

# Social Laws in Islam

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## FOREWORD

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Social Laws in Islam is a collection of several radio talks broadcast in the external service of Radio Bangladesh by Mr. Shah Abdul Hannan, presently Chairman National Board of Revenue and Secretary, Internal Resources Division, Ministry of Finance, Government of Bangladesh. He is also one of the Advisers of Bangladesh Institute of Islamic Thought (BIIT) and has been associated with and contributing to various other social, cultural and research organizations.

The content of the book deals with the answers of the questions which we face in our day-to-day life. The answers are presented in concise and simple form. The problems and the issues that have been discussed relate to familial and social issues like marriage, divorce rights and duties of spouses etc. and economic matters like trade, business and profession as well as service-condition. The book, we expect, will be of immense interest

to the general readers. We will deem our efforts a success if the book helps the readers in eradicating their day-to-day problems.

Allah Hafez

M. Zohurul Islam FCA

Secretary General, BIIT

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### **Preface to the First Edition**

The present book is a collection of essays on Islamic law which were broadcast in the external service of Radio Bangladesh in 1985 and 1986.

The subjects covered are sources and principles of Islamic law, Islamic law on marriage, divorce, husband-wife relationship, dress, business, profession and earning, entertainment and social relations. In preparing the essays I was greatly benefited from the book 'The Family Structure in Islam' by Hammudah Abdul Ati and 'The Lawful and Prohibited in Islam' by Dr. Yusuf Al Qaradawi. I am grateful to them.

I hope the present book will help people in understanding the basic rules and instructions of Islam in respect of the aforesaid subjects.

I am grateful to the publishers of the book who has taken pains for publishing it.

I am grateful to my wife Akhter Jahan, my daughter Samina Akhter, and my son Faisal for their encouragement in my efforts.

***Shah Abdul Hannan***

### **Preface to the Second Edition**

I am delighted to express my heartiest congratulation to the readers as well as the publisher of my book "Social Laws of Islam" to learn that the stock of the first edition of the same has already been exhausted within a very short time and initiative has forthwith been taken to bring out its second edition to cater to its demand. Like many others, one of my very dear students in the United States reported me that he found this book

very useful for both Muslims and non-Muslims there. May Allah benefit more readers both Muslims and non-Muslims out of this book.

As mentioned in the first edition this book is basically a collection of some essays which were broadcast in the external service of Radio Bangladesh in the years 1985 and 1986. In this edition also I express my profound gratitude to Hammudah Abdul Ati, author of "Family Structure in Islam" and Dr. Yousuf Al-Qurdawi, author of "The Lawful and the Prohibited in Islam" for my greatly being benefited from their books in preparing the essays. May Allah grant them reward.

In the first edition in spite of care some mistakes persisted. I hope this edition is correct from such mistakes. May Allah reward Brother Zainul Abedin Mazumder, Associate Professor of Jagannath University College, Dhaka who has gone through the book and made necessary correction.

Allah Hafez

***Shah Abdul Hannan***

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### **Sources of Islamic Law**

Islam has given the most comprehensive legal system to mankind. Islamic law covers all aspects of life. Islam has its own personal, civil, criminal, mercantile, evidence, constitutional and international law.

Islamic law has been defined as the body of rules of conduct revealed by Allah (SWT) to His Prophet Muhammad (peace be upon him) whereby the people are directed to lead their life in this world. Islamic law has, therefore, not been given by any ruler. It is given by Allah. Islamic law remains valid whether recognised by the State or not.

The basic source of Islamic law is Divine Revelation. This has been given to mankind by the Prophet Muhammad (peace be upon him) in two forms. One is the direct word of Allah (SWT), the Quran and the other is the Sunnah or the teachings of the Prophet (Sm). The Prophet (Sm) always acted according to the instructions of Allah (SWT).

The Quran is the primary source containing all the fundamental directives and instructions of Allah. Herein are to be found not only directives relating individual conduct but also principles relating to all the aspects of social and cultural life of human being.

The Quran is the last and complete edition of Divine Guidance and this is the only book of Allah which has not been distorted.

The Quran is not only a book of law. The main purpose of Quran is to awaken in man the higher consciousness of his relation with Allah and the universe. However, in the Quran there are at least five hundred verses which possess definite legal elements. The scholars of Islam have developed a complete science of interpretation of the Quranic verses which can be seen in any book of Islamic jurisprudence.

The Sunnah is the second source of Islamic law. Sunnah is an Arabic word which means "Method". It was applied by the Prophet Muhammad (peace be upon him) as a legal term to represent what he said, did and agreed to. Its authority is derived from the text of the Quran. The Quran says,

"For you the life of the Prophet is a model of behaviour" (Al-Quran 33:21)

Many of books of traditions were compiled by the companions of the Prophet (S.M.). These were later on incorporated in the great collections of Hadith (i.e. traditions) of Bukhari, Muslim etc. The collectors of the traditions adopted a very scientific system in collection the Traditions. They did not record any tradition except with the chain of narrators. Every tradition gives the names of the last narrator of the tradition from whom he learnt the tradition and so on back to the Prophet or Companion of the Prophet. The Sunnah which is established through reliable narrators is fully dependable as legal element.

The Quran and Sunnah are complementary. The meaning of the Quran is general in nature, the Sunnah makes it specific and particular. The Sunnah explains the instructions of the Quran. The Quranic injunction is sometimes implicit, the Sunnah makes it explicit by providing essential ingredients and details.

