



**A Conflicts Forum Monograph**

**A study on**

## **Women in Islam**

**An Islamic vision of women from the viewpoint of  
contemporary Shi'i scholars in Lebanon**

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## Introduction

Despite major consensus amongst a large number of philosophers and historians that the principles and teachings of Islam caused a fundamental change in the position of women compared to the prevailing situation in countries in both East and West at the time, and despite the agreement of a large number of thinkers and legislators that women during the time of the Prophet (PBUH) were granted rights and legal privileges not granted by man-made laws until recently, propaganda campaigns by Westerners and people with a Westernised perspective consistently accuse Islam of being unjust to women, of imposing restrictions on them, and marginalising their role in society.

This situation has been made worse by the atmosphere and conditions prevalent across the Muslim world, where ignorance and poverty have produced a limited understanding of religion and family and human relations which occlude justice and a civilised way of life, particularly between men and women. The small group of people who have been granted opportunities to acquire an education and abilities have also fallen into the trap of believing that achieving justice for women and capitalising on their abilities is dependent upon rejecting religion and piety and adopting a Western way of life, as a result of their superficial studies of Islam on the one hand and the effect of life's diversions on the other.

Only a very small number of people from these two groups have managed to escape and cast off their cloaks of ignorance and tradition. These people have studied their heritage in great depth and detail, and have looked at the results of Western experiences with an open mind. They have distinguished between the wheat and the chaff in both the past and the present, and have dealt scientifically and objectively with the problems which have arisen. They have refuted the false charges made against Islam with eloquent arguments, and have admitted to concealed flaws. They have also re-examined the sayings and customs of the Infallible Ones in order to distinguish between what is established and holy and what has been altered and distorted.

The responsible behaviour of this group has established new directions and new ways of dealing with the question of women in Islamic societies. They have clearly not yet tackled all problems and found final solutions for the many legislative gaps and deficiencies, but they have laid the ground for the emergence of a new model for Muslim women, who are both strong and committed to the legal and effective foundations of their society.

With the triumph of the Islamic Revolution in Iran and the blessing of its leaders, which is the main religious authority for the participation of women and their effective political and social participation, the scope for strong debate over women in Islam has been significantly expanded. The model of Muslim women in Iran has spread to Islamic resistance movements in Lebanon, Palestine other Arab countries and even the Western world, and as a result, propaganda campaigns against Islam have abated to some extent.

The emergence of *Salafi* Islamic movements such as the Taliban in Afghanistan and similar Salafi movements in Saudi Arabia and North Africa, and their fanatical way of treating women, have provoked nervous onlookers fearing an Islamic resurgence into launching new propaganda campaigns accusing Islam of inspiring terrorism and being backwards and unjust towards women.

However, in contrast to this, a number of fair and more open-minded groups in the West have been calling for further investigations to understand the true position of Islam towards women. This has forced Islamists to increase their theoretical and practical efforts to reveal Islam's great humanitarian position towards women. Another motivation for revealing Islam's true position towards women has been the issue of women's rights in non-Islamic societies in both East and West. Islamists have sought to explain Islam's integrated theories of women and how much women and men and society as a whole have benefitted as a result.

This study was written in response to an invitation by *Conflicts Forum* – an organisation that seeks to objectively examine Islam's true attitude towards women and understand and assess the truth of statements and discourses attributed to Islam which suggest that religion is unfair to women.

This study aims to elucidate the Islamic conception of women as seen by contemporary Shi'i scholars in particular, specifically the most prominent thinkers and those who have undertaken to lead the contemporary Shi'i Islamic movement in Lebanon, headed by His Eminence Imam Sayid Mousa al-Sadr, His Eminence Ayatollah Sayid Muhammad Hussein Fadlallah and His Eminence Imam Sheikh Muhammad Mahdi Shams al-Din. The paper relies in particular on the comprehensive juristic study by His Eminence Imam Sheikh Muhammad Mahdi Shams al-Din, published as four books entitled *Critical Issues concerning the Jurisdiction of Women*. This book is an academic study which uses evidence and corroborations from the Holy Quran, the Sunna of the Prophet and the biographies of the Prophet and the Infallible Ones to consider the situation of Muslim women during the early days of Islam, the time just after the Call to the Faith, which was necessarily the period most influenced by the revelation and the truth of the new Call. It also relies on the writings and sayings of His Eminence Allama Imam Sayid Mousa al-Sadr and His Eminence Ayatollah Sayid Muhammad Hussein Fadlallah, which abound with juristic, logical and historical proofs.

This study is divided into an introduction, two main sections and a conclusion, as follows:

- The introduction presents the supporting material used for this study and explains how it has been used;
- Section One discusses the general ideological origins of the Islamic view of the position of women, in order to determine the ideological background from which Islam derived provisions and legislation relating to women;
- Section Two discusses the problematic issues concerning Islam's position towards women and the reasons for them, in order to reveal the root causes of the controversy surrounding the issue amongst both Islamists and other parties;
- Finally, the conclusion offers the clearest possible summary of the ideas contained in the study and puts forward a number of recommendations.

The study's methodology is a mix of traditional, historical and analytical methodologies. The importance of verifying opinions and events using original sources has been recognised. We hope that objective academic cooperation and dialogue between different faiths and civilisations will continue, in order to secure a more secure, happy and just world.

## Section One: An Islamic View of the Position of Women

### **Introduction**

Anyone who wants to understand the Islamic view of the position of women must first gain a basic understanding of the Islamic view of the world as a whole, and then of the general system governing the development of the world. They will then better understand Islam's view of women and their position. This section begins with a discussion of these ideas using established religious texts from the Holy Quran and the Sura of the Prophet.

### **First: An Islamic view of the world**

Islam, as a Semitic religion, believes the following:

1. The world has a Creator, who is wise, omniscient, just and powerful, and to whom is given the blessed names (the 99 names of God which describe all the attributes of perfection). The Most High says: *“He is God: the Creator, the Originator, the Shaper. The best names belong to Him. Everything in the heavens and earth glorifies Him: He is the Almighty, the Wise”*.<sup>1</sup>
2. The world is a manifestation of this Creator and of all His names and characteristics, both the aesthetic and the magnificent. The Most High says: *“The East and the West belong to God: wherever you turn, there is His face. God is all pervading and all knowing”*.<sup>2</sup>
3. The world was created for a purpose: *“We did not create the heavens and the earth and everything between them playfully”*,<sup>3</sup> and everything in the world was created with reasoned calculation: *“We have created all things in due measure”*.<sup>4</sup>
4. Each creature will readily discover the purpose for which it was created, and therein lies its happiness. The Most High says: *“He [Moses] said, ‘Our Lord is He who gave everything its form, then gave it guidance’*,<sup>5</sup> *“Stand firm and true in your devotion to the religion. This is the natural disposition God instilled in mankind – there is no altering Gods creation – and this is the right religion, though most people do not realise it”*,<sup>6</sup> *“This has been God’s practice with those who went before. You will find no change in God’s practices”*.<sup>7</sup>
5. *Jinn* and men were created to realise the truth of worship. The Most High says: *“I created Jinn and mankind only to worship Me”*.<sup>8</sup> Their happiness in this world and the next thus relies on them realising this truth.
6. Mankind occupies the highest rung of creation in the world. He stands apart from the rest of creation as a manifestation of the perfection of God, and acts as His successor on earth, entrusted with preserving the world and treating it with beneficence. The Most High says: *“When your Lord told the angels, ‘I am putting a successor on earth’, they said, ‘How can You put something there who will cause damage and bloodshed, when we celebrate Your praise and proclaim Your holiness?’ but He said, ‘I know things you do not’*,<sup>9</sup> *“We offered the Trust to the heavens, the earth, and the mountains, yet they refused to undertake it and were afraid of it; mankind undertook it – they have always s been inept and foolish”*.<sup>10</sup>
7. The world is constantly growing and expanding, *“We built the heavens with Our power and made them vast”*.<sup>11</sup>

