



Islamic ethics and guidelines to avoid marital Discord

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ABSTRACT

Being as old as humanity itself, a family is the first social institution in the life of a person. It is from this that an individual attaches and understands the values of culture and acquires the experience of moral character and social behavior. It begins with the affinity between two families or prospective spouses not only with rights and duties but also with fear of God. Healthy relationship between husband and wife makes the world more colorful, comfortable and give each other purposes of life, like repose, mutual sympathy, procreation, human survival etc.. It gives both of them motivation to work hard, move forward and make everybody happy within family. A woman has various dimensions to her personality- daughter, wife, mother, each one added to her happiness. With her, lies the secret of survival and endurance. As a householder, she along with her spouse is responsible to provide a secure and stable home environment. A well-knit family promotes a feeling of inter-dependence and a feeling of being wanted and being loved. The erosion of family values and decay of day today social life has always been a matter of concern, especially in our times. Since people in the Western societies are highly individualistic, the essential element of sacrifice for each other/one another is missing which not only perplexes an individual, but also erodes the foundation of the family, where as in Islam, it is ordered by rights and responsibilities which encourages the spiritual and social development of individuals and the community at the same time. As such, this paper will explore the ethics pertaining to emotional and social relationship for the safeguarding of the family unit and human relations in order to maintain harmony in marriage and solve or to deal with marital discord.

Keywords: Strong Covenant, Sacred Institution, Shared Guardianship, Discord, reconciliation.

Islam has been an inspiration for the women's rights since beginning of the Qur'anic revelation, as she is the secret behind to half of humanity. In other words, she is in the Qur'an as she is in nature. It brings to light the Institution of marriage, the Ethics of disagreement in husband-wife relations, Divorce and reconciliation. Islamic teachings expand outwards with the family as the unit of society, not the individual. A family is the first social community in the life of any person or group of persons. It is from this that an individual attaches and understands the values of culture, assimilates the first social roles and



acquires the experience of social behavior. In it lie the secrets of survival and endurance. Almost, one third of the commandments of the Qur'an dealt with family laws. Family "a group consisting of parents and their children living together as a unit or a group of people related by blood or marriage,"¹ is the fundamental and foremost institution which sustains our society together being its nucleus with our individual self, according to Islamic ethical belief system and it has been among the most important links in human organization throughout history. Indeed, it is unequalled in importance by any other modern social unit.² It signifies the establishment of values and relations which in turn bring into existence a new generation. Being a constant instrument of continuity it prepares the succeeding generations to serve the human civilization better and discharge its social obligations with devotion and enthusiasm. In its successful endurance, lies the secret of the meaningful survival of the human race. It begins with the affinity between two families or prospective spouses not only with rights and duties but also with fear of God.³ Only the prophets of God understood the real objectives of nature and devised the marriage as the right form of relationship between man and women for sexual and social purpose as well. It was under the influence of their teachings and guidance that marriage became an institution among all nations of the world.⁴ Everyman born on earth benefits all his life from preceding generations, because of that he has been able to survive, develop and shape as a human being solely because of the institution and traditions evolved by them.⁵ Marriage is the root from which stems human procreation and spread the notion of kinship, including both descendants and ascendants. This also required the regulation of the in-law relationship that soon manifested its crucial significance for the formation of extended family, clan, tribes and nations.⁶ Marriage is a civil contract and solemn covenant yet the rights and responsibilities consequent upon it are of such importance to the welfare of humanity that a high degree of sanctity is attached to it.⁷ It makes an incomplete human being a complete one. Marriage undoubtedly, brings heavy obligation under Islamic law especially to men. The husband is responsible for the financial support as well as the moral and religious well-being of his dependents like wife, children, parents, etc. it is because

¹Catherine Soanes et.al, *Compact Oxford English Dictionary*, India: Oxford University Press, 2014, P.359. also see, Hammudah Abdalti, *Islam in focus*, Aligarh: Crescent Publishing Company, 1975, p.114

² G.El-Din Attia, *Towards realization of the higher intents of Islamic Law*, tr., Nancy Roberts, London:IIIT, 2007, p124