The Quran and the Sunnah are the primary sources of Islamic law. Ijma (that is consensus of opinion of scholars) are Qiyas (that is laws derived through analogical deduction) are the secondary or dependent sources of Islamic law or Shariah.

Ijma and Qiyas derive their value or authority from the Quran and the Sunnah. Therefore, they are called dependent sources.

Ijma or the consensus of scholars signifies the importance of delegated legislation to the Muslim community. The Muslim society requires such a rule making power to meet the practical problems for the implementation of Islamic Shariah (Islamic Law). Ijma has been technically defined as the

consensus of the jurists of a certain period over a religious matter. Ijma is considered a sufficient evidence for action because the Prophet of Islam said, "Muslim will never agree on a wrong matter." As such the agreement of the scholars of Islam on any religious matter is a source of law in Islam (Ref: Principles of Islamic Jurisprudence by M. Hashim Kamali).

Qiyas is the fourth important source of Islamic law. Qiyas means analogy. Qiyas or analogy is resorted to in respect of problems about which there is no specific provision in the Quran or the Sunnah of the Prophet. In such issues, the scholars have derived law through analogical deduction on the basis of the provisions of the Quran and the Sunnah on some similar situation. The scholars have developed detailed principles of analogical deductions or Qiyas in the books of Islamic jurisprudence.

Qiyas is a kind of Ijtihad. The Prophet has permitted Ijtihad which literally means 'to exert'. Technically it means to exert with a view to form an independent judgement on a legal issue. Ijtihad is the Islamic method of facing the new situations and problems in the light of the general principles of the book of Allah SWT, the Quran and the traditions of the Prophet or the Sunnah.

Apart from Qiyas, there are other methods of Ijtihad such as Istihsan (that is the juristic preference from different interpretations) and Masalaha (that is moral consideration).

In addition to the above sources, the practices of the Khulafa-e-Rashidun (the first four rulers of Islam), the decisions of the judges and the customs of the people are also considered sources of Islamic law in matters which are not spelled out in the Quran and the Sunnah.

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### **Principles of permissibility and prohibition in Islamic law**

Islamic law has already laid down the principles of permissibility and prohibition of all things as well as all human actions. The first fundamental principle is that all things are lawful for mankind except what have been prohibited explicitly by Allah in the Quran and by the Prophet Muhammad (Sm) in his Sunnah (that is his instruction, action or consent). This principle has been explained in the Quran, the book of Allah. The Quran in this regard states as follows:

"Allah (SWT) has created everything on earth for (use of) mankind." (2:29)

"Allah (SWT) has pressed into service of mankind everything on the earth and in the sky" (45:13)

From the above, it is established that Allah (SWT) has created everything on the earth and in the sky for the welfare of mankind. By doing so, Allah (SWT) has shown His great mercy and favor to humanity. However, He has Himself prohibited use of several things. When Allah has prohibited something, such prohibition is definitely for the good of mankind and as such mankind should obey such prohibitions.

In this context, it may be said that the prohibited things are few in number. On the other hand the area of lawful things is vast and wide. This has made the life of people very easy with regard to use of things.

The second principle is that only Allah (SWT) has the right to declare a thing lawful or prohibited. Prophet Muhammad (Sm) under the guidance of Allah has only explained and detailed out some of the prohibitions and permissions given by Allah (SWT) in general form. No human being has the right to declare a thing lawful or prohibited. The Quran has stated in this regard:

"Do they imagine associates (with Allah) who have made laws for them which Allah has given no permission" (42:21)

"They have made their priests and their authorities to be their law giver in derogation to Allah. Yet they were commanded to obey only Allah, the One." (9:31)

"Say not falsehood that your tongues may put forth that this is lawful and this is forbidden so as to ascribe false things to Allah. For those who ascribe false things to Allah will not prosper." (16:116)

Any person who claims the right to declare a thing lawful or prohibited in effect commits Shirk. Shirk means claiming for oneself any of the powers, which is the exclusive power of Allah (SWT). Allah particularly dislikes prohibiting a lawful thing unlawful by any authority. The Quran states:

"Say who has forbidden the beautiful gifts of Allah (SWT) which He has produced for His servants and the things clean and pure, which He has provided for sustenance. Say, they are in the life of this world for those who believe and exclusively for them on the Day of Judgment. Thus do We explain in detail the signs for those who understand. Say, the things that my Lord has indeed forbidden are shameful deeds, whether open or secret, sins and rebellion against truth, assigning partners to Allah for

which He has given no authority and saying about Allah, things of which you have no knowledge." (7: 32-33)

Allah has prohibited only shameful things. Allah has not prohibited any pure, clean, good or harmless things. It is a different matter that humanity may not always understand the wisdom of some prohibitions of Allah (SWT). We know the significance of most of the prohibitions. The significance of other prohibitions may become clearer in future with the progress of knowledge.

What has been made lawful for us is sufficient. Mankind will never require resorting to unlawful things. If Allah has made flesh of swine unlawful, He has made hundred other animal meat lawful. If Islam has prohibited interest, it has allowed trade, business and investment on profit and loss basis. If Islam has prohibited adultery, it has made marriage lawful and easy. If Islam has prohibited wine, it has allowed many lawful drinks (milk, fruit, juice, etc.).

Another principle of the prohibition in Islamic law is that the means or causes that lead to unlawful action are also prohibited. For instance, Islam has prohibited sex outside marriage. Therefore, Islam has prohibited free mixing of sexes, obscene literature, dress, film etc. In the eye of Islam, not only the person who commits unlawful action is guilty but also all others who help him in that regard.