8. However, the world will doubtless one day pass into oblivion, whereupon all beings will return to their Creator to be judged and to pay their dues: *“Do not call out to any other god beside God, for there is no god but Him. Everything will perish except His Face. His is the Judgment and to Him you shall all be brought back”*.<sup>12</sup>

## **Second: The system governing the development of the world**

Coupling and pairing is the system upon which the world was founded, proof of which is the complete way in which this system applies to all creation – inanimate objects, plants, animals and mankind. The Most High says: *“We created pairs of all things so that you might take note”*.<sup>13</sup> Inanimate objects are made up of particles pressed tightly together, and every particle is made up of atoms, and every atom is made up of a centre containing positive particles called protons and negative particles called electrons which circle around them. Every particle has specific features which accord with its particular role. Atoms are unstable unless they contain an equal number of positive and negative particles.

A similar thing occurs in plants. Every plant contains both a male and a female organ, each of which has its own specific features and plays a specific role. Reproduction only occurs when cross-pollination occurs between the two.

In the animal kingdom, every type of animal is made up of males and females which have different but complementary characteristics and roles and which are mutually pleasing. This leads to the animal breeding and the continuation of the species. Humans follow the same pattern. Ever since the beginning, God has created human beings in two forms – Adam (male) and Eve (female), and it has been decreed that human reproduction and the continuation of the species take place when the two mate.

Humans are different from other animals. They are rational, selective and able to learn, socialize and develop. However, they cannot develop and reproduce simply through instinctive, unaware and unstructured mating. In order for the species to survive, humans couple within a regularised framework and within relationships. Human society has adopted this system as all human beings believe it to be the best way to realise the physical, mental, psychological and spiritual growth which will allow them to achieve their pioneering role in this world and to achieve eternal happiness in the next.

In order to protect the world and ensure opportunities for growth, the following things are necessary:

- Different features and characteristics for males and females which allow them to complement each other and require each other’s company: *“Another of His signs is that He created spouses from amongst yourselves for you to live with in tranquility: He ordained love and kindness between you. There truly are signs in this for those who reflect”*.<sup>14</sup>
- The division of roles within the family to provide children with every opportunity for growth throughout their lives. This will enable them to perform the role of God’s successor on Earth in the future.
- Promulgating laws and distributing roles within society to allow for the greatest possible populating of the Earth, thus pleasing God the Mighty and Majestic.

### Third: Women's position in the world

The preceding section shows us that mankind occupies the highest rung of creation and that he owes this elevated position to his ability to perform the greatest tasks which any creature can perform, being entrusted with the role of God's successor on Earth. However, mankind is split into two parts: male and female. So is there a difference between the two in terms of position and rank? Does the difference in gender affect their elevated position? By using the Islamic viewpoint adopted by the leaders of the contemporary Islamic movement of Shi'i scholars in Lebanon,<sup>15</sup> and by referring to unambiguous Quranic sources and the true spoken and reported Sunna of the Prophet, we can determine that there is no distinction between the position of women and men in the world. The evidence from the Quran is:

#### i. One species and one identity

The Quran confirms that mankind is one type of animal, and that there is no distinction in humanity and no difference between men and women. The Most High says: *"People, be mindful of your Lord, who created you from a single soul, and from it created its mate, and from the pair of them spread countless men and women far and wide; be mindful of God, in whose name you make requests of one another. Beware of severing the ties of kinship: God is always watching over you"*.<sup>16</sup>

The Most High says: *"Their Lord has answered them: 'I will now allow the deeds of any one of you to be lost, whether you are male or female, each is like the other. I will certainly wipe out the bad deeds of those who emigrated and were driven out of their homes, who suffered harm for My cause, who fought and were killed. I will certainly admit them to Gardens graced with flowing streams, as a reward from God: the best reward is from God"*.<sup>17</sup>

His Eminence Sheikh Muhammad Mahdi Shams al-Din says: "The saying of the Most High, 'Each is like the other', is a source of legislation which expresses the oneness of the position of women and men within the Islamic value system and system of rights and duties. Women do not occupy a difference position in these systems to that of men. Each of them adheres to the same truth, completes the other in this truth and is not independent of the other within this truth".<sup>18</sup>

Imam Sayid Mousa al-Sadr says: "The Quran considers women to be just like men in fact and in the self".<sup>19</sup>

#### ii. One source of creation

The Quran clearly states that there is no difference between men and women in terms of the source of their creation. Each of them was created from a handful of soil and a breath from the soul of God. Hadiths recounted by some people which speak of woman being created from the rib of the man are weak hadiths compiled from the stories of the Israelites.

The Most High says: *"He Himself created the two sexes, male and female, from an ejected drop of sperm"*.<sup>20</sup> The Exalted says: *"Does man think he will be left alone? Was he not just a drop of spilt-out sperm, which became a clinging form, which God shaped in due proportion, fashioning from it the two sexes, male and female?"*<sup>21</sup>

This point is clearly emphasized by the utterance of Ali (PBUH), the Commander of the Faithful, to Malik al-Ashtar when he appointed him governor of Egypt: *"Know, oh Malik, that there are*

two types of people – those who are your brothers in religion and those who are your equals in creation”.<sup>22</sup> The controversy that raged between philosophers during the Middle Ages about the immortality of the soul of women was settled by the truth of the Holy Quran, where the Most High says: “Enter Paradise, you and your spouses: you will be filled with joy”.<sup>23</sup>

### iii. Equal worth as human beings

There is no evidence in the Quran of any distinction caused by gender. The only measure of distinction in Islam is piety. The Most High says: “People, We created you all from a single man and a single woman, and made you into races and tribes so that you should recognize one another. In God’s eyes, the most honoured of you are the ones most mindful of Him: God is all knowing, all aware”.<sup>24</sup>

A hadith of the Prophet (PBUH) says, “Oh people, you have the One Lord and the One Father. You are all children of Adam and Adam was made from soil. In God’s eyes, the most honoured of you are the ones most mindful of Him. An Arab has no superiority over a non-Arab except in piety. Have I delivered the message?” They said, ‘Yes’. He said, ‘Let those who witnessed this tell those who were absent’.<sup>25</sup>

The clearest proof of this idea is women’s equality with men in terms of responsibilities and human rights:

- **Responsibilities:** All sources confirm that mankind - both men and women - share equal responsibility for their actions. People, both men and women, must bear individual legal responsibility (under Shariah law) for their actions in this world and at the final judgment in the next.