³ Qur'an 4:1

⁴ Sayyid Abu'l 'Ala Maududi, *Purdah and the status of women in Islam*, ed., al-Ash'ari, New Delhi: Markaza Maktaba Islami, 2006 p.124

⁵ Qur'an 25:74

⁶ Zainab alwani, *Muslim Women and Global Challenges*, Delhi: IOS, 2012,p.19

⁷ Moulana Muhammad Ali, *Divorce in Islam*, England: The working Muslim mission and the literary Trust, n.d., p.1



of that he is a half-religious person and a degree higher to women in that capacity only. But, at the same time women is also a half religious person as she also makes an important contribution to the preservation of the Islamic social order. The two human desires most likely to tempt a man to violate religious law to be the desire for sexual intercourse and the desire for food, as put rightly by Imam Ghazali (d.1111), “ *in most cases a man’s religion is corrupted by his genitals and his stomach.*”⁸ It is pertinent to mention here that the role of men and women in a society are not competitive but complimentary. A woman can remain more safe, secure, confident and successful, till she remains in protected atmosphere in the company of her male counterpart, not specified here to a husband only.⁹ Marriage arranges one’s life and provides spiritual, physical, emotional and psychological companionship. This companionship generates and sustains love, kindness, compassion, mutual confidence, solace and comfort. It lays a spiritual and legal foundation for raising a family. The teaching of Islam covers all fields of human activity, spiritual and material, individual and social, educational and cultural, economical and political, national and international. Islam’s uniqueness lies in the spiritualizing the whole matrix of life. Every activity , whether related to things like prayer and fasting, or to economic transactions, sexual relationships, diplomatic dealings or scientific experimentations is religious if it is undertaken with God consciousness and accords with the values and principles revealed by God.¹⁰ Throughout history Islamic law has remained central to Muslim identity and practice, for it constitutes the ideal social blueprint for the believer who asks, “What should I do?” It is important to note that elaborating the law was the work of religious scholars (*Ulama*), rather than judges, courts, or governments. The law’s comprehensive coverage, including regulations ranging from religious rituals to marriage, divorce, and inheritance to setting standards for penal and international law, provided a common code of behavior and connection for all Muslim societies.¹¹ Lest the relation between the sexes be confined to a mere physical connection, Islamic law alerts us to the fact that among the objectives of this relationship is for each of the partners to find repose in the other, and for there to be affection and compassion between them. In order to achieve this intent, Islamic law has issued rulings concerning living together as a couple in kindness and harmony, rules of etiquette governing sexual intercourse, as well as other rulings which provide the possibility of a

⁸ Imam Ghazali, ‘*Ihya ‘ulum al-Din*’, as cited in Beatrix Imenkamp, *Marriage and Celibacy in Medieval Islam: A study of Ghazali’s Kitab al-Nika*, Submitted for the submission for the Doctor of Philosophy, Kings college, Cambridge Arabic and Islamic Studies, University of Cambridge, 1994, p.41

⁹ H.M. al-Khayat, *Women in Islam and her role in human development*, Cairo: WHO, 2003, p.11

¹⁰ Khurshid Ahmad, *family life in Islam*, Leicester: The Islamic Foundation 1980, p.9

¹¹ John L. Esposito, *What everyone needs to know about Islam*, New York: Oxford University Press, 2002, p.139



family atmosphere filled with warmth, tenderness and refined human sentiment.¹² Islamic law contains details rulings pertaining to emotional and social relationship, including the husband's right over his wife and vice-versa, parent's right over the children and vice-versa with many rights to others, but here this paper will be confined to marital life. There are three essential elements in every normal marriage, 'the gratification of the sexual impulse, the relation between husband and wife and procreation of children.'¹³ Here, we will deliberate about how the relationship between two married persons to be cordial and to avoid marital discord. Sex is not a yardstick for stable homes but it is also not without a role in a relationship. There is no doubt that sex is the prime concern when it comes to making a relationship successful. So, among the most wonderful mysteries of our nature is that of sex. The unregenerate male is apt, in the pride of his physical strength, to forget the all important part the female plays in his very existence, and in all the social relationships that arise in our collective human lives. The mother that bore us must ever have our reverence. The wife, through whom we enter parentage, must have our reverence. Sex, which governs much of our physical life, and has so much influence on our emotional and higher nature, deserves not our fear, or our contempt, or our amused indulgence, but our reverence in the highest sense of the term.¹⁴ It is because of that marriage in Islam is regarded first and foremost as a righteous act, an act of responsible devotion. Islam builds the family on solid grounds that are capable of providing reasonable continuity, true sincerity and mature intimacy and views marriage as a strong bond- a challenging commitment in the fullest sense of the word. It is a commitment to life itself, to society and to the meaningful survival of the human race, for mutual fulfillment and self realization, love and peace, compassion and serenity, comfort and hope.¹⁵

