

# A Historical Reflection on Womanhood in Islam

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## **Abstract**

Women's status in Islam has gained currency in the academy, particularly, in gender studies and social criticism. Despite the availability of credible information about Islam throughout the world, some scholars still argue that Muslim women have no genuine rights in Islam and that Islam is head-to-toe patriarchal. Using Leila Ahmad's theory of Islamic gender egalitarianism, as framework, and Qur'an and *Sunnah* as interpretative evidence, this paper critically examines women's rights and privileges provided by Islam from historical perspective. The major finding is that Islam places both men and women on an equal footing in every Islamic religious endeavour, although, their core differences have been acknowledged. Hence, Islam is egalitarian in terms of gender. The main argument is that Muslim men and women enjoy similar rights and that the discrimination against today's Muslim women resulted from an incorrect interpretation of Islamic injunctions. However, many scholars misread and substitute some of the cultural adaptations in today's Muslim societies for the Islamic principles or essence. Hence, the conclusion is that mere reflections on practice will always lead to misconstruction of women's image in Islam if Islamic norms are not critically examined to inform the understanding of the practices.

**Keywords:** Islam and Gender, Muslim Women, *Shari'ah*, *Zina*, *Hudud*, Justice.

## Introduction

The West, in its encounter with Islam, has played a significant role in couching a new image for Muslim women and thereby creating the need to overcome gender disparities. The occupation of Islamic lands by Western powers led to “liberation” movements against gender oppressions. The focus of the West in Muslim countries was, therefore, the “miserable status” of Muslim women (Haddad, nd). Women’s status in Islam has, thus, become an important subject of discussion in academic discourse. Some scholars have, consequently, launched Muslim women’s issues as a new perspective for understanding Islam. Such scholars are bent on proving that Islam is oppressive to women. A good example of this Western view is found in the following comments on an article by James Arlandson, a professor of New Testament:

*The oppression of women that Islam advocates is not only disturbing, but is direct contrast with everything that Western civilization stands for when it comes to the rights of women (<http://infidelsarecool.com/2008/01/top-10-quran-quotes-every-woman-must-see/>).*

Regardless of the rising recognition of and increasing knowledge about Islam, there is still the conviction of some scholars that Muslim women benefit from no genuine rights and that whatever rights they enjoy now are the result of Western influence on the Islamic world (Al-Buti, 2004). Therefore, Islam discriminates against women. Using Leila Ahmad’s theory of Islamic gender egalitarianism, as framework, and Qur’an and *Sunnah* as interpretative evidence, this paper critically examines women’s rights and privileges provided by Islam from historical perspective. It interrogates the religious verdicts on the current treatment of women in the Muslim countries to establish whether they are part of Islam or inherited from other cultures. Does Islam have any regard for women as it has for men? What is the situation now?

## Contemporary Perception of Women in Islam

The problem of women’s status in Islam is now in contention. While Muslims argue that Islam contributes to women’s rights and status far more than any other religion or social system in the world (Tijani, 1996), there is also ample evidence to suggest that Muslim women’s state began to decline after Muhammad’s death. However, in the twentieth century when women pressure groups emerged in the West, Muslim women also fashioned a somehow Islamic version of it to press for their interests in Islamic countries. The principles of Muslim Feminism in the twentieth century were, thus, to some extent, influenced by western feminist thoughts. However, when social policies in Islamic countries began to transform the colonially inherited Western paradigms into Islamic varieties, the Western modeled Muslim women’s feminism also began to take on Islamic colours (Shama, 2007). Having narrowly freed themselves from Western secular feminist overtures, Muslim women are now resisting cultural imperialism marketed by the Western secular society even in the form of feminism. They now realize that while their advocacy has some things in common with the struggle of Western feminists, what is good for Western women is not necessarily good for them. Hence, they now recognize that the content of feminism in the secular society of the West is not necessarily compatible across their cultural boundaries. Muslim women have thus worked out an Islamic version of feminism in contrast to the “womanism” of coloured women, which was shaped by the concerns of upper-class Euro-American women (Shama, 2007). A classic example of sharp contrast between Islamic feminism and its Western counterpart is the wearing of veil (*hijab*) by Muslim college girls (even in countries where their refusal to do so would cost them virtually nothing). These girls proudly display the veil as their religious identity. Western feminists, however, see this dressing as a symbol of societal enslavement (Shama, 2007).

Muslim scholars assert that Islam raised the status of women to an extent never marched by any social philosophy in the world (Tijani, 1996). For this reason, Muslim women robbed shoulders with the men during the classical period of Islam. This would change sometime after the prophet (Tijani, 1996). If that was the case, then how did the death of the Prophet and, especially, of the Rightly Guided Caliphs lead to this historically unpredicted end of the gender sensitive version of Islam and the ushering in of the male dominated version of it?

One must, as well, interrogate the religious verdict on the current dispensation of violence against and violation of certain rights of women in the Muslim countries to establish whether it is part of Islam or something that has been passed on through the cultures of that part of the world. In doing so, the essential domains of Islam will be critically examined.

### **Muslim women and the Islamic Mystical Experience**

The notion of spiritual egalitarianism and responsibility between men and women are well-developed themes in the Qur'an. However, in trying to understand this, one must first recognize that the notion of equality of men and women in Islam cannot be narrowed to purely religious aspects alone. Rather, it is the basis of egalitarianism in the entire human life in Islam. In the Qur'an, Allah says:

*O mankind! reverence your Guardian-lord who created you from a single person, created, of like nature, his mate, and from them twain scattered (like seeds) countless men and women; reverence God, through Whom you demand ye derive your mutual (rights), and (reverence) the wombs (that bore you): for God ever watches over you (Qur'an 4:1). It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love) ... (Qur'an 7: 189).*

The above verse clearly attests to the fact that men and women were created from the same kind. Islamic existence is for both Muslim men and women and, therefore, both of them have equal rights in acquiring knowledge. Indeed, an oft-quoted tradition quotes the prophet as saying: "the quest for knowledge is incumbent on every Muslim man and woman." This means that both men and women have similar rights in Islam and both are considered as equal in the sight of Allah. The verses below clarify this:

*For Muslim men and women, for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, for men and women who engage much in Allah's praise, for them has Allah prepared forgiveness and a great reward (Qur'an 33:35).*

*And their lord hath accepted them, and answered them [saying]: 'never will I suffer to be lost the work of any of you, be he male or female: ye are members, one of another: those who have left their homes, or been driven out therefrom, or suffered harm in my cause, or fought or been slain, verily, I will blot out from them their inequities, and admit them into garden with rivers flowing beneath; a reward from the presence of God, and from His Presence is the best of rewards.' (Qur'an 3:195]*

In 4:1, men and women are given equal status and are, therefore, social mates; they complement each other in faith. In 33:35 above, women are mentioned alongside men, while in 3:195, God offers to reward each of them independently according to deeds without

discrimination of gender. This means that both men and women are responsible in the sight of Allah.

Clearly, the religious duties of Muslim women, including *salat*, *sawm*, *alms*, *hajj* and many others are no different from those of men. Indeed, some natural incidents reduce some for her as she cannot pray or fast when she is menstruating (*haydh*) or in *nifas*, while she cannot fast in conception periods and in nursing if her life or that of the baby is threatened (Badawi, 1998). In fact, women even have some advantage over men because, in terms of prayers, they decide to either pray in the mosque or in their homes. This demonstrates Islam's recognition of the fact that a woman may nurse her baby or fulfill a marital obligation that could make it impossible for her to pray in the Mosque. Hence, Islam fully acknowledges women's disposition and pays attention to their biological transformations by relieving them to synchronize their responsibilities in line with their nature.