The clearest demonstration of this idea is the single obligation and prohibition given to Adam and Eve at the dawn of creation. The Most High says: “We said, ‘Adam, live with your wife in this garden. Both of you eat freely there as you will, but do not go near this tree, or you will both become wrongdoers’”.<sup>26</sup> Every prophet who came after this bore legal instructions for all of mankind, both men and women. Prayer, fasting, pilgrimage, the five pillars of faith, paying *zakat*, the promotion of virtue and the prevention of vice, and *jihad* in the cause of God are all equally incumbent upon both men and women.

Similarly, the consequences of actions, rewards for good deeds and punishments for bad deeds are also the same for both sexes. The Most High says: “Whoever does evil will be repaid with its like; whoever does good and believes, be it a man or a woman, will enter Paradise and be provided for without measures”.<sup>27</sup> The Exalted says: “To whoever, male or female, does good deeds and has faith, We shall give a good life and reward them according to the best of their actions”.<sup>28</sup>

Fadlallah confirms mankind’s single source of creation and responsibility by saying, “Islamic thought looks at the humanity of women and men through the same prism when regarding their formation. It considers the issue of responsibility by calling upon them both to work towards creating an Islamic civilisation in the life of the people...They are both equally responsible for their deviations or righteousness. Roles and tasks are shared out between them on the basis of the complementary nature of humanity, in which both sides, men and

women, offer their own special characteristics to the other to bring all human characteristics together in order to achieve the total integration of roles and responsibilities” [29].

- Rights: Islam confirms that as human beings, men and women enjoy the same human rights. The most important of these rights are:
  - Right to life: The Most High says: “*When the baby girl buried alive is asked for what sin she was killed*”<sup>30</sup>
  - Right to self-determination: The Commander of the Faithful (PBUH) says there is no difference between men and women, “*There is no slave but you and God has made you free*”<sup>31</sup>
  - Right to knowledge: A hadith of the Prophet of God (PBUH) accepted by all Muslims says, “*Acquiring knowledge is the duty of all Muslims, both men and women*”<sup>32</sup>
  - Right to work: In the Holy Quran, the Most High says, “*Do not covet what God has given to some of you more than others – men have the portion they have earned; and women the portion they have earned – you should rather ask God for some of His bounty: He has full knowledge of everything*”.<sup>33</sup> Religious commentators have agreed that this verse is proof that women are allowed to work and earn money in the same way as men.<sup>34</sup>

#### iv. One assignment and public role

Now it is clear that men and women share the same human nature, it is also clear that every utterance directed at mankind in the Book of God applies to both of them. If we consider the verses which discuss mankind’s role on earth, we see they are addressed to mankind in general, with no distinction made between men and women. Shams al-Din says: “The presence of a single type of human being necessitates a single public function for mankind, a single role assigned to them, a single goal put in place for them, and a single destiny which marks their end, with no distinction between men and women”.<sup>35</sup>

He then quotes the Most High: “*It is He who made you successors on the earth and raises some of you above others in rank, to test you through what He gives you. Your Lord is swift in punishment, yet He is most forgiving and merciful*”. The Most High says: “*The believers, both men and women, support each other; they order what is right and forbid what is wrong; they keep up the prayer and pay the prescribed alms; they obey God and His Messenger. God will give His mercy to such people: God is almighty and wise*”.<sup>36</sup> Mankind, both men and women, are God’s successors on earth and must carry out the general function entrusted to them by God. They take pleasure in the reasons and the methods to be used for this, from the abilities and skills they have been granted, and the nature which they make use of”.<sup>37</sup>

The following things are incumbent upon mankind:

- Fulfilling the aim of creation, which is to worship God the Most High, the One God for all mankind, both men and women The Most High says: “*I created jinn and mankind only to worship Me*”.<sup>38</sup>
- The task of populating the earth and discovering and enjoying the goodness of nature – one nature for all mankind, both men and women We cannot find a single Quranic text which differentiates between men and women in this regard.<sup>39</sup>
- The task of establishing the just rule of God on earth and struggling against injustice and oppression is a duty for all mankind, both men and women. In an *Ashura* speech



reflecting on the heroism of Sayida Zainab (PBUH) and the bold stance she took struggling against the oppression of her time, despite all the difficult conditions and major challenges facing her, Imam Mousa al-Sadr presents Sayida Zainab as the ideal role model for all Muslim women. He says, “Despite all these factors, Zainab (PBUH) was a major figure of opposition to Yazid. Islam desires that all Muslim women be like her”.<sup>40</sup>

However, the task of populating the earth and the marital system both require the division of labour within society and the existence of physical and mental differences between the two spouses, in order that society becomes complete and all its needs are met. This division and these differences necessitate some variation of functions. This diversity does not result from the elevation of one group above the other, but as a result of the particular functions of each group and the physical and mental-emotional characteristics they call for.

Fadlallah says, “In this way, we see how the Quran talks both positively and negatively about men and women in their active lives (without considering fatherhood, motherhood and marriage) without giving men a more important or more critical role than women. Neither of them is relieved of the responsibilities which arise from the performance of their private roles, namely motherhood, fatherhood and matrimony. It is perhaps their public roles which give their private roles their human or epistolary content by positive affecting human thinking and the soul. This then spreads to the practical reality with full force and conviction”.<sup>41</sup>

### **Conclusion:**

The preceding section has shown us that the position of women on earth, from the Islamic point of view, does not differ from that of men. As Shams al-Din says in one of his most beautiful expressions, “Humankind, which has one public function, is a varied creature. It is made up of two parts: male and female. Humankind does not only consist of men, nor of women. It is a combination of the two. Men have a private task to perform in the sphere of their public work, and so do women. These two private tasks complement each other, and through them the general task of the life of humanity is realized”.<sup>42</sup>

This conclusion is immediately apparent to those who study the Quranic texts, the life of the Prophet (PBUH) and his dealings with his wives and daughters and the women of his time, and the biographies of women in the early days of Islam.

## Section Two – Problematic issues regarding Islam’s position towards women and their causes

### **Introduction:**

Despite the clarity of the Islamic belief in men and women’s equal value as human beings, many problematic issues regarding Islam’s position towards women arise from the following:

- Some items of judicial legislation which seem to discriminate against women
- Some stories relating to the Prophet (PBUH) and the Infallible Ones which include statements about or allusions to women’s inferiority to men

This section will shed some light on the most important of these issues, their causes, and Islam’s position on the subject.

## **First: The most important problematic issues regarding Islam's position towards women**

The most important problematic issues regarding Islam's position towards women can be divided into two categories:

First: judicial legislation which seems to discriminate against women. This in turn can be divided into two categories:

### 1. Legal provisions relating to married life:

- Guardianship / where the literal meanings of the legal provisions seem to award the husband authority over his wife
- Polygamy / where the literal meanings of the legal provisions seem to favour men over women
- Divorce / where the literal meanings of the legal provisions seem to be unfairly biased in men's favour
- Custody of children / where the literal meanings of the legal provisions seem to ignore the feelings and rights of women

### 2. Legal provisions relating to social and political life:

- Covering and the *hijab* / where the literal meanings of the legal provisions seem to limit the freedom of women but not of men
- Giving testimony / where the literal meanings of the legal provisions seem to undermine women's mental capacities
- Inheritance / where the literal meanings of the legal provisions seem to reveal economic inequality
- The inability of women to assume positions of power / where the literal meanings of the legal provisions seem to distrust women's abilities and to believe them incapable of managing their own affairs or the affairs of others.

