

Before we look at marriage as viewed by the Muslim, it is first necessary to notice the perceived differences between the genders. The Quran teaches that Muslim men are superior to women.

Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what God would have them guard. As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) beat them (lightly); but if they return to obedience, seek not against them Means (of annoyance): For God is Most High, great (above you all). This inferiority which is taught by the Quran is aimed at their intelligence, their religious position, their gratitude towards men, and the value of their legal testimony. (Surah 4:34)

Many Islamic scholars teach from Sura 4:11 that Man is more perfect than the women simply by creation, natural intelligence, in the religious sphere, and that the testimony of a woman is not equivalent to that of a Muslim male.

One of the “important rights of the husband over the wife” according to a well-known Muslim author, as recorded in the book “A gift to Husband and Wife”, is “the right to beat her if she, in spite of him ordering her, refrains from adorning herself (Thanwi 45-46). He then goes on to list punitive measures and their limits:

There is a need at times for punishment and chastisement. And according to the rule “Necessity is confined to the demand of the occasion”, only that amount of chastisement is permitted which will enable proper reformation. Such chastisement is referred to as Ta’zeer in the Shariah. There are various forms of this: 1) To reproach 2) To scold 3) To beat with the stick or hand 4) To pull the ears 5) To utter harsh words 6) To physically detain 7) To apply financial restraints etc. (Thanwi 45-46)

The author states that one should not beat excessively, or in a manner which leaves marks on the body or breaks the bones or splits the skin. Unfortunately, these beating often lead to death. Notice how the Islamic teaching contradicts the Biblical teaching of how a husband should treat his wife.

“Husbands, love your wives, even as Christ also loved the church, and gave himself for it;” (Eph 5:25)

The husband is to love his wife, in the same manner that Christ sacrificed for the church. One would never think of Christ showing his love through “beatings”, “pulling the ears”, or “uttering harsh words”. A husband is to love and treat his wife as he would his own body (Eph.

5:28). The thought that it is acceptable to physically and emotionally harm the one you have left father and mother to “cleave to” (Matt 19:5) is beyond disgusting. A husband and wife are to be “one flesh” (Matt 19:6). How is it possible to have that type of emotional “oneness” when the person in which you are supposed to be the closest treats you like a second rate citizen.

MULTIPLE WIVES AND DIVORCE

When looking to the Quran for information about marriage, one will come across the teaching of multiple wives (polygamy). We must remember that they do place a lot of emphasis on the early historical figures of the New Testament (Abraham, Joseph, etc.). Yet, the modern reader must also realize that the Muslim doctrine arose in the sixth and seventh centuries A.D. This culture was known for polygamy which at the time allowed unlimited wives as well as divorce for virtually any reason.

If ye fear that ye shall not be able to deal justly with the orphans, Marry women of your choice, Two or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess, that will be more suitable, to prevent you from doing injustice. (Surah 4:3)

A Muslim man may marry up to four different wives. It is interesting that the Muslim traces their lineage back through Abraham all the way to Adam, and often mentions the marriage of Adam and Eve. From the very beginning God gave his design for marriage as recorded in Genesis 2:24.

“Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.” (Gal 2:24)

From the very beginning of time marriage was to be one man and one woman for life. The Jews allowed this holy institution to become polluted by divorce. Jesus was asked for clarification of the matter and gave his response in Matthew 19:1-9.

“And it came to pass, *that* when Jesus had finished these sayings, he departed from Galilee, and came into the coasts of Judaea beyond Jordan; ² And great multitudes followed him; and he healed them there. ³ The Pharisees also came unto him, tempting him, and saying unto him, Is it lawful for a man to put away his wife for every cause? ⁴ And he answered and said unto them, Have ye not read, that he which made *them* at the beginning made them male and female, ⁵ And said, For this cause shall a man leave father and mother, and shall cleave to his wife: and they twain shall be one flesh? ⁶ Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder. ⁷ They say unto him, Why did Moses then command to give a writing of divorcement, and to put her away? ⁸ He saith unto them, Moses because of the hardness of your hearts suffered you to put away your wives: but from the beginning it was not so. ⁹ And I say unto you, Whosoever shall put away his wife, except *it be* for

fornication, and shall marry another, committeth adultery: and whoso marrieth her which is put away doth commit adultery.” (Matt 19:1-9)

