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Diversity of Interpretations Regarding *Qawwam* in Islamic Thought with Special Reference to Surah An-Nisa

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Abstract

*Islam has granted fundamental rights to women, however, they are not interpreted accurately in our society due to the existence of a patriarchal social setup. The root cause of denying women rights is lack of command of Islamic teachings. There are many misconceptions regarding the stance of Islam on women rights especially on men and women equal social, legal and moral status as human beings. Islam differentiates between their status, roles and responsibilities in the family system, based on equity and justice. However, the true spirit of role differentiation is misunderstood by non Muslims as well as by less educated Muslims as establishing the patriarchal system endorsing gender inequality and discrimination against women. This article will highlight social concerns about women rights and responsibilities. Moreover, it will highlight the areas of tension among four schools of thought regarding superiority of men. The thrust of the article is that the intention of the *Quran* is to raise the status of women in society, not to relegate them to subordination as is commonly believed and practiced in much of the Muslim world today.*

Key Words: *Qawwam*, Surah An-Nisa, Shariah Compatibility, Superiority of man, patriarchal social system, Diversity of Interpretations.

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I- Introduction

Marriage is highly revered and extolled in Islam and accorded a detailed treatment both in the Quran and the *Sunnah* of the Holy Prophet (PBUH). It is, for instance, called as the sign of God,¹ a way of Prophets² and the *Sunnah* of Holy Prophet (PBUH)³. Quran describes marriage as a sacred covenant⁴ and uses the simile of a garment⁵ to describe the unique relationship between husband and wife and asks both the partners to be very kind and respectable to each other. Family, the basic and most important unit of any society is considered a divine establishment since the times of the first couple of Adam and Eve. Considering its importance, Islam has laid down a set of principles for its formation. *Nikah*⁶, between a male and a female is considered to be the most important prerequisite with zero tolerance for any sort of extra marital relations before or after marriage, declaring it a culpable crime.⁷

The issue, of rights and responsibilities of the husband and wife, has become a separate category of analysis in recent scholarship of human rights. Proper contextual interpretation of the Quran can achieve compatibility with the standards of contemporary human rights. For the smooth functioning of the family, Allah has distributed rights and responsibilities on the basis of equity and justice. Man has been given the status of the caretaker, while woman is regarded as the centre of the family. In the status of caretaker and maintainer, man has been given the sole responsibility of earning for the family, exempting woman from any kind of economic liability for herself or the family. Islamic law secures her financial rights in the family setup through her right of dower, inheritance and maintenance for her as well as for her children. Still she can enter any lawful profession or business if she requires or desires so, provided that her primary responsibilities of motherhood and as guardian of her house are not totally negated or undermined by her working outside.

II- Position of Woman in Family Sphere

There are many misconceptions regarding the position of woman in family sphere. Many critics have raised the question that whether or not a woman has been granted a secondary or lower position in Islam with a superior status for men? On contrary to the perceived misconception of the religion enforcing gender inequality, the equality, freedom and dignity that Islam offers to woman remains unparalleled in the history. Islam proclaims woman not only equal to man but in some respects gives her more importance. In Islam, equality is considered different from sameness and being identical, hence, it differentiates between the roles of men and women that they are expected to play in the family and society. Moreover, despite recognizing the empirical differences between the genders, it never uses these differences as measuring tool for their success.⁸ Feminist approach considers patriarchal set up of family, with the husband head of the family, generating stereo typed roles to be the main cause of the violation of women's rights. According to them, this attitude is

extended in the wider social roles resulting in the patriarchal structure of the entire society.

They base their views on Quranic verse 4:34; it depicts male superiority but in no way advocates male domination. However, unfortunately later developments imposed male domination violating the true Islamic spirit⁹. It should be clearly understood, at this point, that by identifying man as the head of the family, Islam has neither established nor endorsed patriarchal mind set or attitudes. With all the instruction for males to be kind and caring to their wives, in Islamic model of family, Holy Prophet (PBUH) himself is seen trying to please and comfort his wives as much as they are trying to please and comfort him. In doing so he (PBUH) occasionally joins them in household chores in appreciation of their domestic role, as well. Holy Prophet (PBUH) not only established woman's status and her rights practically in the society, but enjoined the protection of these rights as an integral part of manifestation of faith, indicators of positive social behaviors and rules of legal system.

