman can do nothing if her husband desires to take a second wife. In several Islamic countries today, though, she can require in the marriage contract that she be guaranteed the right to a divorce if her husband takes a second wife during her lifetime. In the other Islamic countries, polygamy is in no way the rule, but – simply for economic reasons – always the exception, since the Koran and Islamic tradition demand that all women be treated justly in regard to the material care and affection provided by the husband.

A few Muslim theologians have interpreted the only Koran verse that mentions the number of four wives (in Sure 4: 3) in the sense that the Koran here actually speaks explicitly against polygamy, since the equal treatment of several wives is never really possible, as the Koran itself concedes: "And you will not really be able to treat your wives justly, however much you try to do so" (4: 129). The majority of Muslim theologians, however, has held fast to the permission, in principle, to marry four wives.

### The Duty of Marriage

In Islam, voluntary unmarried existence is actually unthinkable. The Koran, of course, clearly commands marriages in Sure 24: 32: "And give in marriage those among you who are single." The Islamic tradition declares marriage to be a good custom that is to be observed, that is, it is *sunna*: "Marriage is a part of my *sunna*, and whoever is against my *sunna* is against me," so Mohammed is reported to have said.<sup>1</sup> Unmarried, divorced, or widowed women in the Islamic world usually do not live alone but, rather, move in again with their extended family, which has the goal of seeing them married again. The fundamental reason for this is the Islamic concept of marriage that assumes that, without the control of the extended family, a single woman living alone would give rise to rumors about her moral conduct.

### Early Marriages

The Koran makes no concrete statements about an acceptable age for marriage. It is known of Mohammed that he married some of his wives while they were very young or still children, especially his later favorite wife Aisha, who was six years old at the time. This fact later was cited repeatedly as justification for child marriages. Today, the law books of most Islamic countries contain provisions that determine a minimum age for marriage, which is frequently set at 14 to 16 years for girls and approximately 16 to 18 years for boys, a regulation that, in practice in rural areas, is not infrequently

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<sup>1</sup>Hans Bauer, *Von der Ehe. Das 12. Buch von al-Gazâlî's Hauptwerk* (Halle: Max Niemeyer, 1917), p. 5.

circumvented by the misrepresentation of birth dates. Thus, for example, Moroccan women report that, as recently as several decades ago, girls not yet in puberty, at the age of eleven or twelve years, were given in marriage. However, it happened that the marriage of nine year-olds also occurred, and that girls became mothers already at the age of ten or eleven.<sup>2</sup>

### **Arranged Marriages and Marriage Contracts**

To the present day, marriages occur frequently within the network of family relations, above all between cousins, because marriage also is considered very much under the aspect of a bond between two families. Once young people reach marriageable age and are not yet promised to a cousin, the traditional way is the arrangement of a marriage through the mother or an older female relation of the groom. Of course, modern marriages are certainly not arranged everywhere, and the number of “love marriages” – above all in urban areas – is steadily increasing.

If the family arranges the marriage, however, the mother of the groom will make inquiries at the appropriate time about the family of the chosen young woman and about her financial circumstances, but above all about her reputation, her health, and her domestic abilities. One or two visits in the home of the young woman take place, on the occasion of which the amount of the marriage portion and the festivities are discussed. If both families reach agreement, then an official date for the wedding is set and the couple is considered engaged. The assent on the part of the young woman plays a more important role today than in earlier times. Today, she is free to reject at most one candidate, but a second or third candidate less so, since she then easily can be considered difficult and unmarriageable and, thus, can bring shame upon her family.

The actual marriage ceremony is simple; the presence of the bride is not absolutely necessary. She can have her father, brother, or other male relative stand in for her. Originally, the inclusion of an administrative authority in the ceremony, for the registration of the marriage, was not required, but only the presence of a clergyman as well as two witnesses. Today, marriages are also frequently registered with the state authorities. The marriage is purely a contract in civil law between the groom and the legal representative of the bride, and is given no particular divine blessing and includes no promises of lifelong fidelity.

The marriage contract regulates, above all, the financial aspect of the marriage portion (Arabic: *mahr*). The groom either pays the marriage portion completely to his bride as her property at the time of the marriage ceremony, or it is agreed upon that the first part (“morning portion”) is due at the time of the wedding ceremony and the second part (“evening portion”) in the case of divorce or the death of the husband, as a means of providing the wife with some financial security in these cases.