Islam has also prohibited adoption of tricks for legalizing illegal things. The Prophet of Islam has said, "Do not make unlawful things to be the lawful through tricks." Islam also said that illegal things do not become legal only because of good intention. Islam has also emphasized on the need for avoiding doubtful things to remain off from illegal things.

Another principle of the permissibility and prohibition in Islamic law is that what is prohibited, it is prohibited for all. Islam does not give any special privilege to rich or poor, white or black.

Another important principle in this regard is that a grave necessity legalizes temporarily an illegal thing. Islam has not ignored the difficulties of human beings. However such temporary relief is not unconditional. The Quran says:

"If a person is in distress, if he is not rebellious and does not exceed, (he may eat prohibited food and for that) he will not commit sin. Allah is Forgiving and Merciful." (2:173)

The Quran further says:

"Allah wishes easiness for you, He does not desire for you hardship."  
(2:185)

The aforesaid verses clearly prove that Islam has given the detailed principles of permissibility and prohibition of things. Mankind can benefit materially and spiritually if they follow the prohibitions of Islam.

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### **Islamic law regarding profession and earning**

Islamic law as revealed from Doctrines of Allah (SWT) has laid down detailed rules and regulations regarding profession and earnings.

Islamic has discouraged all persons from remaining unemployed without reason. Islam encourages all to work for earning livelihood. The Prophet of Islam, Muhammad (peace be upon him) has said, "It is not lawful for the rich people or for healthy people to accept aid and assistance from others." (Narrated in the book of tradition of Tirmidhi)

Islamic law has therefore prohibited begging except for a person in grave difficulties.

Islam considers labor as very dignified. Islam has, therefore, asked the Muslims to engage in agriculture, industry, trade, service or any other profession except the prohibited ones.

The Quran has encouraged agriculture in many of its verses.

"He (Allah) has sent down rain from the sky and brought out thereby all kinds of vegetation, green (crops) out of which grain is produced." (6: 99)

Allah has said,

"Man should look into his food. We have sent down required rain, then earth has been made to absorb the water and thereby We have produced crops, grapes and vegetables" (80: 24-28)

However, Islam has not permitted cultivation of plants, eating of which has been prohibited. Cultivating Opium and Cannabis is, therefore, prohibited. Cultivation of any prohibited thing for sale to non-Muslims is also prohibited.

Islamic law has encouraged industry. According to Imam Gazzali and many other scholars, establishment of necessary industry is a communal obligation (Fard al Kifaya). Some people must establish necessary industry, otherwise all people would be treated as sinners in that community has, as a whole, neglected an obligation causing suffering to the people. There are many verses in the Quran indicating the importance of industry. One chapter of the Quran has been named Al-Hadid, which means Iron. The Relevant verse says,

"Allah has created Iron, in it is great strength and good for mankind." (57: 25)

Islam has also greatly encouraged trade and industry. The Quran, the book of Allah, and the Prophet (Sm) have encouraged trading. The Quran states,

"Allah has made trade and business lawful and has prohibited interest." (2: 275)

However, manufacturing and trading of prohibited goods is prohibited in Islamic law.

Taking public service or private service or employment is lawful in Islam. However, employment in a firm engaged in manufacturing of prohibited goods or services is prohibited. For instance, it is not lawful for a Muslim to take employment in a brewery, casino or dancing hall.

There are some professions, which are not permissible in Islamic law. Islam has imposed heavy punishment for adultery, whether consenting or otherwise, and for prostitution.

Islam does not approve things, which aggravates sexuality leading to violence against women. Islam, therefore, does not approve the profession of dancing or acting which encourages indecency.

Islam does not also approve the profession of statue making. Islam does not like anything, which may lead to worship of any human being.

Islam has also prohibited any profession connected with production and sale of hard drinks and intoxicants.

The laws of Islam are meant for good of mankind. Humanity can benefit by following the laws of Islam.

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## Islamic law regarding business

Islam has permitted and in fact encouraged business. The Quran states, "Allah has made business lawful for you." (2:175)

The early Muslims were not only engaged in trade but they went to distant lands in connection with business. Islam in fact reached East and West Africa, East Asia through the business people.

Islam has given detail laws of business. Islam has not permitted selling and purchasing of goods, which are prohibited in Islamic law. The Prophet of Islam has said, "When Allah prohibits a thing He prohibits (giving and receiving) the price of it as well." (reported in the books of tradition of Ahmad and Abu Daud)

Islam has also prohibited any kind of transaction involving uncertainty (Garar) as this could lead to quarrel or litigation. The Prophet of Islam has forbidden transaction involving unspecified quantity, acceptance of money for fish in the river or bird in the air as there is element of uncertainty. Similarly the Prophet of Islam has prohibited sale of fruit till they are ripened. (Chapter on Transactions involving uncertainty i.e. Garar in the book of tradition of Muslims).

However, if the element of uncertainty is very small, the transactions are permissible. For example, it is permissible to sell root vegetables while they are still on the ground.

Freedom of trade and operation of market forces are allowed in Islam subject to the limits set by Shari'ah. Islam, however, condemns hoarding to make high profit by withholding the commodity from the market so that it becomes scarce. The Prophet of Islam has said, "If any one withholds goods until the price rises he is a sinner" (Tradition of Muslim)

"The withholding of grain for 40 days out of a desire of high price is prohibited in Islam" (Tradition of Ahmad, Hakim etc)

Islam, however, allows normal trade-buying and selling of goods again and again at a reasonable profit.