### **Social Welfare**

One disturbing social evil that still lingers in the minds of many readers on Islam today is the practice of *wa'ad-al-banat* (female infanticide) among some pre-Islamic Arabs. Islam declared this practice as abominable despite the customary acceptance of this unacceptable human right abuse. In the Qur'an, Allah said: "And when the female (infant), buried alive, is questioned, for what crime she was killed" (Qur'an 81:8-9). In fact the disappointment expressed by some parents on the birth of a female child was condemned about 1400 years ago by the Qur'an:

*When news is brought to one of them, of (the birth of) a female (child), his face darkens and he is filled with inward grief! With shame does he hide himself from his people, because of the bad news he has had! Shall he retain it on (sufferance and) contempt, or bury it in the dust? Ah! What an evil (choice) they decide on? (Qur'an 16:58-59).*

The two verses above indicate that Allah despises the act of female infanticide. The life and wealth of every human being, regardless of gender or age, is sacred in Islam and so Muslims are enjoined to treat women and female children with kindness. But has this always been the case? Has the sexuality of the Muslim woman been given a just treatment?

### **Sexual *Hudud* and Justice: A critique**

Now let us examine the most controversial and misunderstood, misconstrued and hence misapplied issue of Islamic law: sexual *hudud*. The word used in the Qur'an for both adultery and fornication is *zina*. Indeed, that is how the word is used in Arabic (El-Awa, 2000). Its interpretation must be carefully done. In actual fact, its explanation has been fraught with controversy. For this reason, its definition differs from one school of thought to the other. In other words, one definition must not slam the door to any other attempt.

The most elaborate definition is, however, given by the Hanafi school as a "sexual intercourse between a man and a woman without legal right or without the semblance of legal right (*al-milk* or *shubhat al-milk*)" (El-Awa, 2000, p.14). The fact is that, although, fornication is not as grievous as adultery in Islam, conceptually, the two come to the same understanding. Adultery is an illicit sexual intercourse involving a married person. Fornication on the other hand, is a sexual intercourse involving an unmarried person. This means that if two people (one married and one unmarried) have sexual intercourse, the married one commits adultery while the unmarried one commits fornication. The understanding here is that both fornication and adultery involve illicit sexual intercourse between man and woman; hence, all the jurists agree on the use of *zina* for the two acts (El-Awa, 2000).

Now, let us critically examine the ruling on *zina* which has, perhaps, become the source of misunderstanding of and the avenue for misconstruing the entire status of women in Islam in secular spaces. The entire ruling on the application of the *hadd* (i.e. punishment) on *zina* (fornication and adultery) revolves around the *ayat al-rajm* (the controversial and long debated “stoning verse”), a tradition reported by Bukhari, Muslim and others but with comprehensive detail by Bukhari. This tradition refers to a certain speech delivered by Umar b. Al-Khattab which was sparked-off by a report that reached him indicating that a certain man promised to swear his allegiance to Talhah. This speech, without any reference to any prior controversy, mentioned thus: “...one of the revelations was the *Ayat al-Rajm* [concerning stoning to death] which we recited, grasped and memorized” (Khan, 2010, p.101). This *ayat-al-rajm* quoted by Umar was: *al-Shaykh wa-al-Shaykhah idha zanaya fa irjumuhuma al-battah* (“Old man and old woman, if they commit adultery, stone them both to death”) (*Al-Muwatta’*, vol. 2. Hadith no. 10, An-Nasai, *Sunnan*. Vol. 4. Hadith no. 7156. Translation as quoted by Khan, 2010).

This tradition and its “stoning verse” saga raise many impenetrable questions. First, *sabab-un-nuzul* (reason for revelation) is a very crucial facility for interpreting Qur’anic verses. The question is: what was the circumstance surrounding the revelation of this “stoning verse”? Was it part of the entire Qur’an believed to have been recited to the prophet by Angel Jibril? It is alleged that the prophet ordered the arrangement of the Qur’an in its current form; was it accepted as part of it? If yes, did the prophet order its exclusion? If the answer is yes, it questions the completeness of the Qur’an in its current form. On the other hand, if the answer is no, it means the Sahabah manipulated the content of the Qur’an after the prophet’s demise. It should, however, be noted that none of these assertions would be considered valid for the Qur’an as it stands now. In hadith studies a fundamental factor for establishing the authenticity of the text of a tradition is the Qur’an. The rule is that any text of hadith attributed to the prophet that contradicts or is inconsistent with the teachings or rulings of the Qur’an is, to the extent of such contradiction and inconsistency, null and void. The question then is: what is the Qur’anic ruling on *zina* (fornication or adultery)? In the Qur’an, the original and unquestionable source of Islamic law, Allah says:

*The woman and the man guilty of zina (adultery or fornication), flog each of them with a hundred stripes: let not compassion move you in their case, in a matter prescribed by God, if ye believe in God and the Last Day: and let a party of the Believers witness their punishment (Qur’an 24: 2).*

Some of the *mufasssirun* translate the *zina* in the above verse to mean only “fornication.” According to Yusuf Ali, the most outstanding modern day English interpreter of the Qur’an:

*Although zina covers both fornication and adultery, in the opinion of Muslim jurists, the punishment laid down here [i.e. in the above verse] applies only to un-married persons. As for married persons, their punishment, according to the Sunnah of the Prophet (peace be on him), is stoning to death (Yusuf Ali, 1989, p.1002: see footnote no. 2954).*

However, such an interpretation is suspicious and it paves skeptical way for applying a ruling which veers-off the Qur’anic injunctions. Consistent with the “stoning verse”, an elderly man or woman found guilty of *zina* must be stoned to death. The alleged *ayat-al-rajm* (stoning verse) quoted by Umar, as already indicated, was: *al-Shaykh wa-al-Shaykhah idha zanaya fa irjumuhuma al-battah* (“Old man and old woman, if they commit adultery [*zina*], stone them both to death”) (*Al-Muwatta’*, vol. 2. Hadith no. 10, An-Nasai, *Sunnan*. Vol. 4. Hadith no. 7156. Translation as quoted by Khan, 2010). The question is: what is the

difference between the word *zina* in the above “ayah” (which forms part of the current dispensation of stoning in *shari’ah* and the *zina* used in Qur’an 24: 2 which is now translated to exclude adultery and subsequently paving the way for the application of a different law? It must be noted that the above verse (24:2) was the last ruling on *zina* which followed Qur’an 4: 15 and 16 (Yusuf Ali, 1983 and El-Awa, 2000). The first verse calls for permanent incarceration for female sexual offenders, which was more or less a torture rather than punishment, whilst the next verse, 4: 16, recommends total cancellation of the punishment if the victims amend their ways. Qur’an 24:2, which followed these, actually reduced the burden with a onetime punishment. This means that the argument that the controversial stoning verse was abrogated by Qur’an 24:2 is defective. Rather, if it truly abrogated another, then it would be the above twin verses, i.e. Qur’an 4: 15 and 16 (El-Awa, 2000).