### **The Wedding Celebration**

At the following wedding celebration, men and women by tradition celebrate separately. The high point of the festivities is the act of bringing the bride into the house of the groom. There, the marriage is consummated and, as proof of the virginity of the young woman, the bed sheets are shown to the female relatives. The respectability of the bride and the honor of the whole family are thus demonstrated. If the husband discovers that his bride is no longer a virgin, she is sent back to her family in shame and dishonor. For the family of the girl and for the bride herself, this is certainly the greatest conceivable disgrace of her life. Absolute abstinence before marriage, as a rule, is not expected from the husband to the same extent as from the woman.

### **The Provision for the Family**

The husband is obligated to provide for the family. The wife, for her part, legally cannot be forced to contribute to the livelihood of the family. The wife has the obligation to care for the household and the

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<sup>2</sup>Fatima Mernissi (ed.), *Der Harem ist nicht die Welt. Elf berichte aus dem Leben marokkanischer Frauen* (Hamburg: Lüchtherhand, 1988).

children. Joint ownership of property in our understanding of the concept does not exist, since neither husband nor wife acquires the right to the property of the other through the marriage. The morning portion at the time of the marriage ceremony, as well as the evening portion in the case of divorce, is considered the property of the wife and is not permitted to be used in meeting the costs of living.

Once married the man, according to the Koran, has an unlimited right to marital intercourse whenever he wishes. "Your women are a fertile field for you. Go to your field whenever you wish" (2: 223). Refusal on the part of the woman is always grounds for divorce, and there are some traditions that pronounce a curse on the wife for her refusal. The wife, too, can sue for divorce in this regard, but only after a long period of continuous sexual neglect.

### **Sons and Daughters**

An Islamic marriage never will voluntarily remain childless. Childlessness is considered to be a disgrace and the wife is almost always given the blame for it. Infertility is a frequent ground for divorce. Often the "Evil Eye" of a third party is seen as the cause of childlessness, and many infertile women visit the graves of holy figures, or consult conjurers in order to attain fulfilment of their desire for children by use of magical practices, sacrifices, and occult ceremonies.

A birth is always a joyful event, especially the birth of a boy. The wife is awarded full recognition really only through the birth of a child, for she now has fulfilled the most important expectation of her parents and in-laws. To have given birth to a son is such a tremendous event that many mothers afterward are no longer called by their own names, but rather only as the "mother of Azîz" (Arabic: *umm Azîz*) or "mother of Ismâ'il". The tradition says that "Paradise lies at the feet of mothers", and the Koran demands esteem for and the respectful treatment of parents, especially in their old age: "And we have commanded the people to be good to their parents" (46:15). Only when the parents keep their child from the faith is the child theoretically allowed to be disobedient.<sup>3</sup>

At the birth of a child, the prayer call is whispered in its left ear and the confession of faith ("There is no God but Allah, and Mohammed is his Prophet.") in its right ear. Special care is taken to ensure that the "Evil Eye" might not possibly strike the child, for the high rate of infant mortality in the Islamic world was and is still today attributed above all to the effects of the "Evil Eye", that is, to the adverse magical practices of a third party. For this reason, it is attempted to protect the child from this influence by using various protective magical practices, such as blue beads sewn to the clothing of the child. Annemarie Schimmel mentions the custom of asking forty men named Mohammed for money and then buying clothing for the child from the money received.<sup>4</sup> Sometimes, among other practices, a boy will be dressed in girl's clothes so that the demons are led astray from thinking that they have a boy before them.

### **Circumcision for Boys and Girls**

Circumcision, which the Koran nowhere explicitly demands, is obligatory for boys in the entire Islamic world, and is celebrated with a family festival, usually when the boy is between seven and ten years of age. Afterwards, the boy belongs to masculine society and is gradually made acquainted with the duties of his religion.

In spite of the official state prohibition of it in most Islamic countries, the circumcision of girls is practiced to a greater or lesser extent in several states, primarily in southern Egypt, Somalia, Sudan, as well as by the Bedouins of North Africa. The Koran provides no basis at all for this custom that has survived in only a few Islamic countries, where traditional groups defend it stubbornly as a means of preserving the chastity of the unmarried women. Some Muslim states condemn the circumcision of

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<sup>3</sup>So Jacques Jomier, *How to Understand Islam* (London: SCM Press Ltd., 1989), p. 75.

<sup>4</sup>Annemarie Schimmel, „Traditionelle Frömmigkeit“, in: Munir D. Ahmed and others, *Der Islam, III. Islamische Kultur, Zeitgenössische Strömungen, Volksfrömmigkeit* (Stuttgart: W. Kohlhammer, 1990), pp. 242-266, here: p. 244.

girls as reprehensible, but cannot effectively prevent its practice in certain areas of the society. Only recently, the circumcision of girls, legally forbidden in Egypt as early as 1959, was re-legalized there. It is possible that this custom has its origins in African religions. In Egypt, the circumcision of girls was carried out during the time of the Pharaohs.<sup>5</sup> Thus, the circumcision of girls should not be considered as specifically Islamic.