In Islamic social scheme, everyone moves within the circle of rights and obligations as mentioned in one tradition of Holy Prophet (PBUH): "All of you are guardians and responsible for your wards. The ruler is a guardian and the man is a guardian of his family; the wife is a guardian and is responsible for her husband's house and his off springs; so all of you are guardians and responsible for your wards".¹⁰ This tradition uses the words "guardian" and "responsible" for both genders and it only illustrates a separation of powers in one's own sphere for the better management of the house.¹¹ The Quran also lays down that men and women are equally responsible for their actions: "[e]very soul will be held in pledge for its deeds"¹². In this verse, word *soul* is used which is sexless and reflects complete gender neutrality. The Quran specifies only one criterion for distinguishing between human beings, namely righteousness "And to all are (assigned) degrees according to the deeds which they (have done), and in order that (Allah) may recompense their deeds, and no injustice be done to them"¹³. These verses demonstrate that the Quran guarantees equal rights to men and women.

III- Patriarchal Interpretation of the Quran

As demonstrated above in general terms that everyone has rights and duties which must be fulfilled. Men are physically strong and they are supposed to perform different roles outdoors as head of family. Indoors women bear, deliver and nurture the child. Still they are considered weak and are supposed to remain within the confines of their home in one way or the other. Alternatively, does the Quran advocate gender distinction, dualisms, or inequality on the basis of sexual (biological) differences? In other words, does it privilege men over women in their biological capacity as males, or treat men as the self (normative) and women as the other, or view women and men as binary opposites, as modern patriarchal theories of sexual differentiation and inequality do?¹⁴ Islam gives equal rights to both genders and it recognizes the position of women to be the same as of men. There is no discrimination found on the biological basis in Islam.¹⁵ Many scholars believed that

there is no biological difference whereas other are of the view that Islam is a practical religion and it takes into account physical differences between men and women.¹⁶

If it looks unfair to some people then what about the saying of the Holy Prophet Muhammad (PBUH) that each day of a woman's pregnancy is rewarded as if she had fasted all day and prayed all night¹⁷. Hadith also refers that bearing of a child is rewarded by God in the same way as if she had performed an acceptable Hajj. Many people perform Hajj but everyone's Hajj is not acknowledged by Allah SWT. Men cannot be rewarded in this way because, obviously, men cannot entertain these privileges. So this is unfair because men are physically unable to get reward in this way. Hadith says that heaven or paradise lies under the feet of the mother, so one could think of gender discrimination again. But this is simple recognition of the physical difference between men and women.

A belief exists among Muslim scholars that men are superior in intellect and other abilities, as women are dependent in decision making and financial matters so women are expected to be obedient and follow their husband as the verse goes on to say "Therefore the righteous women are devoutly obedient"¹⁸. Sometime the word "obedient" is misunderstood or mistranslated to mean, as good women are obedient to their husband. But in the phrase, "obedience" is with reference to obey God's instructions and commands. It can be argued that men are the maintainers of women because they are in charge of the family and support it financially. Thus, they would demand their wives to obey them unquestionably. But here, Allah SWT is telling them that unquestioning obedience is due to God only, and not to their husband. It does not mean to say that wives should not listen or discuss things with their husbands. Simply the verse means that if there is a contradiction between command of Allah SWT and that of Husband, then wife is ordered to follow Almighty's orders. At another place, Allah SWT says "*guarding the unseen as Allah has guarded*" which means that a wife should guard and protect her husband's rights in the same way as Allah SWT has protected women's rights.¹⁹

IV- Interpretative Tensions among Modernist and Traditionalist

Allah SWT has discussed feminine issues in Quran at various places, particularly in a separate chapter of Quran titled as An Nisa, the women. It discusses issues like gender equality, polygamy, inheritance rights of women, *mahr*, dower and divorce. However, certain verses have been interpreted in a fashion against women's equal rights, reducing women to a disadvantaged group. The verse on *qawwam* is one of them. There are some inherent tensions existing in traditionalists and modernists interpretative approaches to the concept of *qawwam*. In this article, it is intended to highlight some of the tensions which emerge due to different constructions of the above mentioned verse in traditionalists and modernists interpretations.