Jesus teaches that from the very beginning Marriage was intended to be between one man and one woman, based on the act of the husband “cleaving” to his wife. If this cleaving takes place there would be no desire for divorce. Jesus goes on to teach that divorce was permitted by Moses (Not by God) because of the hardness of their hearts. Furthermore, Jesus gives only one reason for divorce and that is adultery on the part of one spouse. In the case of adultery, the innocent party could “put away” the offender and would be eligible to re-marry while the guilty party could not. The other allowance for re-marriage is the death of a spouse which ended the marriage.

The Islamic faith allows the husband to put away his wife for any reason, but there are many specific rules which must be followed of which we will notice a few.

For those who take an oath for abstention from their wives, a waiting for four months is ordained; if then they return, God is Oft-forgiving, Most Merciful. But if their intention is firm for divorce, God heareth and knoweth all things. (Surah 2:226-227)

A Muslim man can determine to divorce his wife and bring the marriage to an end “by one of four means: 1) Divorce 2) Turning away from her for four months 3) making a statement which makes her unlawful to him, and 4) swearing an oath that she committed adultery” (http://www.islamswomen.com/marriage/fiqh_of_marriage_10.php) Surah 002:226 which is listed above states a “waiting” of four months (withholding from the physical act of intercourse) is one manner of starting the divorce procedure. The Bible contrarily teaches that a husband or wife should not “withhold” marital relations from another, except for prayer and fasting (1 Cor. 7:5). It further commands in the same verse to come back together so as to not be tempted due to the separation. This Muslim allowance for a Husband to “withhold” affection from his wife certainly would aid to the desire for divorce amongst both.

Divorced women shall wait concerning themselves for three monthly periods. Nor is it lawful for them to hide what God Hath created in their wombs, if they have faith in God and the Last Day. And their husbands have the better right to take them back in that period, if they wish for reconciliation. And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree (of advantage) over them. And God is Exalted in Power, Wise. (Surah 2:228)

The Quran mandates that a woman who is divorced wait three menstruation cycles before marrying another man, and cannot hide a pregnancy from her current husband. If she is pregnant, the husband has the right to remarry her. According to the Bible, obeying a “waiting period does not allow one to be in a correct state for re-marriage. See Matt. 19:1-9 for more specifics on Biblical allowances for divorce.

A divorce is only permissible twice: after that, the parties should either hold Together on equitable terms, or separate with kindness. It is not lawful for you, (Men), to take back any of your gifts (from your wives), except when both parties fear that they would be unable to keep the limits ordained by God. If ye (judges) do indeed fear that they would be unable to keep the limits ordained by God, there is no blame on either of them if she give something for her freedom. These are the limits ordained by God; so do not transgress them if any do transgress the limits ordained by God, such persons wrong (Themselves as well as others). (Surah 2:229)

The Quran states that a divorce is only permissible twice: after that, the parties should either remain together equitable terms or separate with kindness. The Muslim man may not take back any of the items he has given to his wife, except when both parties agree. The Bible does not give a maximum term of scriptural divorces. I will use a hyperbole to explain. If a woman was married ten times and each husband was unfaithful to her by terms of adultery, she would have scriptural right in each instance to “put away” her spouse and remarry.

So if a husband divorces his wife (irrevocably), He cannot, after that, remarry her until after she has married another husband and He has divorced her. In that case there is no blame on either of them if they re-unite, provided they feel that they can keep the limits ordained by God. Such are the limits ordained by God, which He makes plain to those who understand. (Surah 2:230)

According to the Quran, if a Muslim man divorces his wife, he is not eligible to re-marry her until she has married another man and that husband has divorced her. Only, under these circumstances are they eligible to re-marry each other. The Bible teaches just the opposite. A Christian may remarry their spouse after either a scriptural or unscriptural “putting away”. However if the divorce was for any other reason than adultery, they can only re-marry their original spouse as they did not have a scriptural right to end that union.