Islamic law has prescribed measures to prevent manipulation of market, exploitation of seller or buyer and fraud. The Prophet of Islam prohibited

people from going out of town to buy merchandise, which was on its way to city market. The reason for this prohibition is that the market place, where the forces of demand and supply determine prices, is the best place for trading transactions. In the situation of buying on way to market, the seller may not know the real market price and he may be deprived of legitimate price.

Islam prohibits fraud in business dealings. The Prophet (Sm) has said, "It is not permissible to sell an article without making everything clear nor is it permissible for anyone who knows (about its defects) to refrain from mentioning them." (Baihaqi)

The Prophet of Islam has also said, "Sell the good and bad separately. He who deceives us is not of us." (Muslim, Ahmad)

The sin of fraud is greater if the seller supports it by swearing falsely. The Prophet has said, "Swearing produces ready sale but blots out blessing." (Bukhari)

In the same manner deceiving others by withholding full measure is also prohibited. The Quran has emphasized the giving of full measure. It says,

"And give full measure and (full) weight in justice" (6: 152)

Islam has prohibited business transactions on interest. The Quran is explicit about it and says,

"Allah has permitted for you trade and prohibited interest." (2: 275)

In the Muslim world, in the last decade a chain of Islamic Banks has come up to avoid interest in trade.

Islam has permitted and encouraged business subject to the aforesaid principles and restrictions. If these principles are followed, the economy will be greatly purified from injurious practices.

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### **Islamic law regarding marriage**

Islam recognizes value of sex and advocates marriage. Islam does not believe in celibacy. The Prophet of Islam has said, "Marriage is my Sunnah

(that is recommended action of the Prophet) and whoever does not follow my Sunnah is not my true follower." (Ibn Haiah, Babun Nikah)

Allah has commanded the Muslims to marry:

"And marry those among you who are single...." (24:33)

In Islam, marriage is essentially a contract. However, the distinction between sacred and secular was never explicit in Islam. Any action or transaction in Islam has religious implications. It is not quite accurate, therefore, to designate marriage in Islam simply as a secular contract. The appropriate designation of marriage could be a "Divine Institution".

For a valid marriage, the following conditions must be satisfied:

- a. There must be a clear proposal.
- b. There must be a clear acceptance.
- c. There must be at least two competent witnesses. This is necessary to exclude illicit sex and to safeguard legitimacy of progeny. It is recommended that marriage should be widely publicized.
- d. There must be a marriage gift, little or more, by the bridegroom to the bride.

Dowry or marriage gift by bridegroom to the bride is a symbolic expression of the groom's cognizance of the economic responsibilities of marriage and of his readiness to assume all such responsibilities subsequent to marriage. Dowry is not any price paid either to wife or family of the wife. The general principle is that dowry should be estimated according to the circumstances with emphasis on moderation. The Prophet (Sm) is reported to have said that the most blessed marriage is that which is least costly and most easy.

It is permissible for a Muslim man to see the women to whom he intends to propose marriage before taking further steps so that he can enter into the marriage with full knowledge. This has been permitted in Islam to avoid further misunderstanding. The Prophet (Sm) has said, "When one of you asks for woman in marriage, if he is able to look at what induce him to marry her, he should do so." (Narrated in the book of tradition of Abu Daud)

However, it is not permitted in Islam for a man to be alone with a woman in the name of selection of spouse.

It is the girl's right to make decision concerning her marriage and her father or guardian has no right to over-ride her objections or ignore her wishes. The Prophet (peace be upon him) has said, "A woman who has been previously married has more right concerning her person than her guardian and a virgin's consent must be asked about herself, her consent being her silence." (Narrated in the books of tradition of Bukhari and Muslim)

It is permanently prohibited for a Muslim to marry a woman of the following categories:

- a. Father's wife, whether divorced or widowed,
- b. The mother including grand mothers,
- c. The daughter including grand daughter,
- d. The sisters including half and step sisters,
- e. The paternal aunt, whether real, half or step sister of the father,
- f. The maternal aunt, whether real, half or step sister of mother,
- g. The brother's daughter and
- h. The sister's daughter.

These restrictions have been imposed by Allah in his wisdom to increase trust among close relations by prohibiting incestuous relations, increase love and affection among close relations, expand family ties beyond close circle etc.

In Islam marriage is also prohibited with foster mother who has suckled him during the period of weaning and with foster sisters, foster aunt and foster nieces.

Islam has also prohibited marriage with mother in law, the stepdaughter, and the daughter in law. Islam has also forbidden having two sisters as co-wives.

It is also prohibited to marry a woman who is a Mushrik that is who worships idols or associates other deities with Allah. Allah says in His book, the Quran,

"And do not marry Mushrik women until they believe." (2:221)

It is however lawful for Muslim men to marry chaste women (that is women of virtue and character) from among the Jews and the Christians. Allah says in His Book,

"(And lawful to you in marriage) are chaste women from those who were given the scripture before you." (5:5)

"It is not permissible for Muslim women to marry non-Muslim men." (2:221 and 60:10)

Allah has been more kind to the women and has not put on her extra stress and probable difficulties in living with a husband of another faith.

Islam has allowed man to marry more than one woman but has put serious restrictions on this. It requires agreement of the new wife, his ability to maintain more than one wife, equality among the wives, etc. It is for this reason that very few Muslim men marry more than one woman. Islam has allowed this to man to curb illicit sex. Illicit sex is a very degenerating thing for humanity and leads to debasement of women through prostitution. Islam has totally rejected prostitution.