The above revelations clearly indicate that the *shari’ah* ruling for *zina* (fornication/adultery) cannot be stoning to death. This is because, in Qur’an 24: 3, Allah says:

*“The adulterer cannot have sexual relations [i.e. marry] with any but an adulteress or an idolatress, and the adulteress, none can have sexual relations [marry] with her but an adulterer or idolater; to the believers such a thing is forbidden”*

The above verse demonstrates the grievousness of adultery. Here, adultery is likened to polytheism. It would make no difference if one marries either adulteress or a polytheist. Indeed, by committing *zina*, one disobeys the command of Allah:

*Nor come nigh adultery [wa laa taqrabu-z-zina]: for it is a shameful (deed) and an evil, opening the road (to other evils) (Qur’an 17:32).*

Explaining this verse, Yusuf Ali indicates the following:

*Adultery is not only shameful in itself and inconsistent with any self-respect or respect for others, but it opens the road to many evils. It destroys the basis of the family; it works against the interest of children born or to be born; it may cause murders and feuds and loss of reputation and property, and also loosen permanently the bond of society. Not only should it be avoided as a sin, but any approach or temptation to it should be avoided (Yusuf Ali, 1083, p.703: see footnote no. 2215).*

The above extract clearly settles the controversy about the accuracy of *zina* referring to both adultery and fornication. The question now is, if *zaaniyatu wa zaani* (the victims of open lewdness, whether adultery or fornication) are to be killed through stoning, as the “stoning verse” recommended, where on this earth would these “ghosts” live to marry each other as 24:3 orders? Again, one reads in Qur’an 4:25 about the punishment for adulterous slave wife:

*they should be chaste, not fornicators, nor taking adulterous: when they are taken in wedlock [marriage], if they commit adultery, their punishment is half that for free [muhsanat: unenslaved] women.*

Again, the question is, if Allah’s punishment for adultery is stoning to death which is recommended for married free women and is reminiscent in the “stoning verse”, then what is “half of death”? Once again, some translators translate the notion of free women, *muhsanat*, here to mean unmarried women. This is also inaccurate. This error lies in the incorrect interpretation of the Arabic word, *muhsanat*. The word *muhsanat* means only one thing. It means “one protected.” This could be protection in marriage or from sexual misconduct;

hence, it is a feminine plural form of *muhsanah*. When it is used in relation to women, it could mean any of the following:

1. Unmarried women protected from sexual misconduct through parental control.
2. Unmarried women that protect themselves from sexual misconduct with or without parental control.
3. Married women protected from sexual misconduct in their husbands' homes (Ahmed, n.d.).

It is the last group whose sexual wrongdoing is referred to as "adultery." The sexual wrongdoing of the first two groups is known as "fornication." This interpretation strongly underscores the argument that fornication and adultery are acts of sexual misconduct devoid of matrimony. The word *muhsanat* in the verse (4:25), therefore, refers to both married and unmarried women whose chastity is to be safeguarded in marriage and by themselves, respectively. This is further buttressed by the fact that El-Awa, a former Associate Professor of Islamic law at the University of Riyadh, uses *muhsan* for both the married and unmarried and uses *ghayr* to qualify the unmarried (*ghayr muhsan*) (El-Awa, 2000). Now, since the "open lewdness" (*zina*: here meaning adultery) of the married slave girl is the subject of the verse, the correct interpretation is that the punishment to be meted out to both married and unmarried free women (*muhsanat*) is a hundred lashes as referred to in (24:2) and not stoning to death (as recommended in the invalid tradition of the "stoning verse") and that half of this punishment (of a hundred lashes) is fifty lashes for the adulterous slave woman. This interpretation is valid for two reasons:

1. The Qur'an is an unquestionable source of Islamic law and any injunction that is inconsistent with its ruling is, to the extent of such inconsistency, void and inapplicable.
2. The controversial *ayat-ul-rajm* which is the primary justification for the entire punishment of stoning for adultery is suspicious and hence has not yet passed the test of credibility. It has, as a result, generated doubt in the minds of critical scholars of the law (El-Awa, 2000). At the same time it is unIslamic to execute a religious policy or affair that is fraught with many doubts. This is because a prophetic tradition commands Muslims to leave that about which they are in doubt for that about which they are not in doubt (An-Nawawi, Hadith no. 11 and Nomani, 2002).

The latter observation is based on the fact that the so-called *ayat-al-rajm* alleged to have been quoted by Umar: *al-Shaykh wa-al-Shaykhah idha zanaya fa irjumuhuma al-battah* ("Old man and old woman, if they commit adultery [*zina*], stone them both to death") does not in any way exhibit the persuasive eloquence of the Qur'an (Khan, 2010, p. 105). In the view of Amin Islahi, an expert in Qur'anic rhetoric and eloquence (Khan, 2010),

*If you ponder over this tradition, it seems from every angle the fabrication of a hypocrite. Its purpose is to cast doubt upon the authenticity of the Qur'an, and to create suspicion in unsuspecting hearts that some verses have been excluded from the Qur'an... It is impossible for anyone with sound academic taste to even attribute it to the Prophet let alone consider it a Qur'anic verse. Where will you insert the patchwork of jute into the velvet [beauty] of the Qur'an? There is no link whatsoever between the divine language as well as the most eloquent speech of the Qur'an, and the statement [ayat-al-rajm] (Islahi, 1997, pp. 162-3. As quoted by Khan, 2010, p.105).*

Again, critically looking at the statement (*ayat-al-rajm*), one observes that the ruling is indiscriminate. Could one say that the "old man and old woman" are married people? Granted that it refers to married or unmarried elderly men and women, it means that young

men and women cannot be convicted under this ruling. What punishment then has to be applied to the married or unmarried young men and women who fall victim to the same offence?

It is worthy to note, however, that some traditions quote the Prophet as pronouncing death penalties on victims of *zina* (fornication/adultery). Before going into the technicalities, we need to emphasize that, despite the claim that an earlier Qur'anic verse stipulated this (which has already been called to question in the preceding pages), the punishment of stoning is merely a majority view. It is not an *ijma* (consensus) of the *fukah* (El-Awa, 2000). Interestingly, majority of the scholars posit that this *ayat-ul-rajm* was abrogated but its verdict is still applicable (El-Awa, 2000, Philips, 1997, and Ibn Majah, *Sunan*, vol. 3. Hadith no. 2553). Now, if the wordings of other verses that are alleged to be abrogated together with the abrogating verses are located in the Qur'an, why is this particular verse not in the Qur'an? In any case, it is reported that the prophet prescribed this punishment in four circumstances one of which involved a Jewish man and woman. While the other three cases involved Muslims (El-Awa, 2000), their gender is inconsequential here. Granted that this tradition is flawless, the polemic is about whether or not the Jews were punished according to *shari'ah* (El-Awa, 2000). In the other three cases, there appears to be no justification for implementing a Jewish verdict but there could be. Indeed, the dogma of stoning to death was a well entrenched tradition in Jewish law. And one would not think that the prophet, through the agency of the Qur'an, having condemned *zina* in his strongest wording, would allow perpetrators to go without painful punishment. However, the arguments of the anti-rajm scholars evolve from the following four premises:

1. "The abrogation of the words of a Qur'anic verse and the continuity of its verdict is controversial, hence it cannot be of any help to claim that the Qur'an prescribes stoning as a punishment" (El-Awa, 2000, p. 17).
2. The Prophet must have ordered the Jews to be punished under their own law but in the absence of any prescribed law for the Muslims, he applied it pending divine verdict.
3. That if it was prescribed by the Qur'an it was abrogated later (El-Awa, 2000).
4. According to al-Bukhari, a man asked a companion of the Prophet if the Prophet ordered stoning before or after the revelation of Qur'an 24:2. The later answered: "I don't know [*laa adrii*]" (*Sahih Bukhari*, vol. 8. hadith no. 804 and El-Awa, 2000, p.16).