with reference to husband-wife relationship, neither the Islamic law, or the divinely laws, nor the positive laws-notwithstanding the libertine ideas which have infiltrated them at times-have been content to leave relations between the sexes to natural impulses alone as in the case with dumb beasts and animals rather, such laws have been keen to confine relations between the sexes within a single, organized framework-

¹² Attia, op.cit., p.126

¹³ M.M.Siddiqui, Women in Islam, New Delhi: Adam Publishers, 2004, P.32

¹⁴ A.Y,'Ali, *The Holy Qur'an: Text, Translation and commentary*, Saudi Arabia: King Fahd Holy Quran Printing complex, 1405 A.H, p.205, n.506

¹⁵ Qur'an 30:21



marriage.¹⁶ Lest the relation between the sexes be confined to a mere physical connection, Islamic law alerts us to the fact that among the objectives of this relationship is for each of the partners to find repose in the other, and for there to be affection and compassion between them.¹⁷ While moving to our main subject, the Qur'an¹⁸ addresses not only good relations but all those times when the atmosphere is strained between spouses. In case of family jars four steps are mentioned, to be taken in that order:

- 1.) Perhaps verbal advice or admonition may be sufficient. Temper, nagging, sarcasm, speaking ill at each other in others peoples presence, reverting to past faults which should be forgiven and forgotten, all this is forbidden. And the reason given is characteristic of Islam.¹⁹ Accordingly, men and women are equal in their marital status. Both retain their respective surnames as they were before marriage. In safeguarding their reputation and social status, Islam treats both men and women are equal, prohibiting all slander, ridicule and backbiting.²⁰
- 2.) If not, sex relations may be suspended. Everything should be done to strengthen the social and spiritual aspect of marriage and keep down stray impulses of animal instinct. The parties are to think seriously in a mood of piety and keeping in their minds the fear of God. Sex is not a yardstick for stable homes but it is also not without a role in a relationship. There is no doubt that sex is the prime concern when it comes to making a relationship successful.
- 3.) If this is not sufficient, some light physical corrections may be administered. Islam is commonly portrayed as condoning wife abuse especially wife beating, which is attributed to the Qur'anic verse 4:34 that seems to legitimize it, when stretched out of context. The prophet was very clear in opposing any kind of physical measures. When life becomes unbearable for the spouses and before physical cruelty amounts to criminal acts. It is better for them and their children to separate or to get divorced on god terms. The interest and well-being of all parties especially the children should be preserved.²¹ Given Islam's higher purposes and principles of compassion and love within marriage, the author explains that using the root *da ra ba* of the verb to mean hitting,

¹⁶ Attia, op.cit., p.125

¹⁷ Ibid., p.25

¹⁸ Qur'an 4:34

¹⁹ A.Y.'Ali, op.cit., n. 548

²⁰ Qur'an 49:11

²¹ Abu Hamid Abu Sulayman, Marital Discord: Recapturing Human Dignity through the Higher Objectives of Islamic Law, London:IIIT, 2003, p.27



smacking or any form of abuse is to take the verse out of its purpose and misapply it. Neither physical abuse, nor foul language, nor verbal abuses are accepted practices of Islam.²² Women has equal rights as similar to men but with certain other peculiarities. The traits of their character are different and their mentally is distinct. This difference is not the result of any geographical, historical or social factors, but lies in the very making of them. Nature has purposely made them different and any action taken against the intention of nature would produce a disastrous result.²³