Islamic law regarding marriage is easy, practical, rational and in keeping with human nature. Humanity can only benefit by following these regulations in true spirit.

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### **Islamic law regarding divorce**

Islam allows divorce if circumstances warrant or necessitate it. Islam has permitted divorce reluctantly neither liking nor recommending it. The Prophet of Islam has said,

"Among lawful things, divorce is most disliked by Allah." (narrated in the book of tradition of Abu Daud).

Islam has not made it necessary that the grounds of divorce should be publicised. It, however, does not mean that Islam views divorce lightly. In fact, publicity of grounds may not be of any positive consequence. The grounds may not be pronounced but genuine. On the other hand, the grounds may be stated and may in reality be false. Islam does not also want washing dirty linen of private affairs in public or in the court except in exceptional circumstances. It is for this reason that court comes in as a last resort in the Islamic scheme of separation of husband and wife.

The Quran states as regard grounds of divorce in very general terms,

" And if you fear that the two (i. e husband and wife) may not be able to keep the limits ordered by Allah, there is no blame on either of them if she redeems herself (from the marriage tie) .." (2:229)

The general ground of divorce in the Quran, therefore, is hopeless failure of one or both parties to discharge their marital duties and to consort with each other in kindness, peace and compassion. The jurists have developed some indices, which may be accepted as grounds of divorce in case the divorce matter goes to the court. Long absence of husband without any information, long imprisonment, refusal to provide for wife, impotence etc. are some of the grounds on which wife can ask for divorce. Either party may take steps to divorce in case of chronic disease, insanity, deceptive misrepresentation during marriage contract, desertion etc.

A Muslim male is allowed three chances, that is to say, three pronouncements or acts of divorce in three different occasions provided that each divorce is pronounced during the time when the wife is in the period of parity (that is not in her menstrual time). A husband may divorce his wife once and let the Iddat (the period of waiting after divorce) pass. During the waiting period the two have the option of being reconciled. If however the waiting period passes without reconciliation, they stand fully divorced.

If after the first divorce the husband is reconciled with his wife but the hostility and conflict begins all over again, he may divorce her a second time in the same manner as stated above. In this case also he can return to her during the Iddat (or waiting period). If however, after second reconciliation, he divorces the wife the third time, he can not take back the wife during the Iddat. She is totally prohibited for him. The lady thereafter can marry any person she likes according to her choice. (Ref : The Lawful and the prohibited in Islam by Dr. Yusuf-Al Qaradawi).

The wife can divorce her husband if this condition is stipulated in the marriage contract. This kind of divorce is called 'Delegated Divorce' (Talaq Taffiz). Marriage can also be dissolved through mutual consent. This is called Khula in the technical language of Islamic law. Marriage can also be dissolved by judicial process through the court on compliant of the wife on the grounds explained before.

One of the consequences of the divorce is the commencement of waiting period of the wife. This usually lasts three months. If there is a pregnancy, it lasts as long as pregnancy lasts. The waiting period is basically a term of probation during which reconciliation can be attempted. It is also

required to establish whether the wife has conceived. It also allows time for planning the future.

Maintenance of wife during the waiting period is on husband. The wife can not be expelled from her place of residence and she can not in any way harass her. These will constitute moral as well as criminal offence.

In case of divorce, the young children remain in the custody of their divorced mother. However, the father has to provide the cost of maintenance of young children through they remain under the custody of mother. (Ref: The Family Structure in Islam by Dr. Hammudah Abdul Ati).

Islamic law of divorce is based on practical considerations. The process of separation is basically a matter of husband and wife. However, when conflict arises, attempts should be made for reconciliation. It has not made judicial process obligatory in divorce for reasons explained earlier. The intervention of court has nowhere reduced the number of divorce. Judicial process in Islam is the last resort in so far as divorce is concerned.

Islamic law on divorce if followed in true spirit will enhance the dignity of man and woman, reduce conflict and ensure justice.

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### **Islamic Law regarding rights and obligations of husband and wife**

Islam has put great stress on the relationship of husband and wife. It has clearly laid down the respective rights and obligations to avoid confusion and complication in this regard.

The basis of husband-wife relationship is love and compassion. In this regard the Quran states,

"And among His signs is this that He has created mates from among yourselves, that you may live in comfort with them, and he has put love and compassion among you (husband and wife). Surely in that are signs for those who think " (30: 21)

The role of husband normatively revolves round the principles that it is his solemn duty to Allah to treat his wife with kindness, honour and patience, to keep her honourably of free her from marital bond honourably, and to cause her no harm of grief (Quran, 2 : 229-32 and 4 : 19). The wife's position has been explained in the Quran by saying that-

"Women have similar rights over men as men have over women." (2 : 228)

The husband in Islamic law is under obligation to maintain her wife. Maintenance includes the wife's right to lodging, clothing, nourishing, care and well being. The wife has a right to enjoy all these things according to her status and according to capacity of her husband.

The wife, however, loses her right of maintenance, according to the unanimous opinion of the Muslim jurists, in case of Nushuz, that is her hatred of defiance of husband or her attraction to another person.

In case of husband's recalcitrance to maintain wife, the law enforcement agencies are required to enforce maintenance. The majority of Muslim jurists also allows the wife the right to seek divorce in such a case. If she wishes so, the court must comply with her request and grant her the divorce.