It is also alleged that the four Caliphs applied it after the prophet (*Sahih Muslim*, vol.3. Hadith no. 4194). However, this begs the question of whether or not the prophet applied it after 24:2. Even more interesting is the fact that in one of the traditions concerning the stoning verse, "Umar asked the prophet to allow him to write it but the prophet refused" (*Sahih Muslim*, vol.12. P.120 and *Muhala*, vol.11, p.235. As cited by El-Awa, 2000, p.16). Contrary to this Imam Malik in his *Muwatta'* relates the following from Yahya ibn Sa'id: "I swear by Allah..., hadn't it been said by people that 'Umar ibn Al-Khattab had added [the verse of stoning] to the Book of Allah, we would have written it 'the old man and the old woman have to be absolutely stoned', as we've read it" (*Al-Muwatta'*, vol. 2, hadith no. 1560). So which is which?

In the case of the former tradition, a few issues arise for consideration: was the attempt to write forbidden immediately after it was revealed or sometime after it had been recited together with the other verses? Was Umar one of the official scribes of the prophet at this moment? What order was given to the official scribes of the prophet immediately this "verse" was revealed? Were they also forbidden from writing it down? On the latter, why was the reporter so enthused about this stoning verse? While these questions are simply unanswerable, one must as well interrogate the remark by "Umar" that "I am afraid that, with

the lapse of time, people (may forget it) and may say: we do not find the punishment of stoning in the Book of Allah, and thus go astray by abandoning this duty prescribed by Allah” (*Sahih Muslim*, vol.3, hadith no. 4194), which is quite phenomenal. Did he already speculate suspicion of the people in future? Even more controversial is a tradition reported by the five (i.e. without Bukhari) and Bayhaqi and Ibn Hambal. This tradition says that the Prophet received a revelation that a married man or woman who commits *zina* should be given a hundred lashes and stoned to death while their unmarried counterparts should be lashed and banished (El-Awa, 2000). Where was this revelation also kept? Again, what was the relevance of the lashing in the case of a criminal who has been earmarked to be killed? Is this really a tradition? It is now clear that the stoning and its being attributed to the Qur’an generate doubts and controversy. And this has been across all ages. According to Professor El-Awa,

*the point is not that this punishment was prescribed by the Qur’an at all but that it was actually prescribed by the sunnah.... It is noteworthy that stoning to death was prescribed in the Torah as a punishment for several crimes, among them was adultery. Consequently, it may be argued that the Prophet of Islam added this punishment to Islamic law by borrowing it from Jewish law (El-Awa, 2000, p. 16 and 17, passim).*

This is more succinctly confirmed by Abu Ameenah Philips in the following extract:

*Islaam is fundamentally a system of building and not one of destruction as its goal is reformation and not merely control and government .... Islam’s confirmation of some Arab customs does not mean that it has taken its laws and principles from other sources, nor does it mean that those practices which it confirmed are not part of divine law. Whatever Islam confirmed is considered an integral part of the divine code ... (Philip, 1990, p.13).*

The above extracts promulgate only one truth: that the doctrine of stoning to death is truly *sunnah* but its origin is Jewish not Qur’anic or Islamic. This is a more convincing defense of the ‘stoning’ instead of ascribing it a Qur’anic space (which although gives it authoritative backing but which has fraught it with doubts). After all, the Jewish laws were also of the same divine source as Islamic laws. Indeed, Islam has inherited a good many verdicts from earlier generations to whom Prophets were sent. A clear case in point is *hajj* which was instituted by Abraham and Ishmael (Philips, 1990) and also confirmed by the Qur’an for implementation by Muslims. However, should the above be the case, then the Jewish ruling on stoning is ultimately defective in Islam. This is because, even though, Islam professes a definition of prophethood and revelation that includes the messengers of Allah since the time of creation and the books they were sent with without any form of discrimination (cf: Qur’an 2: 285). It should also be noted that, in Islam, the religious law of other religions could be followed only on condition that such laws are either “confirmed” by Islam (the Qur’an) or do not contradict any Islamic framework; where there are contradictions, the Qur’anic laws supersede every law.

There are a number of documented instances in which the Prophet adhered to or applied certain prevalent cultural norms of the time but revelations later cancelled them. A clear case was his acceptance of the practice of *zihar* as a form of divorce in the case of Khawlah Bint Tha’labah (Philip, 1990. See also: Abu Dawud, *Sunnan*, vol.2, hadith no. 2208, and Yusuf Ali, 1983, p.1510, footnote no. 5330) which revelation later cancelled in Qur’an 58:1-3. On the other hand, the issue of whether or not the Prophet ordered

punishment under this Jewish law after the revelation of Qur'an 24:2 is not yet settled. Even then, the question is: how did the prophet apply it?

### **Zina in the Traditions**

Before moving onto the approach of the prophet to the entire issue of sexual misconduct, it is germane to stress that the Islamic hash ruling on adultery and fornication is because the Muslim society is very desirous of its morality. This notwithstanding, and in spite of the above discourse that questions the validity of the ruling itself, one needs to comprehend what constitutes adultery or fornication in Islam to merit any punishment, and one needs to know the evidence that is required for conviction. There are four identifiable types of evidence for *zina*. These include: confession, witnesses, swearing and invocation of curse (*li'an*) on oneself, and pregnancy. Two of these types of evidence are specified in the Qur'an while some of them are in both Qur'an and hadith (Qur'an 24: 6-9, *Sahih Muslim*, vol. 3, hadith no. 4194 & 4196, and *Sahih Bukhari*, vol. 6, hadith no. 271).

#### *a) Confession as Evidence:*

Realistically, confession rarely applies. However, a person convicted from confession must verbally and consistently admit to *zina* in four personal declarations. The first three are overlooked until he or she confesses the offence a fourth time. The conviction is, then, based on the fourth declaration and not the first three. This means that if an offender declares three times that he or she is guilty of *zina* and retracts that statement on the fourth count, then in the absence of physical evidence, the three confessions must be considered as no evidence. The victim must be acquitted and discharged. This is because an incontestable logic of every law is that a person cannot be held responsible for a crime unless he or she is of sound mind. Hence, one cannot be held responsible for what one does out of insanity in Islam. The declaration must, therefore, be a doubtless admission of commission of a sexual act. This is because *Shari'ah* requires conviction based on actual penetration of a man's penis into a woman's vagina to merit penalty for *zina*. What is the justification for this evidence? In the light of one tradition,

*A man from the tribe of Aslam came to the Prophet (SAW) and confessed that he had committed an illegal sexual intercourse. The Prophet (SAW) turned his face away from him till the man bore witness against himself four times. The Prophet (SAW) said to him, "are you mad?" He said, "No." He said, "Are you married?" He said, "Yes." Then the Prophet (SAW) ordered that he be stoned... (Sahih Bukhari, vol. 8, hadith no. 810. See also: Ibn Majah, Sunnan, vol. 3, hadith no. 2554, & Abu Dawud, Sunnan, vol. 5, hadith no. 4419).*