### **The Veil**

Although in all Islamic countries full or partial veiling is practiced by at least a portion of the women, the command to wear the veil is not at all so easy to derive from the Koran. The Koran says merely that women should cover themselves in a virtuous way for their own protection: "Oh, Prophet! Speak to your wives and daughters and to the women of the believers that they should draw their garments down low over themselves. Thus it is most readily ensured that they are recognized and not molested. God is, however, compassionate and ready to forgive" (33:59).

In the case of some of these instructions it is not easy to decide from the context whether they concern only Mohammed's wives or whether, because his wives are intended to be models for all women, all women in general are addressed here indirectly.

The veil, or the headscarf, is worn from about the age of puberty. The woman then can show herself unveiled only before the men of her extended family. The Koran gives no clear instruction about whether the "veil" means merely a headscarf worn over the usual clothing, as is frequently usual in Turkey, or a full-length veil that leaves the face free or provides only slits for the eyes, as is currently usual in Afghanistan.

### **The Punishment of the Wife in the Koran and in Tradition**

The Koran explicitly concedes to the man the right in certain situations to punish his wife (or wives): "The men take precedence over the women because God has honored them more than the others and because they give (to their wives) from their property... And if you fear that the wives rebel (against you), then remove yourselves from them in the marriage bed and beat them. If they then obey you, then undertake nothing further against them!" (4:34)

The husband, thus, is given the right to resort to means of corporal punishment if he merely fears that his wife could rebel against him. He can use such punishment to compel her to obedience if admonishment and the refusal of marital intercourse have not moved her to relent. Whoever examines the exact wording of the Koran verse could even say that the man not only has the right, but even the duty to punish, for Sure 4:34 is formulated as a command to husbands: "Beat them!"

This is not to say that in every Muslim family the husband beats his wife. There is also just as little justification for claiming that men in the Islamic world would not avail themselves of this right. N. Tomiche mentions, for example, that the right of punishment is legally established in Egypt. There are said to be courts there that concern themselves with the permissible length of the stick with which the woman can be beaten.<sup>6</sup> "Moderate" punishment by the husband will hardly be a cause for legal action against him, since the wife is assumed to be fundamentally responsible for the success of the marriage and, in the case of punishment, the assumption is abnormal behavior on her part.

In the tradition, it is reported of Mohammed himself that he confirmed the right of punishment for the case that a wife received as a guest in her home someone who the husband is not able to abide: "But, she should not allow anyone to sit in your private quarters who you do not like. If she, however, does

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<sup>5</sup>Frank Bliss, *Frau und Gesellschaft in Nordafrika. Islamische Theorie und gesellschaftliche Wirklichkeit* (Bad Honnef: Deutsche Stiftung für Internationale Entwicklung, 1986), p. 118.

<sup>6</sup>N. Tomiche, „Mar'a“, in: *Encyclopedia of Islam*, vol. VI (Leiden: E.J. Brill, 1991), pp. 466-472, here: p. 471, and Frank Bliss, *Frau und Gesellschaft in Nordafrika. Islamische Theorie und gesellschaftliche Wirklichkeit* (Bad Honnef: Deutsche Stiftung für Internationale Entwicklung, 1986), p. 69.

this anyway, then you are permitted to punish her, but not too hard. Her rights in regard to you are that you provide her in an appropriate form with food and clothing”<sup>7</sup>.

The famous theologian Abû Hamîd al-Ghazâlî (died 1111) demands that the “malice” of the wife be treated with “discipline and severity”<sup>8</sup> and, in the case of “disobedience on the part of the wife”, he advocates “forcibly returning [her] to obedience”<sup>9</sup>. If her husband punishes her and, as a last resort, beats her, then “he should beat her without causing her injury..., that is, he should cause her pain, but not so that one of her bones is broken or she bleeds. He also is not permitted to strike her in the face; that is forbidden”<sup>10</sup>.

## **Adultery**

Adultery in general is considered in Islam to be a serious offence; the Koran requires 100 lashes for the man and the woman (24:2) and warns explicitly against leniency and compassion. In Islamic law, however, the penalty of death by stoning has come to be accepted since the tradition mentions this punishment and it is assumed that earlier the Koran also once contained this “stoning verse”.