When ye divorce women, and they fulfil the term of their ('Iddat), either take them back on equitable terms or set them free on equitable terms; but do not take them back to injure them, (or) to take undue advantage; if any one does that; He wrongs his own soul. Do not treat God's Signs as a jest, but solemnly rehearse God's favours on you, and the fact that He sent down to you the Book and Wisdom, for your instruction. And fear God, and know that God is well acquainted with all things. (Surah 2:231)

When a Muslim woman is divorced and has waited (iddat) 4 months and 10 days if not pregnant, or until the birth of the child if pregnant, they may take them back or free them on equitable terms. Again, a waiting term does not make one “righteous” in God’s sight. See Matthew 19:1-9 above.

When ye divorce women, and they fulfil the term of their ('Iddat), do not prevent them from marrying their (former) husbands, if they mutually agree on equitable terms. This instruction is for all amongst you, who believe in God and the Last Day. That is (the course Making for) most virtue and purity amongst you and God knows, and ye know not. (Surah 2:232)

In the case a Muslim man has divorced his wife and she has fulfilled her time of waiting as listed above, they may re-marry their previous husband. Again we see that the Quran does not base the allowance of divorce and re-marriage on any act by the spouses, but one is allowed to move from relationship to relationship as long as the “rules” are followed. Divorce rates remain very low in the Muslim culture, but this is primarily out of fear by the female, and her willingness to remain in a bad marriage than be humiliated with the act of divorce. It must be remembered that Muslim wives are treated like “second class” citizens who are ignorant. Furthermore she may be punished severely by beating for even the smallest disagreement.

There is no blame on you if ye divorce women before consummation or the fixation of their dower; but bestow on them (A suitable gift), the wealthy according to his means, and the poor according to his means;- A gift of a reasonable amount is due from those who wish to do the right thing. And if ye divorce them before consummation, but after the fixation of a dower for them, then the half of the dower (Is due to them), unless they remit it or (the man's half) is remitted by him in whose hands is the marriage tie; and the remission (of the man's half) is the nearest to righteousness. And do not forget Liberality between yourselves. For God sees well all that ye do. (Surah 2:236-237)

In the case a Muslim man is not pleased with his bride, he may divorce her prior to consummation of the marriage, but must give them an adequate gift in return. This is not what is taught in the Bible. When one makes a vow before God, the act of consummating the marriage has nothing to do with the vow. The Bible makes it clear that in every case a person divorces for a reason other than unfaithfulness of the spouse, further adultery is committed in future marriages. Divorce was never the intent of the God of the Bible.

Malachi 2:16 (KJV) For the LORD, the God of Israel, saith that he hateth putting away: for *one* covereth violence with his garment, saith the LORD of hosts: therefore take heed to your spirit, that ye deal not treacherously.

SECOND CLASS CITIZENSHIP

If a Muslim woman is raped, she can be accused of adultery by her husband and she has little recourse of defense.

O ye who believe! When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing Let a scribe write down faithfully as between the parties: let not the scribe refuse to write: as God Has taught him, so let him write. Let him who incurs the liability dictate, but let him fear His Lord God, and not diminish aught of what he owes. If they party liable is mentally deficient, or weak, or unable Himself to dictate, Let his guardian dictate faithfully, and get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as ye choose, for witnesses, so that if one of them errs, the other can remind her. The witnesses should not refuse when they are called on (For evidence). Disdain not to reduce to writing (your contract) for a future period, whether it be small or big: it

is juster in the sight of God, More suitable as evidence, and more convenient to prevent doubts among yourselves but if it be a transaction which ye carry out on the spot among yourselves, there is no blame on you if ye reduce it not to writing. But take witness whenever ye make a commercial contract; and let neither scribe nor witness suffer harm. If ye do (such harm), it would be wickedness in you. So fear God; For it is Good that teaches you. And God is well acquainted with all things. If ye are on a journey, and cannot find a scribe, a pledge with possession (may serve the purpose). And if one of you deposits a thing on trust with another, let the trustee (faithfully) discharge his trust, and let him Fear his Lord conceal not evidence; for whoever conceals it, his heart is tainted with sin. And God knoweth all that ye do. (Surah 2:282)

In the Muslim culture a woman's testimony is worth only half that of a man's in a private matter or judicial court setting (Surah 002:282). In the female's case, if there is only one male and one female witness, the male always receives precedence. This is not so in the Christian faith. When Mary went to the sepulcher and saw that Jesus' body was raised from the dead, the angel told her to go and relay the information to His disciples Matt 28:7. We do not read of the disciples needing additional witnesses to substantiate her word. The witness of one female was acceptable.