The above tradition actually gives the condition that there must be no doubt that the guilty has committed adultery or that the victim actually knows and is clear about what they are saying they did. In another tradition,

*When Ma'iz bin Malik came to the Prophet (S.A.W) (in order to confess), the Prophet (S.A.W) said to him, "probably you have only kissed (the lady), or winked, or looked at her?" He said, "No, O Allah's Apostle!" the Prophet (S.A.W) said, using no euphemism, "Did you have sexual intercourse with her?" (Sahih Bukhari, vol 8, hadith no. 813).*

The man responded in the positive before punishment was issued. In the version related by Abu Dawud,

*He [the Prophet] asked: "Have you done until that (i.e. your male organ) entered into her (female organ)?" He answered in the affirmative. He*

*further asked: "In the same way as a spine enters into a kohl-pot or rope into a well (of water)? He answered in the affirmative. The messenger of Allah asked him: "Do you know what adultery is?" He said: "Yes! I've done with her illegally the same as one does with his wife legally." He asked him: "Then, what do you intend to do by your confession" he said: "I intend you to purify [i.e. punish] me" (Abu Dawud, Sunnan, vol. 5, hadith no. 4428).*

It was after this that punishment was ordered. This emphasizes the point that even when the victim personally admits to *zina*, he or she must be critically cross-examined to prevent punishing a person out of vain talk in a mentally imbalanced state. If after confessing, one withdraws in the fourth instance, the case must be suspended except where there were eyewitnesses.

*b) Evidence of Witnesses:*

*Shari'ah* stipulates the testimony of four irreproachable adults in a trial involving *zina* (Yusuf Ali, 1983, p.897, footnote no.2958). These witnesses must be scrupulously law-abiding and unbonded Muslims who actually saw the man having intercourse the woman ([http://www.h2g2.com/approved\\_entry/A6175172](http://www.h2g2.com/approved_entry/A6175172), 21/10/2012). Again, all the four witnesses must bear witness to the same act of penile penetration involving the *zani* and the *zaniyah* at once without the slightest difference of opinions. This presupposes that, although, adultery and fornication are grievous crimes, a false accusation is equally a serious offence. Indeed, Allah says in the Qur'an:

*And those who launch a charge against chaste women, and produce not four witnesses (to support their allegations), flog them with eighty stripes; and reject their evidence ever after: for such men are wicked transgressors (Qur'an 24: 4).*

The *Shari'ah* demands only two witnesses in business transaction and murder cases (Yusuf Ali, 1983, p.897, footnote no.2958). However, in the trial of *zina* the law requires four witnesses. The objective behind this is not just to protect people from deceitful accusations, but to make it even more difficult to convict a person to merit inflicting the painful punishment on him or her. This clearly indicates that the *Shari'ah* penal code for fornication and adultery is meant to prevent the crime (*sad-adh-dharai*) and not to make room for implementation and persecution. This partly explains the hadith that says that it is better to commit a mistake by freeing a criminal than punishing an innocent person. The prophet also said that one cannot convict a person without clear evidence (Ibn Majah, *Sunnan*, vol.3, hadith no. 2559). Here, whether they are charged or not they will still be accountable to God in the hereafter ([http://www.h2g2.com/approved\\_entry/A6175172](http://www.h2g2.com/approved_entry/A6175172), 21/10/2012). It then reechoes the *Khawariji* philosophy that *laa hukm illaa li-l-Llah* (no judgment except with Allah). Hence, Islam recommends the need for a witness of *zina* to admonish the victims and cover their shortcomings than to report thereby making one fall victim such punishment. A tradition says, *man satara 'awrata akhiih-il-muslim satara-l-Lahu 'awratahu yawm-al-qiyamah* ("he who conceals privates of his Muslim brother, Allah conceals his private on the Day of Judgment") (Ibn Majah, *Sunnan*, vol.3, hadith no.2546 and *Al-Muwatta'*, vol.2, hadith no.1552).

*c) Swearing as Evidence:*

Allah says the following in regard of the *zina* in which no witness is tendered:

*And for those who launch a charge against their spouses, and have (in support) no evidence but their own, their solitary evidence (can be received) if they bear witness four times (with an oath) by God that they*

*are solemnly telling the truth; and the fifth (oath) (should be) that they solemnly invoke the curse of God on themselves if they tell a lie (Qur'an 24:6-7).*

This ruling was issued in response to the demand made on Hilal Ibn Umayyah by the Prophet when the former leveled a charge of adultery against his wife without witnesses (Philip, 1990 and *Sahih Bukhari*, vol. 6, hadith no. 271). This oath by a spouse ultimately renders the other guilty. However, one can exonerate oneself by swearing four times that one's accuser is telling a lie and a fifth time to solemnly invoke the curses of God on oneself if one is not telling the truth (Qur'an 24:8-9). The case must thence be dismissed and the couple be discharged with their differences. However, the continuity of such marriage is prohibited while the divorce becomes irrevocable (*talaq-al-ba'in*) because it is against the human nature that such people can ever live together peacefully (Yusuf Ali, 1989). What happens then when an unmarried woman is found pregnant?

#### *d) Pregnancy as Evidence*

This is the most controversial evidence in *zina* trial. Pregnancy is perceived as evidence in itself and hence does not require any witnesses to warrant the application of the *hadd* on *zina*. However, pregnancy outside wedlock does not always justify fornication or adultery? In *Shari'ah*, pregnancy is perceived as an incidental product of a woman's vaginal contact with a man's seminal fluid. This perception about pregnancy makes it difficult to take pregnancy as an undoubted proof of *zina*. One is told in history that,

*An unmarried pregnant woman was brought before Umar to be tried for Zina. Umar asked her to defend herself, she then said: "I am a heavy sleeper, and a man raped me while I was asleep and then he left. I could not recognize him thereafter." Umar accepted her defense and released her ([http://www.h2g2.com/approved\\_entry/A6175172](http://www.h2g2.com/approved_entry/A6175172), 21/10/2012).*

The lesson here is that pregnancy alone cannot be a secure proof for fornication and adultery. What then is the nature of trial involving a woman who is pregnant as a result of forced intercourse or abduction and sexual abuse? A *Shari'ah* court cannot convict a victim of rape for fornication or adultery irrespective of whether she can prove it or not. The prophet said:

*God has forgiven my people mistakes, forgetfulness and anything that they were coerced into ([http://www.h2g2.com/approved\\_entry/A6175172](http://www.h2g2.com/approved_entry/A6175172), 21/10/2012).*

Again, during the time of Umar, a woman tried for *zina* indicated that she requested for water from a passerby to quench her thirst but the man requested instead to sleep with her before granting her request. Owing to her urgent need for water she gave in to this sordid request of the man subsequent to which she got pregnant. In consultation with Ali, who was noted for his sound judgment, Umar dismissed the case and dropped the *zina* charge against the woman. Another case during the time of Umar involved a *zaniyah* who claimed that she was heavily asleep when a man pounced on her and forcibly had sex with her and run away. Umar was questioned for dismissing the case involving this woman although she could not prove her case, but he intimated that he dismissed the case owing to doubt about the commission of *zina* in its true sense ([http://www.h2g2.com/approved\\_entry/A6175172](http://www.h2g2.com/approved_entry/A6175172), 21/10/2012). This event occurred in the 7<sup>th</sup> century. What justification does a Muslim judge who falsely convicts a victim of rape in an age of advanced biological and medical diagnostics have? Does this not show that Islam really cares about women? Does this or does this not underscore the egalitarian position of Islam on gender?