The wife has also the right to receive dower from the husband at the time or in consequence of marriage. The dower is a gift of husband to his wife. This symbolises an assurance of economic security from the husband towards wife. The amount can be big or small depending on mutual agreement and economic condition of the two parties. This is, however, no price of sexual enjoyment. This can not be so because sexual enjoyment is not a one-sided affair. (Ref: The Family Structure in Islam, Chapter 3, by Dr. Hammudah Abdul Ati, American Trust Publications).

The main obligation of the wife as a partner in a marital relationship is to contribute to the success and blissfulness of the marriage as much as possible. She should be attentive to the comfort and well being of her mate. The Quran mentions good wife as "comfort of eyes." (25 : 74)

The husband has been stated by scholars as the head of the family in Islamic family system. It is the duty of all family members to obey him in lawful matters. However, Islam has enjoined on all Muslims to manage their affairs (which includes family affairs) by mutual consultation. However, in case of disagreement, the head of the family should be obeyed. The mutual relation of men and women in Islam is that of "friend" and not of master and servant. The Quran says,

"Believers men & women are friends to one another (Wali), they enjoy right, forbid wrong, establish Salat, pay Zakat ,obey Allah & His Prophet" (9 : 71)

This is the last verse of the Quran on man-woman relationship and it shows that duties of men and women are basically same. (Please also refer verses 30 : 21; 3 : 194; 2 : 187; 33 : 35)

Husband alone has the right of sexual intimacy with wife. The wife must not allow any other person to have access to that which is exclusively the husband's right. Wife has similar right in this regard.

Islam has given the correct principles and instructions regarding rights and obligations of husband and wife. These principles, if obeyed in true spirit, would ensure better family and social life.

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### **Islamic law regarding dress**

Islamic law has provided mankind with appropriate instructions and guidelines regarding dress for men and women.

Islam wants to achieve two things through appropriate dress. Firstly, to cover human body properly as it is not right to expose human body indecently. Secondly, for the purpose of beautification and adornment.

The Quran, the book of Allah, states in this regard,

"O, children of Adam, we have sent down to you clothing in order to cover the shameful parts of your body and serve as protection and adornment and the best garment is the garment of piety." (7 : 26)

There should be a balance between appropriate covering of body and adornment. If this balance is destroyed, this will be a deviation and following the way of devil.

The Quran states in this regard,

"O, children of Adam, let not satan seduce you in the same way as he caused your first parents to be driven out of the heaven and stripped them of their garments in order to expose their shameful parts before each other." (7 : 27)

Islam has not permitted the use of shame type of dress or garments by men and women. Islam wants to maintain the distinction between man and women. It is not proper for men or women to imitate the other sex in

respect of dress. The Prophet of Islam has said, "It is prohibited for men to dress like women and it is prohibited for women to dress like men." (narrated in the books of tradition of Imam Ahmad, Abu Dawood, Nasai, Ibn Majah, Ibn Habban)

The Prophet of Islam has also cursed such people (narrated by Imam Bukhari in his book of tradition of the Prophet).

Islam has prohibited show and pomp in the matter of dress. The Quran has stated,

"Allah does not like any proud person." (57 : 23)

The Prophet of Islam has said, "Any person who will (unnecessarily lengthen his dress) to touch the ground only to show his pride, Allah will not look to him on the day of judgement." (narrated by Imam Bukhari in his book of tradition)

Dress should be very clean, as Islam has emphasised on cleanliness. The Prophet of Islam, Muhammad (Peace be upon him) he said, "Adopt cleanliness because Islam is a religion which upholds cleanliness." (narrated in Ibn Habban, a book of tradition of the Prophet).

The Prophet of Islam has permitted use of gold ornaments and silk by women. He has not permitted use of these for men. The reason probably is that these are more suitable for women nature and not for men.

Men and women should wear decent dress. It is the Sunnah of the Prophet that men and women should cover their body properly. However, men are allowed to expose their body except the portion between navel and knee for the need of work or otherwise.

Women should cover their body very properly. The Prophet has said that it is not appropriate for a grown up girl to expose any part of her body except face and forehead (to any male who is not her husband or close relation). Narrated by Abu Dawood in his book on tradition). This is the view of the majority of jurists including Imam Abu Hanifa and Imam Abu Yousuf. Modern scholars Yusuf al Qaradawi, Hasan Turabi and Jamal Badawi also hold this view.

The Prophet has said that women are not permitted to wear any thin garment through which their body can be seen. (narrated by Imam Muslim)

Islam believes in the dignity of women and wants to protect her from lustful eyes of evil persons. Islam, therefore, prescribed the women should put on a flowing outer garment (gown) over her normal dress while going out to do work or for other purposes. The Quran has stated,

"O Prophet! Ask your wives, daughter and women of the believers to put on a flowing outer garment (covering their bosom and head). This is better for recognition of good women so that they will not be bothered." (33 : 59)

If mankind follows the principles of dress given by Islam, it will indeed ensure dignity of women and men and also help establish a decent society.

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### **Islamic law regarding social relations**

Islam gives great importance on social relations. The peace and stability of society depends on good social relations amongst the members of society. As such Islam has laid down detailed instructions so that, social relations are properly maintained and not disrupted by wrong practices. The importance of social relations will be clear from the following saying of the Prophet Muhammad (peace be upon him).

