

ne Frau schlecht behandelt werde. Allerdings fordert weder der Koran, noch die Überlieferung den Mann auf, seine Frau „zu lieben wie sich selbst“ (3. Mose 19,18) noch, sich für sie hinzugeben und zu opfern (Epheser 5). Das macht die Frau abhängig vom Wohlwollen des ihr übergeordneten und rechtlich bevorzugten Mannes, gegen dessen Machtausübung sie sich rechtlich nur zur Wehr setzen kann, wenn er seine von der Sharia gesetzten Grenzen überschreitet.

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Women in Islam: the Provisions of Islamic marriage law

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Man and women – equal before God?

The public debate over women's role in Islam tends in the West to centre round the issue of the head-scarf, seen as symbolizing women's inferiority, yet not all practising Muslim women wear the scarf and not all of them are of the opinion that this is indispensable. In fact it is Islamic marriage law which cements women's inferior legal status as divinely ordained. The relevant provisions of the Sharia are linked to local cultural norms and time-honoured traditions with roots in tribal society which were retained with the arri-

val of Islam. Some of the widely accepted standards of decency are a mixture of culture, religion and tradition.

Muslim apologists have always insisted that Islam believes in the equality of men and women and adduce as evidence that the Koranic creation account makes no distinction between man and woman (39:6). God is said to have created man and woman „from a single soul“ (surah 4:1) to be mutual „friends“ and „protectors“ (9:71) and set „love and mercy“ between them (30:21). The tradition praises the man who treats his wife „best“ as being the best believer. Muslim apologetic further adduces the common duty of men and women to observe the

five pillars of Islam: the Creed, Prayers, the Fast, the Alms, the Pilgrimage, as well as the promise to both of great rewards in the after-life: „to whoever does right and believes, be it man or woman, we will give a good life. And we will apportion them their reward according to their best deeds“ (16:97).

Despite their fundamental equality Muslim theologians assert the tasks God has given women differ from men's. As women bear the children and the responsibility for home and family, so men are responsible for the family's protection and maintenance, in other words to be the breadwinner who has dealings with society at large. Differing tasks mean different rights, so it is no more than an expression of „justice between the sexes“ that only a half-share of an inheritance falls to the woman, since she does not bear the financial responsibility for the family. The principle enunciated in the Koran that a man's testimony can only be outweighed by the testimony of two women takes account of the fact that women's biology predisposes them to greater emotional fluctuations than men and that it would be an imposition on their often insufficient capacity of recall to ask them to decide another person's fate in a court of law.

Women's religious status

Men and women are equal in Islam in the sense that both are promised access to paradise and expected to observe the „five pillars“ of Islam. On the other hand women are excluded from religious practice during menstruation, childbirth and childbed.

Touching the Koran, entering a mosque, saying liturgical prayers and fasting during Ramadan are all prohibited. Only men are required to attend Friday prayers at the mosque and to listen to the

sermon whose content is frequently of political or social importance. If women attend the mosque at all, a practice frowned upon by some theologians and even prohibited by others, they do so separated from the men in a small and usually bare room in the balcony or basement which is sometimes in a bad state of neglect through disuse. Only a sixth of the 1.2 billion Muslims are native Arabic speakers, and it is difficult for women who are unfamiliar with the language to recite the prescribed ritual prayers in Arabic correctly and in full, to read and understand the Koran or to undertake the pilgrimage to Mecca.

Women's status in family and society

The social separation of the sexes is regarded as means of maintaining decorum. Men and women live virtually in different worlds, to a certain extent even within the family circle. This is apparent in the dress code, which does not permit men to see a woman to whom they are not related unveiled, but also in the fact that Islam knows no neutral ground where men and women can meet. The wider family admits of a certain level of contact, but innocuous intermingling of the sexes outside the family circle is impossible and smacks of adultery. Muslim theologians have even recommended women should refrain from greeting relatives in public because other passers-by will not be aware they are related.

Children in Islam are brought up very differently according to sex. Sons especially develop a close emotional attachment to the mother, while the father is primarily respected as the authority figure. After circumcision, usually between four and nine years of age, fathers increasingly initiate sons into the male world, while the mother traditionally in-

structs daughters in household responsibilities, training them for their future role as housewife and mother. Except in the case of serious impediment, marriage is the norm for men and women and guarantees a woman's livelihood.

Woman's legal status

Islamic marriage and family law is prejudicial to women in a number of ways. It is not only men's right, according to the majority of Muslim theologians, to punish his wife by ignoring her or to beat her in case of discord (surah 4:34). Aside from questions of inheritance and legal testimony, women are at a disadvantage compared with men in marital law, divorce and custody proceedings.