4.) If all this fails, a fairly council is recommended.²⁴ It should be kept in mind that, in the Qur'anic teaching, the husband and wife stand in complimentary relation to each other, and never in the relation of the ruler and ruled. If any, Qur'an permits to terminate the relation of marriage, if it becomes absolutely impossible for the husband and the wife to continue that relation but under strict moral grounds. Also, the procedure in case of serious disagreement and conflict between the husband and wife is to appoint two arbiters, one from each family, knowing the mentalities, the faults and the merits of both, should avail every possible opportunity for reconciliation, while giving due consideration to the weaknesses and aberration of human nature. At the last resort, Islam allows divorce as a necessary evil but without humiliating her with unethical ways to divorce. Almost, one third of the commandments of the Qur'an dealt with family laws.²⁵ In other words, If even after the application of this third measure there is no sign of improvement and the tension may be increasing then there is one more measure to be tried as ordained and that measure is of appointing 'Hakam'(arbiters)and reaching conciliation through their efforts. To

²² Ibid., see Foreword

²³ Morteza Motahiri, *The rights of women in Islam*, Iran: Iran Chamber society, n.d.p.5. Prophet Muhammad (Pbuh) said, "treat women well as she has been created from a rib which is the most crooked part. If you try to straighten it, it will break and breaking it means divorcing her. See for further details *Sahih Muslim, Kitab al- Ridha', Bab, Wasiah bi al- Nissa*. Prophet has never hit or harm to any of his women, see *Sunan Abu Dawud, kitab al-Nikah, Bab, Fi Haq al-Mar'ah 'ala Zawjih*

²⁴ Qur'an 4:34; 35

²⁵ For further details about the ethics of disagreement, see, *Sahih al-Bukhari, Kitab al-Nikah, Bab Ma Yakrah Min Zarb al-Nissa Sahih Muslim, Kitab al-Riza', Bab Wasiyah al-Nissa, Tirmidhi, Kitab al-Talaq wa al-La'an, Bab Ma Ja' Fi Midrat al-Nisa, Ibn Majah, Kitab al-Nikah, Bab Haq al-Mar'ah 'Ala al-zauj, Abu Daud, Kitab al-Adab, Bab Fi Islah Zat al-Bayn, Nasa'ee, Kitab al-Talaq, Bab Ma Ja' Fi al-Khul'a, Muwatta, Kitab al-Nikah, Bab Ma La Yajma' Baynahu Min aal-Nissa,*



reconcile a couple's differences, the legislator instructed that two arbiters, one from each family sent lest there is discord between them and to increase the chance of agreement between them. The arbitration takes away the fear and restores peace to the couple, or identifies the guilty party, ensuring that latter does not overstep the mark any more. The reason for influence the couple and make them return to their senses, as becomes clear from this verse: *'And if you fear a breach between the two, bring them forth an arbiter, if they desire to set things right; compose their differences'* (4:35). The very concept of arbitration is quite modern and this was stipulated 1400 years ago by the Holy Book of Islam. However it is highly regrettable that such a fair provision of the Qur'an is ignored by Muslims and they resort to triple divorce in one sitting which was part of pre-Islamic customary law and unfortunately still prevailing in many countries like our India. Although the Govt., in power is showing some sort of interest to abolish triple Talaq but with draconian laws which has been seen as an intrusion to Muslim Personal law and to create disturbances in the minds of Muslim women as well as men. Similarly, *Halala*²⁶ has no place in Islam as aforementioned; it is only to creating confusion among the Muslim women in particular and in general to audience.

If the arbitrators cannot effect reconciliation and find fault on the part of the husband or on both sides, dissolution of the marriage may be decreed, if the fault is found on the part of the wife, *khula'* may be decreed. If this effort also fails, divorce may be applied. The idea that that a Muslim husband can divorce his wife at will and when he likes is totally wrong and opposed to Islamic teaching because Islam has given full and equal rights to the women. She is not like a piece of household article which can be thrown away or sold, when it is not required. A Muslim is not free to exercise the right of divorce on the 'slightest disgust'. The law has put many limitations upon the exercise of this power.²⁷ A Muslim is permitted to have recourse to divorce provided that there is ample justification for such an extreme measure. The Qur'an expressly forbids a man to seek a pretext for divorcing his wife, so long as she remains faithful and obedient to him in matters recommended by the law: *'If women obey you (i.e. in lawful matters), then do not seek a way against them'*. (4:34). That is, do not seek a pretext for separation. The law gives man, primarily, the faculty of dissolving the marriage, if the wife by her indocility or her bad character,