There is no agreed way of classifying interpreters into traditionalist and modernists' camp. In the article, the term traditionalist refers to interpretative views

of earlier scholars, Al Razi²⁰, Abu Bakar Ibnul Arabi²¹, Qurtabi²² and Imam Abu Bakar Al-Jasas²³ as well as the views of 20th century scholars, modernists, such as Al-Hakeem Al-Sheikh Tantawi, Daryabadi, Al Turabi, Abdullah Yusuf Ali²⁴, Abul A'la Maududi²⁵, Sayyid Qutb²⁶, Tahira Saffardzadeh, La'l Muhammad Chawla, Javed Ahmed Ghamidi and Mohammed Shafi'i. Whereas, to know the teachings of the Holy Prophet, Sahih Bukhari, Muslim, Abu Dawud, Tirmazi, Ibn-e-Maja and Bayhaqi are quoted to support Islamic teachings on the concerned issue. A family, like a small state, requires a ruler for its establishment and survival. Either the husband or the wife has to take charge of all responsibilities of institutions of family. The Quran informs us that the husband has been entrusted with the responsibility.²⁷ The position of husband in family sphere is established by the following verse of the Quran, "Men are the (*qawwamun*) protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means"²⁸. The word *qawwamun*, and the verse as a whole, are subject to different interpretations. Traditional scholars translate *qawwamun* as ruler or one in charge, while some scholars understand *qawwamun* as meaning protector and maintainer. Different interpretations of word *qawwamun* will be discussed in next part of this article.

This Divine verse describes the man as *qawwam*²⁹ (maintainer) and the woman as *qanitah* (obedient) and *hafizatur lil-ghaib* (preserver of the secret). In Arabic, when a preposition is used after the verb i.e. when the preposition 'Ala' is used after the verb *qaam*, the meanings of "protection" and "financial responsibility" are incorporated in the verb. This, in other words, refers to heading a family and all these things are mutually essential. The word *qawwam* has different interpretations which may or may not be influenced by different cultural attitudes prevalent during different times.³⁰ There is a difference between suggested meaning and received meaning in the Prophet's words.³¹ Word *qawwam* is interpreted in various meanings which are discussed here.

Allama Jasas (died 370 Hijrah) translates the word as men are responsible for protection, supervision, provision of their (women's) necessities and maintaining them in other worldly affairs³². Tantawi (1928-2010) translates the verse to mean, "Men are like a *wali* and the women are like *raiyat* means the one for which *wali* is accountable. He said, superiority of man (*wali*) is for (1) maintaining women (2) *mahr* and (3) Allah SWT has granted man one superlative degree over woman.³³ Furthermore, Abdullah Yousuf Ali (1872-1953), explains the *wali* as the "protectors and maintainers of women". It means one who stands firm in her business and in daily affairs or it may be, when he stands for her business, managing affairs with a steady purpose."³⁴ Female scholars have translated it as "overseers and maintainers"³⁵. Interviews conducted for this study³⁶ from rural women revealed that men -father, brother and husband- are responsible for their family's protection, supervision and provisions of all necessities in daily routine. As a mother and grandmother, her son is responsible, as a daughter, her father is responsible to fulfill all worldly

necessities and as a wife, she has a right of maintenance from her husband during marriage contract and even after marriage contract during waiting period (iddah). In all worldly affairs, women are free from all liabilities, whereas men are duty bound to maintain them in worldly affairs.

According to Abul A'la Maududi (1903-1973), the word *qawwam* means “managers of women affairs”³⁷, with the explanation that the Arabic word *qawwam* stands for a person who is responsible for the right conduct, safeguard and maintenance of the affairs of an individual, an institution or an organization. Thus man is governor, director, protector and manager of the affairs of women.³⁸ Man has been given this authority because, Allah SWT has made the one superior to the other and men spend their wealth on women. Man has been made *qawwam* (governor) of the family because of his natural qualities and woman is dependent for her own safety and protection.³⁹ Furthermore, many recent writers agree with Abul A'la Maududi that “Men are the managers of the affairs of women”.⁴⁰

During interviews, many women complained that man sometimes misuses this authority and thinks that a woman is bound to follow him in his all actions and she cannot decide her household matters as she is dependent for her worldly necessities. Whereas, in rural areas, women strongly believed that Allah SWT has given superior authority to men and women are bound to follow their husbands in any case. Due to this believe, many women are tortured by their husband in the state of drinking or alcohol and they never complaint as they think husband has right over them. This strong believe prevailed in their mind due to the teachings of the less educated *ulemas* and by observing existing practices of their antecedents.

Abdul Majid Daryabadi (1892-1977) explains the term *qawwam* as “overseers over women”⁴¹. He further added that “a *qawwam* is, in the vernacular of modern sociology, a protector or guardian of the family, and this is a position to which the man is by his very nature and constitution entitled”.⁴² Al Qurtabi (1214-1273) explains that *qawwam* is the superlative degree of *qiyam*, thus men are responsible for supervision and provision in all matters and issues of women⁴³. He discussed in his book that men are at higher degree than women because they are the maintainer and supervisor of women.