The Koran permits men up to four wives and an unspecified number of concubines (4:3). The traditional divorce procedure allows a man to divorce his wife simply by pronouncing the formula „I repudiate you“ without the need for giving grounds or going to court. Some Muslim countries have already introduced checks to this procedure and lay down that an attempt at reconciliation must be made in court.

Women can only obtain a divorce in court and are only granted one if they can prove serious misconduct by the husband. A husband is only bound to pay alimony for a few months, so divorce leaves a woman without means and without children, for Islamic marriage law invariably grants custody to the husband once the children are out of infancy. Several Muslim countries have improved the legal status of women today.

Marriage contracts in Islam

The vast majority of Muslim marriages are today still arranged by the parents.

Only in large cities is there a change in the trend. Arranged marriages tend tradi-

tionally to be associated with decency and respectability, while marriages „for love“ smack of immorality and Westernization. Marriage within the extended family is favoured because familiarity with the cousin and his parents make it easier to assess the chances of a successful marriage than in the case of an outright stranger. It also guarantees the „compatibility“ of the marriage partners with respect to social background, education, religion and character which Islam requires, and ensures the dowry stays within the family. It is also easier for the bride's family to put pressure on a relative to save the marriage where it is in danger of breaking up.

A Muslim marriage is very different from its Christian counterpart. Apart from the dowry, which provides financial security against a possible divorce, there is always a marriage contract having the character of a civil contract in law and setting out the mutual rights and duties of the marriage partners.

Cornerstone of the marriage contract are the husband's responsibility to earn a livelihood and the wife's duty of obedience (surah 4:34). The duty of obedience has of late led some wives to include „escape clauses“ in the marriage contract permitting them for instance to pursue education or career subsequent to marriage, since the husband in principle has the right to determine how often and to what purpose his wife may leave the house. Otherwise should he forbid his wife to attend university after the wedding on the grounds that he does not consider it compatible with decency, she must submit without demur.

Islamic marriage law demands submission particularly in sexual relations, for by paying the dowry the husband acquires the right over his wife's body, and she has no grounds to refuse him except ritual impurity or during the fast, since according to established precedent re-

fusal, like infertility, gives the husband the right to repudiate her.

The traditional religious wedding ceremony is presided over by an imam, the mosque precentor or religious official, in urban areas marriages are also registered. The groom and the two obligatory witnesses sign the marriage contract. The bride does not even need to be present, the contract being generally signed on her behalf by her guardian (wali in Arabic) acting as her legal representative. The most important clause in the contract lays down the amount of the dowry, consisting of the „dawn gift“ of clothing, furniture, jewellery and money which the wife receives from groom's family at the wedding, and the „evening gift“, the compensation due to the wife if they are divorced, since alimony only has to be paid for three months or until the delivery of a yet unborn child.

God's blessing is not invoked at a Muslim wedding, a civil rather than a religious ceremony whose purpose is to seal a contract which explicitly anticipates the possibility of divorce in the form of the „evening gift“. In the wedding ceremony the marriage partners take no vow of mutual fidelity nor make a promise of mutual care „for better or for worse“. Quite the reverse: except in Turkey and Tunisia the husband has the right to take up to three additional wives. Unlike Christian marriage vows there is no promise of lifelong, exclusive devotion to one person. If the worse does come to the worst, such things as incurable illness, a prison sentence, impotence or infertility are generally regarded in Islam as grounds for divorce for both husband and wife. The idea of lifelong spiritual fellowship before God, marriage as partnership for service, is not central to the Muslim view of marriage, rather a compact setting out the rights and privileges of both sides. Nor is there any promise or vow to „love and honour“ one's

partner, for the biblical commitment to mutual love is foreign to Muslim marriage.

Conclusion

Although Muslim tradition encourages husbands not to mistreat their wives and the saying „Paradise lies at the mother's feet“ is frequently cited, a woman has little say in determining the course of her life, which is largely in the hands of her father, her husband and society at large. It is her father who decides about her education, freedom of movement and marriage. It is her husband who decides what is permitted and forbidden for her, including whether she may leave the house, and who has the right to punish and beat her, if he feels it necessary to discipline her. Muslim advocates of women's rights generally claim it is not Islam as such but its wrong interpretation which is responsible for mistreatment of women. Yet neither the Koran nor the Tradition call for a man to „love“ his wife „as himself“ (Leviticus 19:18) or to devote or sacrifice himself for her (Ephesians 5). This leaves women utterly dependent on the benevolence of men endowed with superior legal status, against whose arbitrary treatment her recourse may only be possible if he wilfully transgresses the norms of Sharia.

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