²⁶ If she wish to return to her first husband, a common belief among the general audience is against the teaching of Islam, see, *Sahih Tirmidhi, Kitab al-Nikah, Bab, Ma Ja'a Fi al Mahlal wa al-Mahlal la hu*

²⁷ A.Q.Oudah Shaheed, *Criminal law of Islam*, New Delhi: Adam Publishers, 2005, pp.50-54



renders their married life unhappy. But in the absence of serious reasons, no Muslim can justify a divorce either in the eyes of religion or the law. If a man abandons his wife or puts her away from simple caprice, he draws upon himself the divine anger, for-'the curse of God', rests on him who repudiates his wife capriciously, making fun of Gods ruling.²⁸ Therefore, a divorce can be resorted to only when there is a strong, sufficient and genuine reason for it and when the two parties have tried all possible means to establish good relationship with each other but failed. Indeed, women as a human being, is born free like men and in that capacity she according to the Islamic law, has the right to divorce called *Khul* '. A marriage is a contract and divorce a means of ending this contract whenever necessary. Divorce encompasses many religio-aspects and is considered necessary and lawful only if reconciliation between the spouses is absolutely not possible. The Holy Qur'an envisages marriage as a decent companionship which fulfills the noble purpose and commands the partners to talk every measure to make a happy companionship on a concrete foundation. Yet on the other hand, the holy Qur'an makes a realistic provision for divorce. Though *divorce is the most detestable among all permitted things* as the Prophet has described it.²⁹ But Islam takes a realistic view and makes provision for unexpected events for man's behavior is changeable and at times unpredictable. Islam does not recognize or accepted any marriage which is not functional or effective. There can be no nominal or idle marriage. Islam declares its policy that it cannot tolerate unhappy, cold and stagnant marriages which are much more harmful than divorce. Marriage is binding only as long as it is functional and successful. Any system dealing with human nature has to be realistic and moderate making allowances for all circumstances with preparedness to cope with all conditions otherwise it would be self-destructive and groundless, as ordained "...but if their intention is firm for divorce, God heareth And knoweth all things...".³⁰ This verse of the Qur'an lays down that Allah has the knowledge of the intention and He hears the secret things. It signifies that if a man is willing to divorce, it is better to be separated of doing ill treatment with his wife. As prescribed in the following passage of the Quran: "*Retain them honorably or set them free honorably*" (2:229). It also forbade man in the strictest possible terms from inflicting harm on his wife by mistreating her as shown in this verse: "*Do not retain them by force, to transgress; whoever does that has*

²⁸ Qur'an 2:231

²⁹ Sunan Abu Dawud, Kitab al-Talaq, Bab Fi Karahiyah al-Talaq

³⁰ Qur'an 2:229. All ethics and limits prescribed here are in the interest of good and honorable lives for both sides, and in the interests of a clan and honorable social life, without public or private scandals.



wronged himself. Take not God's sign in mockery.(2:231). We most often take these sex related issues very lightly. But, they profoundly affect our individual lives, the lives of our children, and the purity and well-being of our society.

Prophet Muhammad (Pbuh) introduced significant reforms to improve the status of women. Being the last in the series of Prophets, and also being the husband, father and son, was the first to liberate women from the unholy and barbarism of her time. As Islam treats a married woman as a full juristic personality in every sense of the term, the married women have a right, in the married state, to a house or apartment of her own, with all expenses to maintain it, herself and her child, which is obligatory for her husband as it was in the married state. She must be provided on the same scale, being his duty as per his status and means has to stand all expenses. During this period, she must not only be turned out, but it is not descent for her to leave of her own accord, lest the chances of reconciliation should be diminished.³¹ The prescribed period (*Iddat*) is in the interest of the wife, husband, of an unborn child (if there is any), and of sex laws in nature, and therefore the elementary dictates of refined human society. Therefore, Islam has given the right of divorce to men and *Khul'*³² to women, but at the same time it has been made necessary that this right should be exercised only in exceptional cases, when no other way is left and all efforts to make peace between husband and wife have proved futile.