Second: stories which include statements or allusions to women's inferiority to men, which can also be divided into two categories:

- Stories about women as wives
- Stories about women in general.

## **Second: The causes of these problematic issues**

### 1) Causes relating to Muslims themselves, the most important of which are:

- i. Using customary practice as a reference for understanding the holy texts
- ii. Using a piecemeal approach when considering Quranic verses and hadiths
- iii. Using lax standards to evaluate the authenticity and meaning of narratives and hadiths relating to the Prophet (PBUH) and the Infallible Ones (PBUT)
- iv. Governing women using historical circumstances
- v. Shortcomings and negligence when performing *ijtihad* (juristic analytical reasoning)

### **i. Using customary practice as a reference for understanding texts**

Unfortunately, before the Call of the Prophet (PBUH), societies in both the East and the West tended to disparage women and consider them second-class citizens. Some even went so far as to doubt whether their souls were those of animals or humans!<sup>43</sup> Supported by the Revelation and after exerting great theoretical and practical efforts, the Prophet (PBUH) was able to correct this view. Women enjoyed much more comfortable lives during the time of the Prophet, taking on many personal, familial and civil rights.

However, the Prophet's (PBUH) period of rule was not long enough to permanently uproot the derogatory view of women from people's minds and souls. Therefore, immediately after the death of the Prophet (PBUH), pre-Islamic customary practice took over once again. Many texts were interpreted using male-dominated viewpoints which influenced the jurisprudential movement and the spirit of devising a system of Shariah law using these texts.

The situation was also negatively affected by the Muslims' exposure to other cultures through the Islamic Conquests. The Muslims were affected by Greek philosophical works which were full of ideas on the inferiority of women.<sup>44</sup> Shams al-Din talks about this matter candidly, saying, "Many jurists considered juristic questions relating to women working with what they saw in the texts, without being cautious of weak hadiths and without questioning the soundness of accepted hadiths. They considered customary practice a reference for understanding many texts, yet it was never proven that this customary practice in all its details was around during the time of the Prophet (PBUH) and the infallible Imams (PBUT), which would make it a suitable reference for understanding the texts".<sup>45</sup>

### **ii. Using a piecemeal approach when considering Quranic verses and hadiths**

The second mistake which some, perhaps the majority, of Muslim jurists made was not to consider Sunna texts concerning women and the family in light of the guidance of the Quran, nor to consider them as inseparable and complementary to the Quranic verses.

Shams al-Din provides examples of this in the first book of his discussion of the jurisprudence of women. He says disapprovingly, "One generally accepted premise of Islamic jurisprudence is a mother enjoys an almost unparalleled spiritual and legal position in relating to her children. However, when this mother is considered as a wife, she almost loses all her human dignity and worth in relation to the husband/father. She is considered as no more than a sexual object or a housekeeper!".<sup>46</sup>

### **iii. Using lax standards to evaluate the authenticity and meaning of narratives and Hadiths relating to the Prophet (PBUH) and the Infallible Ones (PBUT)**

The Quranic text is protected against any tampering or modifications, as the Most High says, "*We have sent down the Quran Ourselves and We Ourselves will guard it*".<sup>47</sup> However, the same cannot be said for hadiths relating to the Prophet (PBUH) and the Infallible Ones (PBUT). Many different hadiths have been introduced into the canon which corrupt and distort each other's meanings.

To avoid distortions and forgeries, the Prophet (PBUH) told Muslims to compare everything which they heard from his lips to the Holy Quran. If the two agreed, they could accept the hadith, but if the two disagreed, they should reject it. Unfortunately, jurists were primarily

concerned with evaluating hadiths relating to worship, and did not put the same effort into studying those relating to aspects of human interactions with each other, including the issue of women. This resulted in juristic provisions relying either on unsubstantiated texts or on texts issued under specific circumstances which were not meant to be applied generally to all women.

Shams al-Din says of the first of these situations, “Many jurists considered juristic questions relating to women working with what they saw in the texts, without being cautious of weak hadiths and without questioning the soundness of accepted hadiths”.<sup>48</sup> Of the second situation, he says, “Studying the texts on this basis will reveal that some of them were promulgated under the influence of particular temporary, contemporaneous customary practices. This means they do not reflect divine Shariah rule, as they were not promulgated to reveal this rule but rather to reflect the existing cultural and social situation, which they adapted to as necessitated by the circumstances”.<sup>49</sup>

Shams al-Din provides examples of this, “It is established in the legislation that women and men share the religious duty of promoting virtue and preventing vice. However, jurists work with narratives of the type narrated by al-Kalini and ascribed to Abdullah bin Sanan from Imam al-Sadiq, which says, “The Prophet of God (PBUH) spoke of women and he said, “Be wary when doing virtuous things for them, so they do not then ask you to commit vice. Seek refuge in God from their evil, and be wary with the best of them”.<sup>50</sup> Shams al-Din believes that this hadith requires investigation. It is most likely that it is a weak hadith as it contradicts the content of the Quranic verses. Even if its ascription is accurate, then it most likely expresses factors relating to the social situation of the time and is not a general legal ruling, as it contracts a fixed legislative text on the one hand and as most other hadiths which discuss the same content are elevated and weak on the other.<sup>51</sup>

#### **iv. Governing women using historical circumstances**

Continually denigrating and marginalising women in society has led to them falling behind men in many spheres. This has led some thinkers and philosophers<sup>52</sup> to conclude that the root cause is women’s inferior and distorted nature, that she was created solely to please and serve men, and that what has corrupted both society and women themselves is their intervention and participation in things which do not concern them and which they were not created for. These thinkers believe the extraordinary female characters in the history books or those mentioned in the Quran are exceptional examples distinguished by virtue of divine intervention and selection.

Both Shams al-Din and Fadlallah reject this notion vehemently. Shams al-Din says, “The truth of the matter comes to light when we observe that if women grow up in a social and educational climate in which they experience the same culture as men and are provided with the same opportunities as men to pursue the public function of humankind, then they possess the same skills and abilities as men. If a man were to grow up in a social and educational climate which produced the same oppressive culture as that of women, which restricts social, political and cultural activities, then that man will have fewer or no skills and abilities”.<sup>53</sup>

Fadlallah says, “In light of our previous observations comparing men and women living under similar cultural, social and political conditions, we see it is difficult to notice any difference between them. It is not necessarily true that men’s grasp of cultural, social or political issues is greater than that of women. In fact there are numerous examples where women surpass men in

terms of breadth of vision, precise thinking, depth of comprehension and clarity of vision, because of some distinguishing internal or external features. We can see this in several historical examples where women have lived under balanced conditions and under the appropriate circumstances for them to grow mentally, culturally and socially. These women have been able to assume an active stance and take up firm positions, based on a foundation of thought and conviction. Allah has presented us with the examples of Mary and the Pharaoh's wife, whilst history has presented us with Khadija al-Kubra mother of the Faithful (PBUH), Fatima al-Zahra (PBUH), and Sayida Zainab daughter of Ali (PBUH).<sup>54</sup> Some people have spoken of the unusual nature of these women's characters, but we do not see anything unusual here – only natural circumstances which granted these women the possibility of spiritual and mental growth and active commitment in such a way that the personal elements of self growth were naturally balanced”.<sup>55</sup>

Shams al-Din joins Fadlallah in rejecting the notion that these women were specially selected. He has produced a comprehensive fundamental study covering this point<sup>56</sup>, in which he determines two important issues:

- First: the examples of women mentioned in the Quran “reveal the model for all women, and are not perversions or exceptions”<sup>57</sup>
- Second: these Quranic stories “show us the fixed and certain principles of Islamic law which jurists should consider when devising shariah rulings and corroborating them through practicing *ijtihad* and inference”<sup>58</sup>

Taking this view as a starting point, Fadlallah believes that every text ascribed to the Prophet (PBUH) and the Infallible Ones which suggests the inferiority of women, assuming this ascription to be accurate, cannot be considered to express the Islamic point of view towards women, but rather to relate to the regressive situation of women at that particular time.