Your wives are as fields for you. You may enter your fields from any place you want. Reserve something good for your souls (for the life hereafter). Have fear of God and know that you are going to meet Him. (Muhammad) give the glad news to the believers. (Surah 2:223)

There is no such thing as rape of a wife in marriage. A man is permitted unrestricted sexual access to his wives in any manner that he desires, and she has no say so in the matter. The husband is not required to take his wife's desires, needs, or preferences into consideration.

“Nevertheless let every one of you in particular so love his wife even as himself; and the wife see that she reverence her husband.” (Ephesians 5:33)

A Christian husband takes into consideration his wife's needs and desires, which increases respect and further strengthens their love. A Muslim woman would have a hard time “reverencing” her husband who treats and uses her in a gluttonous unloving manner for his own sexual satisfaction.

I have already shown there is no such thing as rape in the marriage, but outside of marriage is almost equally terrible. If a Muslim female is raped, she must bring four male witnesses who visually observed the perpetrator (Surah 024:004; 024:13) for him to be found guilty. The only other method in which the rapist would be found guilty is by his own confessing testimony. Therefore, a man knows that if a woman is alone, and no one will see him rape his victim, he is assured that no charges can be placed against him that will stand up in court. This is because her testimony is not considered admissible. Furthermore, she may now be accused by her husband of adultery even though she was not a willing participant in the crime. It is also a common occurrence for women facing prison time for the occurrence of being raped.

Worse yet, many women face what is traditionally called an “honor killing” by the family for the shame of adultery due to the forced rape.

FEMALE MUTULATION (CIRCUMCISION)

Most Islamic scholars on the subject of female circumcision indicate that the intent is to diminish a woman’s sexual response, in order that she will be less likely to commit adultery. The most serious problem is that this is usually done against the females will, and usually between infancy and adolescence. However, adult females who were not circumcised have been forced to endure the procedure at the demand of their husbands. The Biblical viewpoint of sex is one of enjoyment for both the husband and wife. 1 Corinthians 7:3-5 commands the spouses not to “defraud” the other. Defraud means to keep back or withhold by fraud. Intercourse in the marriage is an act which is supposed to be mutually beneficial to strengthening the relationship, and part of that act is mutual enjoyment.

There are four types of female circumcision performed on Islamic women. They range from:

- 1) Removing the clitoris hood with partial clitoris removal,
- 2) Total clitoris and partial labia removal,
- 3) Total clitoris removal with removal of both the labia minora and labia majora leaving only a small pencil sized opening
- 4) May include any other version of cutting, piercing, burning, etc.

(****Taken from: <http://www.islamreligion.com/articles/438/>)

SHARIA LAW

Sharia law is the Islamic law that rules the marriage and the family, it is important to note that this law has been successfully used in the United States Judicial System to defend Islamic men of Rape and other atrocities. Below is a brief understanding of Sharia and a few examples of punishment allowed under such law. The information below was taken directly from “The Constitution Rights Foundation”. (<http://www.crf-usa.org/america-responds-to-terrorism/the-origins-of-islamic-law.html>)

The Origins of Islamic Law

Islamic law represents one of the world's great legal systems. Like Judaic law, which influenced western legal systems, Islamic law originated as an important part of the religion.

Sharia, an Arabic word meaning "the right path," refers to traditional Islamic law. The Sharia comes from the Koran, the sacred book of Islam, which Muslims consider the actual word of God. The Sharia also stems from the Prophet Muhammad's teachings and interpretations of

those teachings by certain Muslim legal scholars. Muslims believe that Allah (God) revealed his true will to Muhammad, who then passed on Allah's commands to humans in the Koran.