However, four witnesses are required to provide proof of adultery, a circumstance that is likely to be extremely rare. If this condition cannot be fulfilled, then the charge is interpreted as a false accusation, which, according to Islamic law, likewise is punishable by death. A wife can ward off the accusation of adultery made by her husband, but which he cannot prove through the evidence of four witnesses, by calling upon God four times as her witness that her husband is lying and the fifth time swearing to God that she is innocent and imploring God that he otherwise might punish her with his curse (24:6-9).

So are the legal provisions, which offer only few possibilities for legal proceedings. It is quite another question how adultery, or the suspicion of it, is punished in practice. One can certainly assume that a woman is not very frequently charged with adultery in a court of law, but that the family of a woman fallen into “disrepute” itself much more frequently assumes the responsibility of punishment.

In fact, it appears that, in practice, the proven case of adultery is not always required for the punishment of a woman, but rather that only minor deviations from socially accepted behavior are sufficient. For an unmarried woman, this immoral behavior would exist, for example, in a conversation with an unrelated man. The woman then gains a bad reputation and thus has fewer chances for marriage. It can happen that a girl who once has exchanged a few words with a young man in a public place is then shut up completely at home and monitored constantly until she is married.

Jürgen Frembgen reports from his experiences gathered during several lengthy stays in Pakistan: “Among the Pakhtun and Baluch, the forbidden glance of a woman in the direction of a strange man, or a short conversation, already can be interpreted as unchaste behavior and adultery, which makes further life together with her husband impossible and often enough means the killing of the wife”<sup>11</sup>, or “contacts between a man and a woman who are not married to each other can ... be interpreted as adultery and result in a vendetta”<sup>12</sup>.

## **Divorce and Repudiation of the Wife**

The tradition, to be sure, records that Mohammed characterized divorce as the most reprehensible of all permitted actions. Yet, divorces in Islamic law were and are very simple for the man and, accordingly, frequent. The husband can repudiate his wife at any time and without naming his grounds

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<sup>7</sup>From a translation by Talib Y. Fehlhaber, cited in: Ahmad v. Denffer, *Wallfahrt nach Mekka. Das Wichtigste über umra und hadsch*, Schriftenreihe des Islamischen Zentrums München, Nr. 15 (Munich, 1987), p. 84, unfortunately with no source reference.

<sup>8</sup>Hans Bauer, *Von der Ehe. Das 12. Buch von al-Gazâlî's Hauptwerk* (Halle: Max Niemeyer, 1917), p. 78.

<sup>9</sup>Ibid., p. 87.

<sup>10</sup>Ibid.

<sup>11</sup>Jürgen Frembgen, *Alltagsverhalten in Pakistan* (Berlin: Express Edition, 1987), p. 32.

<sup>12</sup>Ibid., p. 74.

for it by repeating the divorce formula (for example: “I repudiate you!”) three times. If he pronounces the formula only once or twice, then the divorce is still revocable. He takes his wife back again before the “waiting period”, the period in which a possible pregnancy would become evident, has run out and consummates marital intercourse with her, which amounts to a repeal of the divorce. If, however, the divorce formula has been spoken three times, then the man can marry this particular woman again only if she, in the intervening period, has been the wife of another man and again has been divorced from him (2:228-230).

This regulation of the three-fold divorce formula is intended actually to protect the woman from impulsive divorces that are pronounced in annoyance, intoxication, or just in fun. Divorce, however, remained even in the Islamic era a comparatively uncomplicated process for the husband, since his decision alone is sufficient.

Today, however, this simple divorce has been made *de facto* more difficult in several Islamic countries. Often (but not everywhere), legal proceedings in a court of law are necessary. In some cases, too, the man must initiate a legal action in order to obtain a divorce; sometimes he is urged to undertake attempts at reconciliation. A particularly frequent ground for divorce today is still likely to be the infertility of the wife or the birth of several daughters and no son.

In most Islamic countries today, a wife, too, can obtain a divorce in certain cases, but always with the help of a formal trial. Among the grounds that a wife can present before a court are several years’ absence of her husband from the home and his presence at an unknown location, the neglect of his obligation to pay support, a term in prison extending over several years, continued impotence, neglect of marital duties for at least three years, mental illness, dangerous, contagious, or repulsive diseases such as leprosy or elephantiasis, exceptional cruelties on the part of the husband, robbery of the wife’s property, hindrance of the wife in the practice of her religious duties, verifiably unequal treatment of wives, seduction of the wife to immorality, and a permanently immoral lifestyle (individual “lapses” are not grounds for divorce<sup>13</sup>). The principle of irreconcilable differences in the marriage also is applied today under certain conditions.