Fadlallah says, “In light of this, we cannot take the narratives about Imam Ali (PBUH) in Nahaj al-Balagha as a reference when carefully considering women to confirm their human shortcomings in endowments, mind and faith. Instead, these might be the result of particular circumstances and conditions which might have coloured the interpretation of the Revelation, or of the general situation of women during historical periods of ignorance and backwardness which was forced upon them as a result of their upbringing and preparation for life in society, as compared to men”.<sup>59</sup>

#### **v. Shortcomings and negligence when performing *ijtihad***

The most important thing distinguishing Islam as the seal of all faiths applicable in every time and place is the dynamic nature of its provisions and the possibility of performing *ijtihad* for new issues which may arise. Therefore, any shortcoming or negligence in the performance of *ijtihad* will definitely lead to confusion in the lives of Muslims and their deviation from the right path.

Jurists practicing *ijtihad* relating to women's issues have suffered from both shortcomings and negligence.

By shortcomings, we mean an **inability** to determine the divine intention and to produce fatwas which accord with this intention and meet the current needs of Islamic society.

By negligence, we mean **insufficient efforts** to gain more knowledge, precision and confirmation when producing fatwas which accord with the divine intention and meet contemporary needs.

If shortcomings are unintentional, they are not held against the jurist.<sup>60</sup> However, those undertaking to acquire knowledge and practice *ijtihad* will be held responsible for negligence.

We have previously pointed out that a regressive historical reality, the elucidation of texts in light of unenlightened customary practice and traditions and the effect of the philosophic and doctrinal ideas of non-Muslims all resulted in the distortion of the vision of Muslim scholars during the early Islamic era and in shortcomings in understanding the divine meaning of provisions relating to women.

If the jurists at that time had examined the question of women by taking the Quranic text and the biography of the Prophet (PBUH) as their starting point, they would have rid themselves of this confusion and ambiguity. Achieving objectivity and freedom from the social culture and customs of the time is a difficult notion, except for the Infallible Ones who alone could obtain an impartial view not biased by the prevailing atmosphere and customs.

In his discussion of exemplary women in the Holy Quran, Shams al-Din explains why it is necessary to develop legal provisions in light of the Quranic text, saying “The Quranic view is the correct legal atmosphere for these provisions. These provisions are not rootless and do not come about with no (philosophical) context. Rather, they are centered on a general foundation expressed in this view. This vision is therefore a key reference for understanding the legal texts and explaining them. Perhaps this is one of the intentions of the Right Path of the Prophet - the obligation to contrast everything in the Sunna to the Book of God, and to accept that which accords with the Book of God and to reject that which contradicts it”.<sup>61</sup>

Negligence, on the other hand, comes down to a failure to exert sufficient effort to analyse hadiths attributed to the Prophet (PBUH) and the Infallible Ones, and a failure to factor in elements of time and place into the interpretation in order to distinguish between those which with a particular meaning and those with a general meaning, and in order to consider each example individually, without making an effort to consider the effect of the societal setting on these provisions.<sup>62</sup>

In the introduction to the fourth edition of his book “Islamic Reflections on Women”, Fadlallah therefore calls openly for jurists practicing *ijtihad* to increase their efforts to reveal Islam’s profound view on many essential issues, including the subject of women. He says, “Maybe I felt, and still feel, that jurists practicing Islamic *ijtihad* must increase their efforts and begin an intellectual awakening which is unaffected by a negative situation in understanding the texts. In this way they will discover the depth of the Islamic view on essential issues which still arouse controversy in conception, legislation, method and action, because some fatwas have been devised subjectively rather than objectively”.<sup>63</sup>

Similarly, Shams al-Din draws jurists’ attention to the necessity of practicing *ijtihad* by considering the social situation. He says, “The Quranic examples – including the examples of advanced women – are irrefutably not guides for individuals but for the whole of society and its practical and organisational development. The examples of Mary, Balkis the Queen of Sheba, and the two daughters of Shoaib are examples for society made up of both men and women who

belong to organized and varied formations within the family, the tribe, the village, the neighbourhood and the town, within the wider and deeper organizational formation of the social system. They should not be considered as isolated individuals each with their own private life separated from the lives of others. Private life in this sense is not to be found in real life at all".<sup>64</sup>

## 2) Causes relating to Muslims and non-Muslims

- i. Considering Islamic legislation through the prism of a Western materialistic mindset
- ii. The belief that assigning different functions to men and women relates to ideas of superiority or inferiority
- iii. Judging Islam based on the performance of Muslims
- iv. Partial readings of the legislation

### **i. Considering Islamic legislation through the prism of a Western materialistic mindset**

The view that life is a blessing from an all-knowing all-wise Creator, that enjoying life is subject to behaving according to the orders of this all-wise Creator, that a successful person is one who gives all that he can and develops the good qualities of beauty which he possesses, and that the true triumph comes in the afterlife is hugely different to a materialistic view of life which treats this life as the only opportunity for living, and where a successful person is one who obtains the most material gains either for himself or for his people during this life on earth.

Therefore, when Westerners and Westernised people consider Islamic legislation with this individualistic and materialistic view of life, they arrive at the belief that Islam unjustly legislates against women's rights.

- Why must women conceal their bodies whilst men must not?
- Why are men entrusted to provide for women, which gives them power over them?
- Why can men marry more than one woman at the same time whilst women can only marry one man?
- Why...? Why...?
- It reaches the point where we ask why women can be pregnant and give birth whilst men cannot?

These questions are the result of an individualistic, materialistic view of life. However, if we consider the Islamic view of life and take Islam as the system which governs it, as outlined in the previous section, our point of view changes.

According to this view, legislation governs the interests of the whole community and not just those of individuals. Accordingly, worldly material possessions are not everything – in fact, they are nothing if they do not mean happiness in the hereafter.

Islam therefore believes that:

- There is no harm in women covering their bodies and losing some element of freedom in the cause of liberating society as a whole from the confines of urgent and lustful natural impulses and agitation, as long as this covering does not prevent women from actively participating in all spheres of life and does not violate the basic element of her humanity. In fact, it might be the only way to ensure interactions with women as human beings rather than specifically female creatures.