## Islam and Gender: Egalitarian or Non-egalitarian?

The word gender refers to

socially constructed roles, responsibilities, identities and expectations assigned to men and women. It contrasts with the fundamental biological and physiological differences between males and females, which are known as secondary sex characteristics (<http://sexualitystudies.net/files/Lecture%203%20Gender%20theory.pdf>).

Although, Islam does not profess a definition of gender in the form stipulated in the second part of the above extract, according to Leila Ahmad, one of the most influential Islamic gender academics, “Islam’s ethical vision” is wholly and “stubbornly egalitarian” (Ahmed, 1992, p.63 and Al-Buti, 2003, p.13). In her scheme of things,

*“this egalitarianism is a consistent element of the ethical utterances of the Qur’an. Among the remarkable features of the Qur’an, particularly in comparison with scriptural texts of other monotheistic traditions, is that women are explicitly addressed...” and this, for her, affirms ‘the absolute moral and spiritual equality of men and women (Ahmed, 1992, p.63 and Al-Buti, 2003, p.13).’*

This is also the view of Asma Barlas (2010). Indeed, the concept of gender equality is a well developed theme in the Qur’an, and it is well illustrated in the allegorical story of Adam and Eve. In this story, the Qur’an does not refer to Eve as emerging out of Adam. In fact, the whole issue of who was created first is inconsequential for the Qur’anic episode; the important thing is that the two of them decided to sin and subsequently paid the price of that sin. Nonetheless, Allah says:

*O mankind! reverence your Guardian-lord, who created you from a single person [nafs in wahidah], created, of like nature, his mate [zawjaha], and from them twain scattered (like seeds) countless men and women; reverence God, through whom ye demand your mutual (right), and (reverence) the wombs (that bore you): for God ever watches over you (Qur’an 4:1, for emphasis, translation is taken from Yusuf Ali, 1983, p. 178).*

However, the Qur’anic translators and exegetes disagree on the meaning of the word *nafs* in the above verse. Asad translates it as “a living entity”. According to him,

*Out of the many meanings attributable to the term ‘nafs’-soul ... most of the classical commentators chose ‘human being’, and assume that it refers here to Adam (Asad, 1980, p. 100).*

Once again, here patriarchal interpretation is brought to bear and Maududi is one such commentator who ascribes to the opinion that “the creation of the human species began with the creation of one individual ... from whom the human race spread in the world” (Maududi, 1988, p.5). Yusuf Ali, on the other hand, clearly translates *nafs in wahidah* as “a single person” and submits that God first created a single person, Adam, not Eve (Yusuf Ali, 1983). He, however, concurs that the meaning of the clause: “from a single person created of like nature” gives no implication of the first woman having been created from ‘a rib’ of the first man as the biblical narrative indicates. He opines that the particle *min* (from), which entices one to imply the biblical sense of the episode, does not suggest a portion or a source of

something else, but rather a specie, a nature, or a similarity. He, hence, cautions that the biblical sense of the creation of woman from the rib of man must not be assumed in the Qur'an, but must be taken allegorically (Yusuf Ali, 1983). On the contrary, Asad opposes the entire theory or theosophy of a single-soul origination of humankind. He rather prefers the word "humankind" because it clearly underlines the collective beginning of humanity. He, however, indicates that the literal translation of *min ha* as "out of it" only attests allegorically to the evolution of man and woman from "one living entity" (Asad, 1980, p.100).

The verse indicates that God created man and woman out of their own kind. Why then should a man feel superior to a woman when it ultimately takes the two to produce one of their kind? The Arabic word, *zawj*, translated in the above Qur'anic verse as "mate" is grammatically neutral and could, hence, apply to both male and female. (Asad, 1980, p.100). Hence, it is not clear and one should not assume that man was created first, and that woman was created from Adam implying, therefore, that a woman is naturally and instinctively servile to man. The use of the word *min* in the verse is merely an imagery describing the bond of intimacy or love between man and woman. God does not indicate anywhere that man is the originative substance in the creation of humankind; rather, according to Amina Wadud, dualism is the primordial design for everything created (Qur'an 51:49. As cited by Wadud, n.d). Throughout the Qur'an, there is no mention of any sex over the other and this unambiguously proves that, indeed, Islam is "stubbornly egalitarian" and unbiased in terms of gender (Ahmed, 1992, p.63 and Al-Buti, 2003, p.13).

Contrary to the above discourse on the single person origination of humankind, however, Ibn Kathir, whose commentary on the Qur'an is one of the most popular, posits that "...created, of like nature, his mate,..." means exactly as it is stated and that "...Eve was created from Adam's left rib while he [Adam] was sleeping" (Al-Mubarakpuri, 2000, p.368). To buttress this further, he quotes a Prophetic tradition, which says:

*Woman was created from a rib. Verily, the most curved portion of the rib is its upper part, so, if you should try to strengthen it, you will break it, but if you leave it as it is, it will remain crooked (Al-Mubarakpuri, 2000, p.369).*

At this point, one might wander about the implication of the issue of who was created first, or whether the entire theosophical theory of one man origination of the human species is really consequential in Muslim gender discourse. The problem is that this issue cannot be neglected in any academic discussion on gender because it is frequently maintained that Adam was the first to be created and later on woman was created from him, and that implies that God made man superior to woman. However, the verse 4:1 does not support this claim. It is tempting to think that owing to the canonical reduction or waving of certain religious duties for the Muslim woman, for example during her menstruation, she cannot achieve the same level of faith as men, are dependent on men, or that there are limits to their accountability. But evidence in the Qur'an supports women's liability?

### **Women's Liberty to Choose and Liability**

Just like the biblical imagery of creation, the Qur'an also gives a certain metaphor of Adam and Eve being told to stay away from approaching a certain tree which marked humankind's first disobedience to God.

*We said: "Adam! dwell and thy wife in the Garden; and eat of the bountiful things therein as (where and when) ye will; but approach not this tree, or ye run into harm and transgression. Then did Satan make them slip [fa azallahuma-sh-shaytan] from the (Garden), and get them out of the state (of felicity) in which they had been... (Qur'an 2: 35-36).*

As a result, they were excommunicated from the garden of glory, in paradise, but were later jointly forgiven when both of them repented (Qur'an 7:23). The Qur'an does not mention any incident of Eve enticing Adam to eat the fruit and hence being singularly liable to the charge of causing the "fall of man." According to 1<sup>ST</sup> Timothy 2:14: "It was not Adam who was deceived but the woman. It was she who was led astray and fell into sin." The Qur'an, however, indicates that they jointly made a choice and hence paid for it. This affirms the fact that, indeed, gender equality or egalitarianism is intrinsic to Islamic beliefs. Women are liable for their personal actions because everybody will be responsible for his or her own actions on *Qiyaamah* when nobody shall be of the least avail to another:

It will be the day when no soul shall have power to do aught for another: for the command, that day will be wholly with God" (Qur'an 82:19). ... every soul draws the meed of its acts on none but itself: no bearer of burdens can bear the burden of another... it is He who hath made you agents, inheritors of the earth: He has raised you in ranks, some above others: that He may try you in the gifts He has given you: ...(Qur'an 6:164-165).