"Do not be envious of each other, nor backbite nor hate one another, but become brothers in the service of Allah." (reported in Bukhari, the book of tradition of the Prophet)

Islam has, therefore, made it unlawful for a Muslim to cut relations with fellow Muslims. The Prophet of Islam has said, "One who cuts relations will not enter paradise." (reported by Bukhari)

The Prophet of Islam has also said,

"It is not permissible for a Muslim to keep apart from his brother for more than three days. If three days pass, he should meet him and greet him, and if he replies to it, they will both have shared in the reward, while if he does not reply, he will bear his sin while the Muslim (who offered him the greeting) will have been freed from the sin of keeping apart." (reported by Abu Daud, a book of tradition of the Prophet)

Islam has also emphasised the need for immediate settlement of social disputes so that, peace in general prevails in the society.

Allah says in His book, the Quran,

"Verily, the believers are brothers. Then set matters right between your brothers and be conscious of Allah in order that you may obtain mercy."  
(49 : 10)

The Prophet of Islam has said, "Shall I not inform you of something more excellent in degree than fasting, charity and prayer?" On receiving the reply, 'Certainly', he said, "It is putting things right between people, for to incite people to dispute is like a razor." (reported by Al-Tirmidhi and others)

Social peace is disrupted because of greed and consequent effort to grab property of others. Islam has prohibited all illegal methods of acquiring property. Allah says in His book,

"O you who believe! do not consume your property among yourselves wrongfully, but let there be trade by mutual consent." (4 : 29)

For the same reason, Islam has declared life as sacred and has prohibited killing of any person except in accordance with the provisions of law. Allah says in His book,

"If anyone kills a person for any reason other than for (the killing of ) a person or for sowing corruption in the land, it will be as if he had killed the whole of mankind." (5:35)

The Prophet of Islam has said in this connection, "A believer remains within the scope of his religions as long as he does not kill anyone unlawfully." (reported by Al-Bukhari)

It is for this purpose that Islam has declared the honour of people as sacred. None is allowed in Islamic law to spoil the sanctity of any person's honour. The Prophet of Islam has said, "Your lives, your honour, and your property are as sacred to each other as the sacredness of this day (of Arafat) this month (of Zilhajj) this city (of Makka, where there is Kaba)".

For healthy social relations, Islam has prohibited spreading of rumor. This means passing on to others what one person hears from another person in such a manner that will cause dissension among people or increase bitterness among them The Quran said in this regard,

"And do not obey any despicable man, ready with oaths, a slanderer, going among the people with calumnies." (68 : 10-11)

The Prophet of Islam has said, "The one who spreads rumour which he has overhead will not enter the Heaven." (reported by Al-Bukhari, and Muslim)

Islam has also prohibited unnecessary suspicion. The Qur'an said in this regard,

"O you who believed! Avoid (indulging) much suspicion: truly some suspicion are sin." (49 : 12)

The Prophet of Islam has said in this regard, "Avoid suspicion, for airing suspicion is the most lying from of speech." (reported by Al-Bukhari and others)

For good social relations Islam has also prohibited mocking at other people, slandering others, violation of privacy of other people, backbiting, calling people by bad nick names.

If the above principles are followed properly in any society, the social relations will surely attain high standards of decency and ensure better social peace.

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### **Islamic law regarding sports and entertainment.**

Islam has given due importance to sports and entertainment. Islam is a practical religion and as such it does not ignore any genuine human requirement. The Prophet of Islam Muhammad (peace be upon him) liked happiness and disliked grief. In this connection, the following tradition has been reported in Abu Daud, a famous book of tradition of the Prophet of Islam:

"O Allah! I seek refuge in you from distress and grief."

Accordingly there is no harm if a person entertains himself to relax his mind or refresh himself with some permissible sports or play with his friends. However, so sport, which obstructs or hinders religious obligations is permissible in Islam. Racing, wrestling, archery, spear-play, horse riding and hunting are some of the sports in which the Prophet (Sm) and the companions of the Prophet (Sm) used to participate. Of course, many other new types of sports and games have been introduced after the advent of Islam. All these sports and games can be treated as permissible

in Islam if such sports or games do not involve anything which is prohibited in Islam, such as betting of money, undue mixing of the sexes, etc.

Any sort of game played with money, which has an element of gambling, is prohibited in Islam. Playing cards with money is therefore not permissible in Islam. Similarly, playing backgammon while betting with money is also prohibited in Islam. As regards playing chess, which is a popular game, the opinion of jurists concerning it varies. Some of the companions of the Prophet (Sm) and some of the second-generation scholars, such as Ibne-Abbas, Abu Hurairah, Ibne Shirin and Said Bin Al-Musayyib upheld the permissibility of chess. They have interpreted the traditions against chess as applicable when played with money. (Ref. "The Lawful and Prohibited in Islam"; by Yusuf Al Qaradawi).

Islam also permits humour and jokes in proper proportion. The Muslim is, however, forbidden to joke and laugh about other people's values and honour. Allah says,

"O you who believe! Let not some mock at other people; it may be that they are better than you." (49:11)

It is also not permissible for Muslim to cut jokes on what is untrue in order to make people laugh.

As regards singing and music, Dr. Yusuf Al-Qaradawi in his book "The Lawful and Prohibited in Islam", after a discussion of the traditions of the Prophet has concluded as follows:

"Islam permits singing under condition that it must not be in any way obscene or harmful to Islamic morals. There is no harm in its being accompanied by music." (Ref. First edition of "The Lawful and Prohibited in Islam" by Yusuf Al-Qaradawi, page-300).