Since the Sharia originated with Allah, Muslims consider it sacred. Between the seventh century when Muhammad died and the 10th century, many Islamic legal scholars attempted to interpret the Sharia and to adapt it to the expanding Muslim Empire. The classic Sharia of the 10th century represented an important part of Islam's golden age. From that time, the Sharia has continued to be reinterpreted and adapted to changing circumstances and new issues. In the modern era, the influences of Western colonialism generated efforts to codify it.

Development of the Sharia

Before Islam, the nomadic tribes inhabiting the Arabian peninsula worshiped idols. These tribes frequently fought with one another. Each tribe had its own customs governing marriage, hospitality, and revenge. Crimes against persons were answered with personal retribution or were sometimes resolved by an arbitrator. Muhammad introduced a new religion into this chaotic Arab world. Islam affirmed only one true God. It demanded that believers obey God's will and laws.

The Koran sets down basic standards of human conduct, but does not provide a detailed law code. Only a few verses deal with legal matters. During his lifetime, Muhammad helped clarify the law by interpreting provisions in the Koran and acting as a judge in legal cases. Thus, Islamic law, the Sharia, became an integral part of the Muslim religion.

Following Muhammad's death in A.D. 632, companions of Muhammad ruled Arabia for about 30 years. These political-religious rulers, called caliphs, continued to develop Islamic law with their own pronouncements and decisions. The first caliphs also conquered territories outside Arabia including Iraq, Syria, Palestine, Persia, and Egypt. As a result, elements of Jewish, Greek, Roman, Persian, and Christian church law also influenced the development of the Sharia.

Islamic law grew along with the expanding Muslim Empire. The Umayyad dynasty caliphs, who took control of the empire in 661, extended Islam into India, Northwest Africa, and Spain. The Umayyads appointed Islamic judges, kadis, to decide cases involving Muslims. (Non-Muslims kept their own legal system.) Knowledgeable about the Koran and the teachings of Muhammad, kadis decided cases in all areas of the law.

Following a period of revolts and civil war, the Umayyads were overthrown in 750 and replaced by the Abbasid dynasty. During the 500-year rule of the Abbasids, the Sharia reached its full development.

Under their absolute rule, the Abbasids transferred substantial areas of criminal law from the kadis to the government. The kadis continued to handle cases involving religious, family, property, and commercial law.

The Abbasids encouraged legal scholars to debate the Sharia vigorously. One group held that only the divinely inspired Koran and teachings of the Prophet Muhammad should make up the Sharia. A rival group, however, argued that the Sharia should also include the reasoned opinions of qualified legal scholars. Different legal systems began to develop in different provinces.

In an attempt to reconcile the rival groups, a brilliant legal scholar named Shafii systematized and developed what were called the "roots of the law." Shafii argued that in solving a legal question, the kadi or government judge should first consult the Koran. If the answer were not clear there, the judge should refer to the authentic sayings and decisions of Muhammad. If the answer continued to elude the judge, he should then look to the consensus of Muslim legal scholars on the matter. Still failing to find a solution, the judge could form his own answer by analogy from "the precedent nearest in resemblance and most appropriate" to the case at hand.

Shafii provoked controversy. He constantly criticized what he called "people of reason" and "people of tradition." While speaking in Egypt in 820, he was physically attacked by enraged opponents and died a few days later. Nevertheless, Shafii's approach was later widely adopted throughout the Islamic world.

By around the year 900, the classic Sharia had taken shape. Islamic specialists in the law assembled handbooks for judges to use in making their decisions.

The classic Sharia was not a code of laws, but a body of religious and legal scholarship that continued to develop for the next 1,000 years. The following sections illustrate some basic features of Islamic law as it was traditionally applied.

Family Law

Cases involving violations of some religious duties, lawsuits over property and business disputes, and family law all came before thekadis. Most of these cases would be considered civil law matters in Western courts today.

Family law always made up an important part of the Sharia. Below are some features of family law in the classic Sharia that would guide the kadi in making his decisions.

- Usually, an individual became an adult at puberty.
- A man could marry up to four wives at once.
- A wife could refuse to accompany her husband on journeys.
- The support of an abandoned infant was a public responsibility.
- A wife had the right to food, clothing, housing, and a marriage gift from her husband.