Speaking about Islam's respect for the humanity of human beings, Imam al-Sadr says, "The clearest example of this directive is the Islamic message about women, which aims to prevent the suppression of all other aspects of their being at the expense of their femininity. For this reason, it forbids them from creating excitement or temptation, so that woman's humanity is not drowned out by her femininity. Men must not consider women, and women must not consider themselves, only in terms of this one element, so that views of women do not deteriorate and so they do not lose the essential elements of their being".<sup>65</sup>

- There is nothing wrong with allocating tasks within the family in order to create the best atmosphere for children's physical, mental, psychological and spiritual growth, even should this restrict some of women's freedoms and prevents her, for a limited period, from achieving some of her worldly ambitions. This division is done for the sake of the preservation and cohesiveness of society, and in order to create the necessary environment for bringing up men and women to be the successors of God on Earth.

Fadlallah says, "In this way, we see that Islam does not suffocate women's femininity, nor deny her natural instincts, nor restrict her freedom. It allows her to assume a position where personal, moral and social issues are balanced, within the scope of the public and private positions of individuals and society, as governed by a belief in God and adherence to the boundaries which are there to ensure the highest interests of mankind".<sup>66</sup>

In this way, Islamic legislation accords with Islam's doctrinal and ideological principles, and any attempt to judge it without considering these principles misses the point.

## **ii. The belief that assigning different functions to men and women relates to ideas of superiority or inferiority**

One of the reasons why problems arise concerning Islam's position towards women is the belief that assigning different functions to men and women has something to do with their superior or inferior positions.

This belief is in turn caused by a dependence on material standards in determining superiority, such as wealth, power, physical strength etc.

However, as Shams al-Din says, the standards used by Islamic legislation to determine superiority and inferiority and the rights and value systems these give rise to, "are not masculinity and femininity, nor the same particular function, but how committed one is to the general function of abiding by the Revelation by committing oneself to the necessities of one's particular function. This commitment is referred to in the Islamic value system as 'piety' and in juristic terminology as 'justice'".<sup>67</sup>

In the same vein, Fadlallah says, "In light of this, Islamic legislation addresses the human balancing of vital roles to balance life and that which has been prescribed for both men and women. This creates diversity within the unit in order to enrich the unit's internal composition with diverse components with different characteristics, to ensure the permissible and the mandatory and reject the forbidden and the detestable based on an in-depth study of what best serves the situation and the life of men and women".<sup>68</sup>



### **iii. Judging Islam based on the performance of Muslims**

The most important reason which has caused many people, both Muslims and non-Muslims, to be confused and believe that the Islamic religion denies the dignity of women is the behavior of Muslims themselves.

Many, if not the vast majority, of Muslims and non-Muslim do not look to the Quranic text and its exegesis, nor to the Biography of the Prophet (PBUH) and his treatment of women in general and Muslim women in particular, nor to the academic formulations of juristic provisions, to judge Islam. Instead, they base their views on what the general public says and how Muslim men treat their women.

We have already shown how Muslims gradually moved away from the true Islamic path in many areas, particularly those in which Islam had initiated fundamental changes, and how they reverted to the cultural conceptions of pre-Islamic society and other neighbouring societies after the end of the prophetic era.

Shams al-Din explains this idea in more detail, saying, “The Islamic view of women liberated her from the view of pre-Islamic Arabs and other unenlightened people. It raised her humanitarian status to that of men, and gave her equal rights. Legislative provisions were devised which accorded with this view. Islamic society was formed in accordance with these ideological conditions and this legislative method during the age of the Prophet (PBUH) and for a while afterwards. After this, however, a negative conception of this subject arose, caused by two factors:

- One: people’s decreased awareness of legislative provisions on this subject
- Two: The effect of ideas, customs and traditions received by Islamic society from other societies such as the Byzantines, the Persians and the Indians, included the views of these societies’ civilizations and cultures towards women.

These two factors resulted in the formation of a view of Muslim women in Islamic society which considered her role to be exclusively that of providing sexual fulfillment, bearing children and performing domestic work. This caused men to have less appreciation of women’s human dignity. It reduced women’s freedom to interact with society and to work, and denied them the right to education and culture.

This view contradicts the real Islamic view and Islamic legislative provisions. Therefore, women’s actual social position is different to that laid out in the Book and the Sunna, and also different to that formulated by jurists who were not influenced when forming their legal views on women by the prevailing social situation and internal customs and traditions, which created an ideological climate which did influence some jurists’ understanding of the legislative proofs concerning women”.<sup>69</sup>

### **iv. Partial readings of the legislation**

We have already indicated that the provisions of Islamic legislation consider the overall interests of both individuals and society. We therefore cannot judge them by considering only a portion of their contents. Instead, in order for us to fully and correctly understand this legislation, we must consider it as a whole. We believe that many publicity campaigns attacking Islam’s

treatment of women are unjust as they highlight parts of the legislation without linking it to other relevant parts.

Although there are many examples of this, for the sake of conciseness we will limit ourselves here to examples which explain the most important areas of confusion.

- a) Inheritance: it seems at a first glance that the provision for women to inherit half the share of men<sup>70</sup> is unjust and gives preferential treatment to men over women. However, other legislation concerning the financial rights of women and men seem different, and in fact confirm that this legislation is just and fair.

If a daughter is given half the share of a son when their father dies, this is not unfair to the daughter if we consider that the son is financially responsible for his wife, whereas the daughter will marry a man who will be financially responsible for her but may not touch any of her money without her permission.

Proof that this legislation is fair is that under Islamic legislation, women's share of an inheritance is not a fixed amount, but differs depending on the make-up of the family and the woman's position. A mother's share of inheritance from her son, for instance, is the same as that of the father.<sup>71</sup> This reveals that shares of inheritance have no relation to gender, but to the financial responsibilities of each person involved.

- b) Giving testimony: it seems at a first glance that considering the testimony of two women to be equal to that of one man [72] is insulting to women and indirectly accuses them of having inferior mental capacities to men. However, looking at other testimony relating to giving testimony and the last part of this verse, which explains the reason for the decision ("If one of the two women should forget the other can remind her"), shows that this is not the case.

Under this legislation, there are some cases where men's testimony cannot be accepted, some cases where women's testimony cannot be accepted, and some cases where the testimony of men and women is accepted equally.<sup>73</sup> This clearly shows that this provision does not relate to mental capacity as much as it relates to psychological make-up. As a result of their excitable and impressionable nature, women are more affected by disturbing scenes or embarrassing situations, and so turn away so as not to see what is happening rather than going forward to investigate and get involved in the situation. There is nothing in this which harms women or limits her rights. In situations which are not emotive and where women may be as capable as men, or more so, their testimony is given equal weighting or even exclusive consideration.

- c) Guardianship: it seems at a first glance that giving men the right of guardianship over women and the right to discipline disobedient wives, even to the point of hitting them,<sup>74</sup> is offensive to women's rights. However, looking at the legislation which governs relations amongst male and female believers and that which governs relations between men and women, both women in general and wives, and considering the linguistic meanings of the words in the verse ( such as 'guardianship', 'disobedient' and 'hit'), shows that this is not the case at all.