Muhammad Abduh similarly translates the verse 4:34 to mean:

[T]he husband's *qiyama* over his wife consists not in acts of tyranny but of guidance towards righteous behavior, education, domestic efficiency, houseboundness, and fiscal responsibility to his budgetary guidelines. Then the woman can keep her house in safety, and order and bear and raise the children. God has not “preferred” men over women. In individual cases, wives can even surpass their husbands in knowledge, work, bodily strength, and earning power. But it is by their biological and social functions in

the family that the sexes as a whole are addressed and organized in Surah 4:34.⁴⁴

Engineer (born in 1939, India) expounds on this interpretation of the verse: When the Quran gives man a slight edge over woman it clarifies that it is not due to any inherent weakness of the female sex, but to the social context . . . it is due to the social functions that were then performed by the two sexes. Since man earns and spends his wealth on women, he by virtue of this fact, acquires functional superiority over women.⁴⁵

A question may be raised about the nature of this relative hierarchy, if husband is not discharging his responsibilities as maintainer and supervisor whether this relative hierarchy can be transferred to wife in household? One of Ghamidi's (born in 1951) disciples has responded to this issue in the light of his views, that this scheme of relative hierarchy is ideal as per teachings of Quran and more particularly in reference to 2:28⁴⁶ and when the Quran has placed this responsibility on husband, wife cannot be burdened by it on the one hand. On the other hand, misuse or non-discharge of this responsibility by husband does not prevent wife from resorting to other legal measures for enforcement of her rights which may include dissolution of marriage.⁴⁷

According to Imam Malik and Shafi'i, if the man is not fulfilling his responsibility of being maintainer of his wife then he is not *qawwam* and his *nikah* would become *fasiq*⁴⁸. On the other hand, Abu Hanifa states that *nikah* would not become *fasiq* and man would be given a chance until he becomes the maintainer.⁴⁹ Many urban women in Pakistani society are working in different fields and earning more than their husbands. They are having an edge due to their financial contributions or other abilities. But when the Quran has connected *qawwam* with man, it is not easy for Muslim interpretive to explicitly transfer it to woman.

Jawad, in his book "The Rights of Women in Islam", acknowledges that husband is the head of the family on the basis of reading of 4:34 and 2:228. He further explained that this headship does not in any way confer "license of dictatorship or misuse".⁵⁰ In contemporary Pakistani society, men are considered as head of family who have all authority to take decisions of family matters. In rural areas, somehow this authority is misused by men and they consider themselves as dictator of the house.

Syed Qutub (1906-1966) interpreted it to mean, "Men shall take full care of women".⁵¹ He emphasizes that this verse deals with the institution of family, its management, delegation of responsibilities and defining duties. It gives instructions for the strength, stability and protection from internal conflicts.⁵² Mufti Usman Muhammad Shafi also translated it as "Men stand as caretaker of women".⁵³ Furthermore, he argued that the rights of men and women are similar to each other but only with one exception that men have certain precedence in functional authority. It is also explained in another verse of Quran, this mantle of

authority placed on the shoulders of men is not that of a dictator and a tyrant. It commands men to treat women well as recognized by Shariah.⁵⁴

Some scholars approach Surah 4:34 and interpret *qawwamun* from an economic stance. For example, Abdullah Yusuf Ali translates *qawwamun* as “one who stands firm in another’s business, protect his interests, and looks after his affairs; or it may be, standing firm in his own business, managing affairs, with steady purpose.”⁵⁵ Riffat Hassan (born in 1943, Pakistan) argues:

This [*Qawwamun*] is a plural form of a word which is generally translated as lord, master, ruler, governor, and manager. Once you make the man the ruler obviously you make the woman the ruled. You have established a hierarchical relationship. In fact this word doesn’t mean ruler at all. . . . [I]t means “breadwinner” and it is an economic term. [I]f we translate that word as breadwinner the interpretation of the entire verse changes. It’s talking about the division of functions that, while women have the primary responsibility of being childbearers, during that time when they are undergoing the process of childbearing they should not have the obligation of being breadwinners, and therefore men should be breadwinners during this period. This verse is addressed to the Islamic community in general, not to the husbands⁵⁶

Ismail Ragi al-Faruqi (1921-1986, Palestinian) states that in twentieth century socioeconomic conditions, “women are no longer dependent on their husbands” and that the husband’s economic superiority is “subject to change.”⁵⁷ Al-Hibri stresses two points: [N]owhere in the passage is there a reference to the male’s physical or intellectual superiority. Secondly, since men are “*qawwamun*” over women in matters where God gave some of the men more than some of the women, and in what the men spend of their money, then clearly men as a class are not “*qawwamun*” over women as a class.⁵⁸