A woman is, therefore, responsible and is accountable just like a man. Indeed, logically, one cannot be assessed if one does not have the free will (*iradah*) to act. Rights come with responsibilities and that free will comes with the right to choose. When one, through the power of free will, chooses, one enjoys the reward of good choices. However, freedom of choice also comes with the responsibility to pay for wrong choices and this is amply illustrated in the metaphorical experience of Adam and Eve. The discussion of free will raises the fundamental question as to whether the Muslim woman is really free.

### **Restriction of Muslim Women: The Guilt of *Shari'ah* or Cultural Conspiracy?**

Apart from issues concerning the spiritual status of women, their social welfare, and particularly, issues relating to *zina*, there is another controversial chapter on Muslim women in predominantly Muslim environments. Ancient cultures are replete with examples of customs in which women have been subjected to more restrictions than men. Such restrictions could be inadequate opportunities, e.g. working and driving restrictions, compulsion in being accompanied by male relatives in travels, or the like. It is argued (obviously, with examples from women's situations in the Arab countries) that Islam has played a leading role in restricting the freedom of women in Muslim societies. However, many of the restrictions are actually alien to Islam. They rather stem from cultural adaptations. In other words, some of the restrictions are an adaptation of unIslamic cultural practices and ideas.

The mistake of many scholars lies in the assessment of the dictates of Islam which inadvertently tends to be on the ways of life of people who have identified themselves with the religion (Mesbah, 1985). However, in seeking knowledge about Islam and assessing its cultural paradigms, one must first detach cultural adaptation from the true essence of the religion. In trying to understand the dictates of Islam we may liken Muslims and Islam with a leader and his followers. Followers are supposed to follow their leader but this is not in any way automatic; the obedience of followers at any material moment depends on circumstances. Hence, to assess the performance of a leader through the performance of his followers is a misplaced priority. Muslims are to follow Islam but the strict following of Islam by the followers depends on circumstances of time and space. The natural conditions or provisions of time and space decide whether to modify any precepts to reflect the environmental circumstances of specific localities. Hence, to assess the dictates of Islam by following the trend of behavior among Muslims in a particular locality is like a person searching for the shell of a particular fish at the sea shore and picks whatever resembles the shell. If such a person continues picking only the resemblance, he or she stands the risk of making it take the place of the real shells he or she set out to look for.

If, for example, Saudi Arabia decrees that women must not drive so as to avoid a certain mixture of the sexes that may lead to certain sins, such reasoning cannot be credited to Islam. Indeed, Islam calls Muslims to be modest and be of good conduct, but that covers both men and women. At the same time, one must bear in mind that men and women worked towards Islam together during the time of the Prophet. What then is the doctrinal basis of such restrictions?

Societal restrictions are meant to impress on good behavior so people may have to put up acceptable behavior and waive certain public freedoms in order to achieve an uncorrupted or unpolluted community life. Yet, this does not apply to only women. However, more often than not, men do not account themselves to such standards. This ultimately makes women solely liable to the burden of maintaining the moral standards of society. However, the metaphorical episode of Adam and Eve in the Qur'an does not talk of the woman being restricted from the "forbidden tree" for her to follow divine order or law by default. As a matter of fact, she was given the power to choose between obeying Allah and disobeying Him. Indeed, when she was put to trial, she chose the path that pleased her and, hence, paid the penalty. Humankind was, therefore, created with the freedom to decide. This raises the critical philosophy of the late eighteenth century J.J. Rousseau that "man was born free, and everywhere he is in chains." What standards then will they be judged by? Can one ever be judged when one has no control over one's own actions? It is said that to err is human, and it is better to repent, learn from mistakes and guard against them than never to be challenged at all ([http://www.h2g2.com/approved\\_entry/A6175172](http://www.h2g2.com/approved_entry/A6175172), 21/10/2012). How was the situation like at the time of the Prophet?

### **Muslim Women at the time of the Prophet**

There is no valid report of women being restricted during the time of the Prophet. Women partook in virtually all activities of the Muslim community to the extent that some even showed active presence in battles which they were naturally not endowed to support. Leila Ahmad writes that:

*War was one activity in which women of pre-Islamic and early Islamic Arabia participated fully. They were present on the battlefield principally to tend the wounded and to encourage the men, often with song and verse. ... Some women also fought. In the Muslim battles of Muhammad's lifetime, women functioned in all three roles, on both sides-even Muhammad's wives...(Ahmed, 1992, pp. 69-70).*

During the Battle of Uhud, it was women who dressed the wounds of the injured Muslim fighters. In fact some of them even took part in the actual fighting. For example, Umm 'Umarah became known for fighting by the side of the Prophet and assisting him against the enemies of Islam at Uhud (Nadvi, et-al, 1999, Ahmed, 1992). In connection with this the Prophet is reported to have intimated that she showed mastery of weapon handling better than many of the men (Engineer, 2005 and Ahmed, 1992). In the wars of apostasy during the time Abu Bakr, she went out with her son to fight the dreadful Musaylima. She vowed to kill Musaylima when her son was killed by the latter but she sustained varied degrees of injury including having one of her hands chopped-off. This made her incapable of executing her plan, but she was still on the battle field when Musaylima was killed (Nadvi, et-al, 1999). On the other hand, Naseeba bint Ka'b dislodged twelve non-Muslims at Uhud and this made the Prophet to later remark: "Never did I look right or left but she was there defending me and fighting before me" (Ahmed, 1992, p. 70. Also cited by Ghadanfar, 2001, pp.210-211). Umm Saleem fought during the battle of the Trench (Ahmed, 1992, p. 70), while Safiyyah bint Abdul Muttalib displayed similar valour (Nadvi, et-al, 1999). Umm Al Dhouhha bint Mas'ud received a share of war booty like that of the men during the Battle of

Khaybar. During the time of even the Umayyad, women's fighting aspirations were not crippled. Consistently so, during the Battle of *Marj al-Saffar*, Umm Hakim eliminated about seven Byzantine soldiers. A *khawarij* woman like Ghazala won fame for her prowess in battles. She defeated Al-Hajjaj, a tyrannical Iraqi ruler of the Umayyad dynasty, in a duel (Ahmed, 1992).

The above revelations affirm the fact that Muslim women were not constrained, confined, or restricted to their matrimonial compounds or homes during the time of the Prophet; and these are quite significant and noteworthy in attempting to understand Islam's approach to womanhood. Muhammad's military corps was made up of Muslim men and women, while the Qur'an mentions both Muslim men and women. The question is: did this outstanding display of gender egalitarianism continue forever? How did it start crawling to the current state?

Sadly, however, in spite of the enterprising laurels of the early Muslim women, soon after the Prophet, Muslim women's role in the domain of warfare was challenged. There occurred a sudden retreat from warfare after the orthodox leaders. Women's participation in battle was opposed, and the *khawariji* women, for example, who were captured in battles, were humiliated and killed (Ahmad, 1992), an attitude that differed totally from the *Sunnah* or precedent taught by the Prophet to guide Muslims; and this is also noteworthy. The aftermath was that *khawariji* women withdrew from the spheres of war (Ahmad, 1992). This attitude distinguishes itself as the origin of the dispensation of discrimination against Muslim women. Is this characteristic of Islam? Sadly again, this and other factors have shrouded the impact of women in Islam, and have, in fact, contributed to misunderstanding, misconstruing, and as a result, misconception of their role and essence in the Muslim society of today.