He has, however, mentioned the following limitation to be observed in the matter of singing:

- i. The subject matter of songs should not be against the teachings of Islam;
- ii. The singing must not be accompanied by suggestive sexual movement;
- iii. There should not be excessive involvement in singing;
- iv. It must not accompany any other harmful activity, for example drinking wine.

There is however differences among scholars as regards permissibility of singing and music.

As regards movies Dr. Yusuf Al-Qaradawi has given the following opinion on the basis of teachings of Islam Movies may be regarded as permissible and good, in fact, desirable if the following conditions are met:

First: The content must be free of sin and immorality indeed, of anything, which is against the Islamic beliefs, morals and manners. Portrayals, which excite sexual desire or greed, glorify crime, or propagate deviant ideas, false beliefs, and the like are Haram, and it is not permissible for the Muslim to watch or to encourage them. Second: The enjoying of movies should not result in the neglect of religious obligations or worldly responsibilities. The five times daily prayers constitute the foremost of the religious obligations; hence it is Haram for the Muslim to miss any prayer, for example, salat al-Maghrib in order to enjoy movie. Allah Ta'la says,

"Then woe to the worshippers who are neglectful of their prayers." (107:4-5)

From the foregoing discussion it is evident that Islam has given due importance to entertainment and sports. However, Islam has put limitations on entertainment and sports and has freed these from indecencies, excesses and harmful practices.

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### **Islamic law regarding food**

Islam has provided detailed rules and regulations regarding food and drinks. Islamic law has prohibited all unclean and injurious food. The Qur'an, the book of Allah, states:

"O people! eat lawful and clean things of earth and do not follow the footsteps of the devil as he is your manifest enemy." (2:168)

"O believers, eat the clean things we have provided you with, be grateful to Allah if you sincerely want to obey Him." (7:158)

"He (i.e. the Prophet) makes lawful for you the clean things and dirty things unlawful for you." (7:157)

The Qur'an has categorically prohibited only a few animal food. The Qur'an states in this regard:

"Forbidden to you (as food) are dead animals, blood, the flesh of swine and the animals on which has been invoked any name other than that of Allah and which has been killed by strangling, or by a violent blow or killed by a fall or that which has been partly eaten by wild animal unless you are able to slaughter it in due form, that which is sacrificed on shrines." (5:4)

In the verse of Al Ma'ida, ten things have been prohibited and there are scientific and moral reasons for their prohibitions. The reasons in all cases may yet not be obvious. However with the advancement of knowledge, the significance of the instructions of Allah will be more evident. The Prophet of Islam (Allah be pleased with him) has also prohibited meat of ass, carnivorous animals like tiger, foxes, dogs, leopard which kill their prey by using their paws. He has also prohibited birds that eat flesh by using their nails and by tearing their food (for example vulture).

The meat of lawful animals will be lawful only if the animals are slaughtered in accordance with Islamic law. The following conditions have been laid down in this regard:

1. The veins near throat have to be cut by a sharp weapon so that blood flows out freely. The whole neck must not be cut off at the time of slaughtering.
2. The name of any being other than Allah can not be invoked at the time of slaughtering.
3. The name of Allah shall have to be invoked at the time of slaughtering. The Qur'an states:

"Eat the meat of the animals on which the name of Allah has been invoked, if you are believer." (6:18)

"Do not eat meat of animal on which the name of Allah has not been invoked because this is an act of sin." (6:121)

The invoking of the name of Allah at the time of slaughtering is very significant. It indicates that life is sacred and even animal life can not be taken except for lawful purposes, and no purpose can be considered lawful unless it is sanctioned by Allah.

Islamic law has given separate rule for fish and other animals of water. The Qur'an states,

"Lawful for you is the game of sea and its use as food." (5:96)

The dead fish of water is also lawful. The Prophet of Islam Muhammad (peace be upon him) has said, "The water of sea if clean and its dead fish is lawful." This has been narrated by Ahmad in his book on traditions of the Prophet (Sm).

All food items whether animal product or otherwise are lawful except what has been specifically or by clear general description has been prohibited by Allah and His Prophet.

Islamic law has provided exception in respect of eating of the prohibited food items only in case of grave difficulties. Prohibited food can be taken in a little quantity to save life if no lawful food is available.

As regards drinks, wine, alcoholic drinks and other intoxicants have been prohibited by Allah and His Prophet (Sm).

The Qur'an states:

"O believers! intoxicants, gambling, (dedication of) stones and (divination by) arrows are all abominable works of Satan, therefore, refrain from these so that you may attain true success. Indeed Satan intends to sow enmity and hatred among you by means of intoxicants and gambling to prevent you from remembrance of Allah and from prayers." (5:90)

The Prophet of Islam has explained the prohibition and its extent by the following declarations: "Every drink that intoxicates is unlawful." (In the book of tradition of Imam Muslim)

"I prohibit every intoxicant." "If large quantity of anything intoxicates, its small quantity is also prohibited." (In the book of tradition of Ahmad, Abu Daud, etc.)

Regarding intoxicant Prophet (Sm) said, "It is not medicine, it is a disease." (In the book of tradition of Muslim, etc.)

The position of Islam with regard to intoxicating drinks and other intoxicants is very clear. Indeed humanity has been badly afflicted by drinks and intoxicants. The following of teaching of teaching of Islam in this regard can save humanity from an extremely harmful thing. Islam as complete code of life has given necessary instructions of food and drinks. These are only for the benefit of humanity and not to make life of people difficult as it has made lawful most of food items.

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(Tammat bil Khair.)