- When the owner of a female slave acknowledged her child as his own, the child became free. The child's mother became free when the owner died.
- In an inheritance, a brother took twice the amount as his sister. (The brother also had financial responsibility for his sister.)
- A husband could dissolve a marriage by repudiating his wife three times.
- A wife could return her dowry to her husband for a divorce. She could also get a decree from a kadi ending the marriage if her husband mistreated, deserted, or failed to support her.
- After a divorce, the mother usually had the right of custody of her young children.

Criminal Law

The classic Sharia identified the most serious crimes as those mentioned in the Koran. These were considered sins against Allah and carried mandatory punishments. Some of these crimes and punishments were:

- adultery: death by stoning.
- highway robbery: execution; crucifixion; exile; imprisonment; or right hand and left foot cut off.
- theft: right hand cut off (second offense: left foot cut off; imprisonment for further offenses).
- slander: 80 lashes
- drinking wine or any other intoxicant: 80 lashes.

Officials of the caliph carried out the penalties for these crimes.

Crimes against the person included murder and bodily injury. In these cases, the victim or his male next of kin had the "right of retaliation" where this was possible. This meant, for example, that the male next of kin of a murder victim could execute the murderer after his trial (usually by cutting off his head with a sword). If someone lost the sight of an eye in an attack, he could retaliate by putting a red-hot needle into the eye of his attacker who had been found guilty by the law. But a rule of exactitude required that a retaliator must give the same amount of damage he received. If, even by accident, he injured the person too much, he had broken the law and was subject to punishment. The rule of exactitude discouraged retaliation. Usually, the injured person or his kinsman would agree to accept money or something of value ("blood money") instead of retaliating.

In a third category of less serious offenses such as gambling and bribery, the judge used his discretion in deciding on a penalty. Punishments would often require the criminal to pay a reparation to the victim, receive a certain number of lashes, or be locked up.

Criminal Procedure

The victim of a criminal act or his kinsman ("the avenger of the blood") was personally responsible for presenting a claim against the accused criminal before the court. The case then went on much like a private lawsuit. No government prosecutor participated although certain officials brought some cases to court.

The classic Sharia provided for due process of law. This included notice of the claim made by the injured person, the right to remain silent, and a presumption of innocence in a fair and public trial before an impartial judge. There were no juries. Both parties in the case had the right to have a lawyer present, but the individual bringing the claim and the defendant usually presented their own cases.

At trial, the judge questioned the defendant about the claim made against him. If the defendant denied the claim, the judge then asked the accuser, who had the burden of proof, to present his evidence. Evidence almost always took the form of the direct testimony of two male witnesses of good character (four in adultery cases). Circumstantial evidence and documents were usually inadmissible. Female witnesses were not allowed except in cases where they held special knowledge, such as childbirth. In such cases, two female witnesses were needed for every male witness. After the accuser finished with his witnesses, the defendant could present his own.

If the accuser could not produce witnesses, he could demand that the defendant take an oath before Allah that he was innocent. "Your evidence or his oath," the Prophet Muhammad taught. If the defendant swore he was innocent, the judge dismissed the case. If he refused to take the oath, the accuser won. The defendant could also confess to a crime, but this could only be done orally in open court.

In all criminal cases, the evidence had to be "conclusive" before a judge could reach a guilty verdict. An appellate system allowed persons to appeal verdicts to higher government officials and to the ruler himself.

Review Questions

Question 1) What areas does the Quran teach women are inferior to men? Does this conflict with the teachings of the Bible?

Question 2) What is the maximum number of legal spouses a Muslim Man may have? Does this contradict with the Bible according to Matt. 19:1-9 and Gen. 2:24?

Question 3) What are the allowances for divorce by a Muslim? Does the Bible teach the same allowances as described by Jesus in Matt. 19:1-9? What is God's view on divorce according to Mal 2:16?

Question 4) How are women in general viewed in Islamic society as related to testimony?

Question 5) Why are female Muslims circumcised? Does this act of female circumcision agree with the Biblical viewpoint of sex in marriage?

Question 6) Discuss Sharia Law. Has Sharia Law been successfully used in U.S. Court systems to defend Muslim Males of crimes against their wife?



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