Although divorce being allowed in Islam, is a sign of the easygoingness and practical nature of Islamic legal system, keeping the unity of the family is considered a priority for the sake of the children. For this reason, divorce is always a last choice, after exhausting all possible means of reconciliation. For example, Allah addresses men asking them to try hard to keep the marriage, even if they dislike their wives: "*live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing, and God brings about through it a great deal of good.*" (4:19).³³ Also, the following verse is addressed to women asking them the same thing: "*If a wife fears cruelty or desertion on her husband's part, there is no settlement between themselves.* (4:128) It is fact that we should agree with that the message of Islam ultimately provides guidance and direction in the best interest of and for the ultimate destination of humankind throughout time and space. At the same time, the ethical and value system that is deeply embedded within the family structure, defining clearly that gender relations and roles, mutual rights and

³¹ Qur'an 65:1 and elsewhere in the same chapter

³² The first case of *Khul'* was of Thabit bin Qais, see for details *Sahih al-Bukhari, Kitab al- Talaq, Bab al-Khul' wa al-Kayfa al-Talaq fi hi*

³³ *Sahih al-Muslim, Kitab al-Ridha', Bab Wasi'ah bi al-Nissa*



responsibilities towards family and society which are the main objectives of the Islamic law should be taken into consideration along with the Prophetic social reform. It is irony to share with you that in our country India, there are homeless people than the entire population of Mauritius³⁴. And the gravity of the problem is that if we gather all of India's homeless people and put them in a new country, its population would be larger than that of 83 countries. The interesting thing which is related to my paper is that, if you talk to these homeless people, and asks them their hometown, almost none of them are from Delhi itself, where they strive to live and earn. They have work and money but they are without family. Even in the past, family has been a useful element for economic production and for demographic, political reproduction. Its added value for the whole society concerning forming and developing human energies, cultural forms of expression and social behavioral forms is undisputed. It is the only family where people experienced unconditional love, acknowledgement and emotional security. Mechanical or artificial means involving depersonalization of human relations are a source of danger to the growth of individual. Finally, by adding responsibilities upon the individual, marriage enhances his status in society and gives him an opportunity for training in bearing the hardships of life. Living with a spouse, a person of different inclinations and backgrounds, trains one in accommodating oneself to new experiences; each party helps the other in the exercise of the virtues of patience and forbearance. The responsibility of rearing children and the need to earn for their living are added meritorious aspect arising from marriage. In Islam, both husband and wife are equally responsible for their household. The Prophet describes both as shepherds tending their family. The home in Islamic society is characterized by mutual love and compassion. Both spouses discuss matters in a fair and reasonable way, and decide on the family affairs after consultation and mutual consent. Having thus established genuine equality between two sexes based on justice, Islam takes further care of women in a no. of aspects, particularly in relation to their physical and mental well-being. Let me supplement my argument with the words of Dr. Mrs. Annie Besant, the renowned English leader of the Theosophical Movement, "it is better for women, happier for women, more respectable for women, to live in polygamy, united to one man only, with the legitimate child in her arms, and surrounded with respect, than to be seduced, cast out in the street-perhaps an illegitimate child outside the pale of law-unsheltered and uncared for, to become a victim of any passerby, night after night, rendered incapable of motherhood, despised by all."³⁵ It is pertinent to mention here that polygamy has

³⁴ An island in the southwestern Indian Ocean

³⁵ Annie Besant, *The Life and teaching of Muhammad*, as cited in, Fazlur Rahman, op.cit., p.185



been permitted by Islam on humanitarian grounds, under exceptional circumstances and with restrictive conditions.

To put it very brief, the laws of nature for us human beings included those which relate to our fellow human beings in society to whom kindness and consideration form the basis of our social duties. Our duties to our families and children in intimate matters are as important as any in our spiritual life. People who forgot the moral laws in marriage or family life perished in this world and will have no future in the next life. This apply not only to individuals but to whole nations or social groups as this institution is as old as humanity itself, started with the journey of Prophet 'Adam and Eve, has been proposed, framed and designed by God being the Good shepherd to his creation.