Looking at the philosophy of rights and responsibilities in Islam, we observe the general idea that every right comes with a corresponding responsibility.<sup>75</sup> This means that guardianship is not a right which grants power and authority, but a duty which involves men being responsible for their families and providing for them financially. It is conditional upon respecting all a believer's rights over his brother believer (treating him with fairness, respect and affection),<sup>76</sup> as well as the right of a wife over her husband, which involves the duty of living together amicably.<sup>77</sup>

Looking at the meaning of disobedience and the rights of husbands and wives in Islam, we see that this legislation is very particular. It applies only between husbands and wives, guardianship applies only in certain situations, and discipline is only permissible in one situation.

Given the importance and sensitive nature of this subject, Shams al-Din dedicated a whole book to the rights of wives, in which he uses juristic proofs to examine the subject. He takes care to investigate the authenticity of the hadiths in circulation which justify a husband controlling his wife behind the spheres permitted. He arrives at the following conclusions:<sup>78</sup>

- Guardianship does not involve the general authority of men over women
- The obedience required of wives is limited to two situations only, both of which relate to a husband's right to enjoyment
- Disobedience only refers to not granting a husband his rights when there is no reason not to do so, and a husband doing what he must towards his wife
- A man has no right to discipline his wife apart from under these circumstances

In his turn, Fadlallah says, "Marriage is not a contract which turns women into men's slaves. Marriage does not strangle their lives and deny their usual habits and moods. Women are human beings, and their humanity must remain intact throughout their married lives, just as men are human beings and their humanity must remain intact throughout their married lives. God the Glorious and Exalted has based the nature of men and women's lives together on a foundation of love and mercy, so as to increase the feelings of unity which tie the couple together. Therefore, it is not a question of a contractual obligation towards a partner for life, as is understood from the phrase 'life partner'. The issue must be understood using the deeper meaning revealed in the Quranic verse which says "they are as garments to you as you are to them" (The Cow [Al Baqara]: 187). This means there is oneness - her life takes on his life, and his life takes on her life. This naturally results in a kind of merging and fusing which supports the relationship between them. God has based marriage on a foundation of love, with both parties caring about the circumstances of the other, their feelings, emotions and personal situation. Neither side tries to impose itself on the other, and to wipe out the other's personality or humanity. The general belief that men try to wipe out women's personalities by not accepting that they have their own opinions in cases when there room for debate, or by refusing to accept that they have their own moods and habits, is not Islamic and does not express the Islamic point of view. The husband is an independent person with his own legal human personality just as the wife is an independent person with her own legal and legislative personality. They must complement each other and

each must preserve their own special characteristics, which the other must in turn respect”.<sup>79</sup>

The question of beating, which remains highly provocative, is the clearest example of the confusion which arises amongst both Muslims and non Muslims from a partial reading of the texts. People ignore or disregard other provisions which define disobedience in the legal sense, and explain the meaning of ‘beating’ in terms of promoting virtue and preventing vice which reveal the obligation of both men and women to resort to physical pressure in one situation – if someone is charged with committing a sin against God, in no uncertain way, and if there is no way to make them return to their senses except by using physical force, and if one is certain of the probable effect.

In light of this, the Quranic text does not only refer to men disciplining their wives, as some imagine, but contains a general provision. The text is only a reminder to men, to guard against what men can end up doing as a result of being stronger than their wives using the pretext of discipline. There are other steps which must be taken by one seeking to promote virtue and prevent vice, before resorting to physical force.<sup>80</sup>

Proof of this is to be found in the final part of the verse which reminds men to watch themselves in this situation and be careful of slipping towards oppression and aggression, for “God is most high and great”.

These examples must suffice for now. We refer the reader to the two cited works by Shams al-Din and Fadlallah which contain enough information to dispel any lingering ambiguity or confusion.

## **Summary**

The preceding sections have shown that problematic issues regarding Islam’s position towards women are caused by the shortcomings and negligence of Muslims on the one hand and the ignorance or prejudice of their opponents on the other. An objective, scientific view which considers the interests of individuals and of society together clearly shows that Islam is not responsible as either a religion or a system of divine law for these problems.

## Conclusion

Through presenting the general ideological sources which determine the Islamic view of women's position on earth and the problematic issues which arise concerning Islam's position towards women and their causes, the following points have emerged:

- 1) In the Islamic viewpoint, women hold the same human value as men.
- 2) This value is not merely figurative or symbolic but real, and results in women and men sharing general obligations and responsibilities in front of God and society.
- 3) Differences in some rights and duties, or what we might call special functions, have no relation to superiority or inferiority. They are related to the necessity of complementation and distributing roles so as to maintain and improve life on earth.
- 4) To maintain and improve life on earth, human beings must maintain the institution of the family and put communal interests ahead of individual ones.
- 5) Superiority in Islam has nothing to do with gender or with any material or symbolic value, but only with piety and observing one's divinely appointed charges which are called for by justice.
- 6) True happiness in this world and the next is dependent upon every creature accepting their intrinsic nature and assuming a role which accords with this nature.
- 7) The pinnacle of legislative justice is according every person their rights in accordance with what will make both them and society happy, and not imposing the same rights and duties upon everyone.

The particular function of women on earth, which is demonstrating the beautiful names, is no less important than the particular function of men, which is demonstrating the glorious names. The source of the world is beauty, and the glorious also had a role, which was preserving beauty.

- 1) Establishing the life of the family and society is dependent upon true collaboration between men and women in the legislative and implementing spheres, whereby any view of life in which the view of the glorious triumphs over the beautiful, or visa versa, will upset social stability.
- 2) Islamic legislation relating to women can only be judged by considering the philosophical background to the Islamic vision of the true meaning of life and happiness.

Based on these conclusions, we believe that:

- 1) The system of women's rights and duties in Islam should be studied seriously by all Muslim and non-Muslim women, as the ideal theory of happiness for both men and women.
- 2) Muslim jurists practising *ijtihad* must increase their efforts to reveal the true nature of Islamic legal provisions relating to women and the family and to deducing new provisions which women and the family require in light of the changes which have taken place to relational systems in postmodern societies.
- 3) Women in general and Muslim women in particular must bear the responsibility of boldly participating in this legislative and implementative, as is currently happening in the Islamic Republic of Iran.

- 4) Muslim men and women must act within the limits laid down by God and not seek to cross them, so as not to disfigure the beauty of the divine legislation.
- 5) The legal authorities responsible for personal affairs must not permit any challenges to the limits laid down by God and must provide the appointed frameworks in order to create sources of reference which serve individuals fairly and protect their rights.
- 6) Those responsible for cultural and educational issues must provide everything necessary for making men and women aware of their rights and duties and to prepare them for their familial and social roles in life, within the necessary moral framework, within the educational curricula.
- 7) The legislative authorities in government, in order to uphold the humanity of women and the institution of the family, must work hard to promulgate laws which allow for women's effective participation in society which does not contradict her humanity or her essential role as wife and mother.
- 8) Positive, objective dialogue between cultures and religions has become one of the greatest necessities at a time when the world has become one small village due to the technological and communicational revolution.