According to Islamic law, the children from a divorced marriage always belong to the father. They can remain with the mother until they have grown out of infancy, that is, girls until ten or twelve and boys no older than seven (in Iran only until the age of two). Afterwards, the children come to their father or to his family and belong to him alone. The wife then no longer has any rights in regard to her children, also no right of visitation.

### **The Islamic Women’s Movement**

The model and goal of the women’s movement in the Islamic world, which is active in all countries at different levels of intensity, is not the adoption of the –what in the Islamic view is considered to be a –decadent and morally reprehensible western social order, and also not the liberation from the regulations of the Koran. The women’s movement argues that neither the Koran nor the tradition is correctly interpreted today, and that Mohammed’s wives possessed a more privileged position than women today. “Back to original Islam and its rights for women!” is the frequent demand of Islamic women’s movements. A call for the assertion of women’s rights in the framework of a suspension of Islam would have no chance of being heard on a broad scale in the Islamic world. Women’s rights advocates who would do so would be charged with being godless and western. For this reason, women in the Islamic world have attempted repeatedly to sue for their rights by “correctly interpreting” the statements of the Koran and the tradition.

### **Differences with Christian Marriage**

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<sup>13</sup>So Asaf A. A. Fyze, *Outlines of Muhammadan Law* (Geoffrey Cumberlege: Oxford University Press, 1949/1955), pp. 145-147, for at least the Indo-Pakistani sphere.

The Islamic marriage differs from the Christian marriage in many respects. Through the provision for the security of the bride with the evening portion, the Islamic marriage in a certain sense reckons already at the time of the marriage ceremony with the possibility of a later divorce and also with the possibility of the man marrying additional women. A promise on the part of the marriage partners with God's help to remain true to each other until death does not exist. Marriage in Islam is generally only a contract in civil law that determines mutual obligations and is not an eternal bond founded by God and blessed by him. The fear of a threatening divorce is quite real for almost every Muslim woman when she does not fulfil the expectations of her husband in the management of the household and the number of children.

The Christian marriage, in contrast, is intended as lifelong companionship with only one partner. Precisely because of the commitment to one human being, that is, to exclusivity, it is compared in the Bible again and again with the covenant between God and human beings, which likewise is committed to exclusivity and is concluded for eternity. Married Christians swear an oath before God that only death should separate them. Also in contrast to Islam, mental illness, prison, or the impossibility of finding a sufficient livelihood would not be a ground for divorce according to the Bible, for it is exactly here that it ought to be demonstrated that Christian marriages are maintained not only so long as the marriage partners "function" flawlessly, but precisely in those instances when he or she most urgently needs counsel, help, and support. The Christian marriage vow to be there for the partner in "good as well as evil days" obligates the partner to sacrifice himself or herself for the other precisely in times of need. The Bible speaks in many places of the fact that love for the neighbor or for the marriage partner is not just a feeling, but also that there must be a decision of the will for love, and that love means devotion and sacrifice (cf. Ephesians 5:25-31). The Bible repeatedly exhorts husbands and wives to exercise love in the marriage. It is not the codification of certain obligations in the marriage, such as provision for the family or the care of children, that forms the chief component of Christian marriage, but it is rather the intellectual-spiritual communion of the marriage partners in their relationship to God and the mutual completion of two, in nature, different human beings borne by love and forgiveness that stands at the center of Christian marriage. The story of creation already makes this especially clear. Adam misses a partner that is like him, does not stand under him like the animals, and does not stand over him like God, his Lord. After he has given all the animals a name, he rejoices at the creation of the woman, for God says: "It is not good for the man to be alone; I will make a partner for him that is suitable to him" (Genesis 2:18).

Divorce was an "abomination" to God already in the Old Testament (Malachi 2:11, 14-16) and was allowed at all only because of the "hardheartedness" of the people (Jesus in Matthew 19:8, Mark 10:5). Divorce in the biblical understanding thus is intended to be an absolute exception, but not allowed for from the very beginning. On the basis of this idea of lifelong companionship, a divorce in German law, too, is still a quite tedious affair that "enforces" a complete year's time to reconsider, even in severe cases of irreconcilable differences. If only one marriage partner desires the divorce, then even several years can pass before the divorce is finalized.

On the other hand, the Koran nowhere speaks explicitly about the intellectual and spiritual communion of marriage partners and, to my knowledge, this component remains practically unconsidered among the commentators on the Koran and in the literature on questions concerning marriage and the family. Since Islam has no ecclesiastical structure encompassing all the faithful and the mosque offers women only a limited sphere of activity, a woman can live out her faith only in private. She cannot, however, intellectually and spiritually shape her environment and culture together with her husband.

Dr Christine Schirmmacher