It is noteworthy, however, that, although, women's status and public life retrogressed after the prophet, it did not degenerate to the limit we see today. Indeed, there was some liberality towards Muslim women in comparison with today's. This is because even though the consolidation of Islam actually started after the Prophet and during the Rightly Guided Caliphate, there was no significant change in treatment as the successors followed the precedent set by the Prophet. During the reign of these Caliphs, and even the Umayyad régime, women continued to play significant roles in all endeavors of the Ummah including combat and even politics. An example is 'Aishah Bint Abi Bakr, a widow of the Prophet who became a powerful force in the political turmoil that followed the death of her husband. She led the first attack tagged as the Battle of the Camel (*Al-Ghazwat-ul-Jamal*), aimed at avenging the death of her Umayyad kinsman, Uthman b. Affan, the then martyred Caliph. Although, this battle was, invariably, the first civil war in Islam, she became very important for her role in it and an authority on the prophetic traditions. She was, nonetheless, defeated and captured during the battle in 656, and was only released after promising to abandon political life. Other examples include: Hababa al-Baghdadi, a slave singer of the 9<sup>th</sup> Umayyad Caliph, Yazid II, the son of Abd al-Malik, who often fell hostage to her charm. Owing to her staling performance as his musician, one day when she got choked with a seed of pomegranate that rendered her unable to sing, Yazid rather died of grief a few weeks later (Hitti, 1970). Later historians stigmatised him and held him in contempt for letting himself be infatuated by a slave. A special mention can also be made of Khatun Mokilien (734-41) of Mongolia whose husband was poisoned by his minister, and so she acted as regent for her son, yujan (Bewley, 2004). How then did we come to where we are?

Regrettably, however, the historians of the Umayyad period seemed to have been more interested in the affairs of the caliphs to the extent that they overlooked Muslim socio-economic life (Hitti, 1970). For this reasons, modern scholars give us no adequate picture of Muslim women's socio-economic life in those days. This makes it difficult for one to present

an elaborate documented detail of Muslim women's socio-economic achievements in those days.

Notwithstanding this, it is a fact that the women of the early Abbasid period enjoyed the same measure of liberty as their Umayyad sisters (Hitti, 1970). Towards the end of the 10<sup>th</sup> century, especially, during the time of the Buwayhid branch of the Abbasid, the notion of strict seclusion and segregation of women began to characterize Muslim societies (Hitti, 1970). Thus, Muslim scholars began reengineering the interpretations of the fundamentals of Islam, including Islamic marital/family regulations to the extent that did not favour women. To a certain degree, however, even in that period one could hear of women in high circles and achieving distinction and exercising influence in state affairs. One could mention Khayzuran al-Baghdadi, an eighth century politically influential caliph-consort who was a slave, born most likely in Yemen, and gained substantial influence during the reign of her husband, al-Mahdi (775-785). She made many royal decisions for her husband and kept the peace by paying-off the Caliph's army in order to maintain order after the husband's death. She arranged to install her son, al-Hadi, even when he was away from the capital, and is alleged to have masterminded his murder, in favor of her second and perhaps more tolerant son, Harun, when the former proved less tolerant to her political maneuverings than had al-Mahdi (Hitti, 1970). However true this may be, Khayzuran is more fondly remembered than many of the Caliphs themselves (Hitti, 1970). Early in the same century, a courageous Spanish Muslim woman and a Manurian-Arab Princess, Cara Zon of Carcasson, had defended the city-state against the evil political machinations and military maneuverings of Prince Charles the Great, the political sage known in the French West as Charlemagne.

Within the same period one could hear of Arab maidens going to war and commanding troops, composing poetry and competing with men in literary pursuits or enlivening society with their wit, musical talents, and excellent vocal accomplishments. An example is Ubaydah al-Tunburaniyyah, the Pandore-lady who won national fame during the reign of al-Mu'tassim as a singer and musician (Hitti, 1970).

During the period of decline which exhibited the increased laxity of sexual morality and over indulgence in luxury, Muslim women's status sank to the low level one finds in Arab societies today (Hitti, 1970). Women in general came to be represented both as celebrities of crafty, sneaky, cunning, and intriguing pretensions, and as repositories of moral bankruptcy, base sentiments, unworthy and socially dangerous thoughts. Hence, it is not surprising that Husayn Haykal defines fornication as an:

*exposure of the woman's flesh and ornaments in a way inviting molestation by men and arousing in them sexual desire (Haykal, 1976, p. 320).*

Henceforth, Muslim women became the perpetrators of the immoral desires and moral corruption of society. According to Hitti, Abu Bakr al-Khawarizmi, the first author to leave a collection of literary correspondences, stated, in his letter of condolence addressed to his friend who had lost his daughter, the following:

*We are in an age in which if one of us ... should marry his daughter to the grave he would acquire thereby the best of sons-in-law (Hitti, 1970, p.333).*

This statement was against the background of the Qur'an's stern condemnation of female infanticide, what a shame! At this point, Muslim societies began to record a turning point in the treatment of women for which no effective revival has been possible to this day. There is, therefore, no fair justification now to judge the logic of the current Muslim women's woes in Islamic environments against Islam. This is because traditional and unIslamic

thoughts and practices have dislodged the Islamic prerogatives in many Muslim societies. A critical look at Islamic law in its antiquity shows some practices to be in contradiction with Islamic norms. It should also be understood that the Western misconception and conspiracy have also increased the general false impression about Islam through the improper assessment of cultural influence in the so-called Muslim societies. A reflection on practice alone without a critical examination of Islamic norms accounts for the Western misconception of the woman's image in Islam. Such a deduction only substantiates the neglect of the normative and conventional sources in understanding women's issues in Islam. Worst of it, the academic cupidity of individuals who have not been properly exposed to the rudiments of Islam and its essence leading, sometimes, to an unintentional misinterpretation of Islamic doctrines, has done a great deal of disservice in helping the populace to have a feel of Islamic teachings.

### **Conclusion**

This paper examined the status of women in Islam. The hypothetical underpinning was that Islam is "stubbornly egalitarian" (Ahmed, 1992, p.63). Incontrovertibly, it was found that Muslim women were considered equal to men in many respects, although, the understanding of equality by Muslim women may not be the same as expressed by women in the West. The core differences between men and women have been realistically acknowledged. It was also found that, against this backdrop, the early Muslim women enjoyed a great measure of freedom, and this made them contribute to Islam even in combats. This ran through to the Abbasid regime. However, during the era of the Buwayhids, the system of seclusion and segregation of women began to characterize Muslim societies. This invariably led to a reengineering of the interpretations of the fundamentals of Islam, including Islamic marital/family regulations to the extent that was unfavourable to women. During that period of decline, the position of Muslim women submerged to the low level one observes today. However, scholarly prejudice has also increased the misconception about women in Islam through the improper understanding of the original principles of Islam and, consequently, the substitution of cultural adaptations in today's Muslim societies for the Islamic principles or essence. Therefore, mere reflections on practice will always lead to misconstruction of women's image in Islam if Islamic norms are not critically examined to inform the understanding of the practices.

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