## Footnotes

1. The Gathering [Al Hashr]: 24
2. The Cow [Al Baqara]: 115
3. The Prophets [Al Anbiya’]: 16
4. The Moon [Al Qamar]: 49
5. Ta Ha [Ta Ha]: 50
6. The Byzantiums [Al Rum]: 30
7. The Joint Forces [Al Ahzab]: 62
8. Scattering [Winds] [Al Dhariyat]: 56
9. The Cow [Al Baqara]: 30
10. The Joint Forces [Al Ahzab]: 72
11. Scattering [Winds] [Al Dhariyat]: 47
12. The Story [Al Qasas]: 88
13. Scattering [Winds] [Al Dhariyat]: 49
14. The Byzantiums [Al Rum]: 21
15. Not only amongst Shi’i scholars in Lebanon; however, this study is confined to their views
16. Women [Al Nisa’]: 1
17. The Family of ‘Imran [Aal ‘Imran]: 19
18. Imam Sheikh Muhammad Mahdi Shams al-Din: Critical Issues concerning the Jurisdiction of Women, volume one, p10
19. Hussein Sharf al-Din, Minbar and Mihrab, p164
20. The Star [Al Najm]: 45-46
21. The Resurrection [Al Qiyama]: 36-39
22. cf. Imam Sheikh Muhammad Mahdi Shams al-Din: Critical Issues concerning the Jurisdiction of Women, volume one, p11
23. Ornaments of Gold [Al Zukhruf]: 72
24. The Private Rooms [Al Hujurat]: 13
25. Bahar Anwar, Al Alama al Majlisi, part 73, p350
26. The Cow [Al Baqara]: 35
27. The Forgiver [Ghafir]: 40
28. The Bee [Al Nahl]: 97
29. Ayatollah Sayid Muhammad Hussein Fadlallah, Islamic Reflections on Women, p25
30. Shrouded in Darkness [Al Takwir]: 8-9
31. Mizan Hakmah, Al Alama Ray Shatri, part 2, Freedom, part 3557
32. Mirza Noori, Mustadrak al Wassail, part 17, Hadith number 21250
33. Women [Al Nisa’]: 32
34. cf. Shams al-Din, Critical Issues concerning the Jurisdiction of Women, volume four
35. Shams al-Din, Critical Issues concerning the Jurisdiction of Women, volume one, p12
36. Livestock [Al An’am]: 165, Repentance [Al Tawba]: 71
37. Shams al-Din, ibid, 16
38. Scattering [Winds] [Al Dhariyat]: 56
39. cf. The Heights [Al A’raf] 31 / Livestock [Al An’am]:141-142
40. Imam al-Sadr Centre for Research and Studies, Selected Texts and Speeches, [www.imamsadr.net](http://www.imamsadr.net)
41. Fadlallah, ibid, p24

42. Shams al-Din, *ibid*, p18
43. cf. French Encyclopaedia
44. Shams al-Din, *ibid*, p25: “Some elements of this customary practice are composed of innovative local customs and traditions which were not formed by the Revelation of Islam but which result from the cultural heritage which affected Islamic societies as a result of their interaction with people of other religions and cultures”
45. Shams al-Din, *ibid*, pp24-25
46. Shams al-Din, *ibid*, p23
47. Al Hijr [Al Hijr]: 9
48. Shams al-Din, *ibid*, p24
49. Shams al-Din, *ibid*, p25
50. Shams al-Din, *ibid*, pp23-24
51. cf. Shams al-Din, *ibid*, pp23-24
52. Starting with Plato and spreading to the major Muslim thinkers influenced by him, such as Mulla Sadra and others
53. Shams al-Din, *ibid*, pp26-67
54. Fadlallah, *ibid*, p8
55. Fadlallah, *ibid*, p9
56. Shams al-Din, *ibid*, pp29-31
57. Shams al-Din, *ibid*, p31
58. Shams al-Din, *ibid*, p38
59. Fadlallah, *ibid*, p16
60. It is therefore said that he who practises *ijtihad* and makes a mistake will receive one reward, whilst he who practises *ijtihad* and is correct will receive two rewards.
61. Shams al-Din, *ibid*, pp38-39
62. This was attributable to the complicated political and social conditions which the Islamic nation experienced during the period of decline, and to the distance of the Shi’i scholars in particular from the practise of political leadership and effective participation in governance for historical and sectarian reasons which there is no room to go into in this study. We notice that when Shi’is practiced public affairs, they heeded this shortcoming.
63. Fadlallah, *ibid*, Introduction, p4
64. Shams al-Din, *ibid*, p39
65. Imam al-Sadr Centre for Research and Studies, Text of Imam Mousa al-Sadr’s Speech on “Islam and Human Dignity”, 8/2/1976
66. Fadlallah, *ibid*, p31
67. Shams al-Din, *ibid*, p22
68. Fadlallah, *ibid*, Introduction to the Fourth Edition
69. Shams al-Din, *ibid*, pp46-47
70. The Most High says, “A son should have the equivalent share of two daughters” (4:11)
71. The Most High says, “Concerning your children, God commands you that a son should have the equivalent share of two daughters. If there are only daughters, two or more should share two-thirds of the inheritance, if one, she should have half. Parents inherit a sixth each if the deceased leaves children; if he leaves no children and his parents are his sole heirs, his mother has a third, unless he has brothers, in which case she has a sixth. [In all cases, the distribution comes] after payment of any bequeaths of debts. You cannot know which of your parents or your



*children is more beneficial to you: this is a law from God, and He is all knowing, all wise”* (4:11)

72. The Most High says, *“Call in two men as witnesses. If two men are not there, then call one man and two women out of those you approve as witnesses, so that if one of the two women should forget the other can remind her”* (2:282)

73. cf. Provisions of the declaration of faith in the books of jurisprudence

74. The Most High says, *“Husbands should take good care of their wives, with [the bounties] God has given to some more than others and with what they spend out of their own money. Righteous wives are devout and guard what God would have them guard in their husband’s absence. If you fear high-handedness from your wives, remind them [of the teachings of God], then ignore them when you go to bed, then hit them. If they obey you, you have no right to act against them: God is most high and great”* (4:34)

75. cf. the speech of Imam Ali (PBUH) in Speech 216 in Nahaj al-Balagha [The Peak of Eloquence]: God the Sublime has given me a right over you as your ruler, and has given you as much right over me as I have over you. Right is the broadest thing in the world, and yet the most precise thing when determining justice. No one has a right over someone without someone having a right over them, and no one has a right over them without having a right over someone. If anyone has a right over someone but no one has a right over them, that is reserved only for God and not for His creation, for His power over his servants and for the justice He dispenses in every case He judges. However, He, the Sublime, has made His right over His servants that they obey Him, and has made their reward to Him multiplying virtue, for His sake and to increase what He grants His people. Then He the Sublime has from His rights given people rights over each other, and has made them equal in their rights. No one has rights over someone else that are not balanced by their rights over him.

76. We have previously shown that women in Islam have the same human value as men

77. The Most High says, *“You who believe, it is not lawful for you to inherit women against their will, nor should you treat your wives harshly, hoping to take back some of the bride-gift you gave them, unless they are guilty of something clearly outrageous. Live with them in accordance with what is fair and kind: if you dislike them, it may well be that you dislike something in which God has put much good”* (4:19)

78. cf. Shams al-Din, Critical Issues concerning the Jurisdiction of Women, volume three

79. Fadlallah, *ibid*, p92

80. cf. Provisions of the promotion of virtue and the prevention of vice of all Islamic scholars

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