In Pakistani society, where Hindu culture has over ruled Islamic way of life, the word *qawwam* is interpreted in a very patriarchal way, in the sense of ‘*hakim*’. All religious personalities, called as *mullas*, interpret this word in the same meaning. According to Maulana Mufti M. Shafi ‘men stand caretakers of women’.⁵⁹ *Qawwam* in Arabic denotes a person who holds the responsibility or has the duty and charge to manage a job or run a system or take care of what has to be done about something, controlling all related factors therein⁶⁰. In Pakistan, the most common being in the sense of ‘*hakim*’⁶¹ or one who rules, governs, or decides. Other alternates used are guardians, custodians, overseers and protectors. When taken in the sense of a care, a functional head, and not in the political sense of a ruler or dictator, the ‘*qawwam*’ or *hakim* of the Quran offers a base of understanding from common experience. It is obvious that, for any group-living, big or small, or for any organized system, it is rationally and customarily necessary that the group or system should

have some head, chief or authority so that he can pass judgment in the event of a difference and take decisions to run affairs smoothly, Such authoritative system of countries and states is universally acceptable and practiced. The need of authoritative system was felt in old times where tribal social organizations had the chief as authority of tribe. The misinterpretation and misuse of the word has resulted in increasing the number of the cases of violence against women in our society.

In Islamic perspective, men have no power or authority over women except in the context of marital relationship.⁶² But Muslims in their contemporary life have neglected many aspects of equality in religion⁶³ and in other spheres of life. Due to lack of clear understanding, they think that they have supreme power over them and women are bound to follow them in any case. Contrary to this, on the basis of the uniform principles of Islamic jurisprudence, a Muslim woman enjoys the same capacity and freedom as enjoyed by a man.⁶⁴

V- Reasons for the Superiority of Man over Woman

Religious scholars have given different reasons for the patriarchal interpretation of Quran. Many scholars quote the following Hadith to show the superiority of men over women and that the wives have been commanded to obey their husbands in respectful things.

Qais B. Sa'd said: I went to al Hirah and saw people prostrating themselves before a satrap of theirs, so I said: the apostle of Allah SWT has most right to have prostration made before him. When I came to the Prophet (PBUH), I said: I went to *al Hirah* and saw them prostrating themselves before a strap of theirs, but you have most right, Apostle of Allah SWT, to have them prostrating before you. He said: tell me, if you were to pass my grave, would you prostrate yourself before it? I said: No. He then said: Do not do so. If I were to command anyone to make prostration before another I would command women to prostrate themselves before their husband, because of the special rights over them given to husbands by Allah SWT.⁶⁵

This Hadith highlights two main causes behind the superiority of men over women. The first reason⁶⁶ mentioned in the words that Allah SWT has made one of them to excel the others (in some qualities) under His exclusive wisdom and consideration.⁶⁷ It is a special privilege that Allah SWT has granted to his creature, as women are also being granted some privileges in other respects as mentioned in first part of this paper.⁶⁸ It is simply based on the wisdom of creation, an exclusive privilege of the Creator.⁶⁹ Man's physical strengths and control over emotions make him more able and better equipped to take charge of the family. From the history of mankind, it is clear that the role of man is to provide food, wage war against enemies and to maintain peace and order in society. The woman, on the other hand, primarily stayed at home to provide a stable environment to the children.⁷⁰

The second reason as mentioned by the Holy Prophet (PBUH) is that ⁷¹ it is man's duty to financially support his family and to give a dower to his wife at the time of marriage. Tantawi,⁷² in his book *Jawahar al Quran*, elaborates that men are given this privilege because they spend their money on their wives. He considers man a *qawwam* that means *wali* and woman as *ra'iyya* that means subordinate, for whom men are granted privilege.⁷³ In Pakistani society, many less educated religious scholars misunderstood Tantawi's interpretation of the word *qawwam* and teach in their mosque to husbands that they have all rights over their wives. Due to teachings of Imam, a husband thinks that Allah SWT has made woman subordinate to him and he has privileges over his wife. Furthermore, they think that they can treat women in a manner whatever they want. Such understanding is prevalent in rural areas of Pakistan.

Otherwise, On the basis of the principles of Islamic jurisprudence, a Muslim woman enjoys the same capacity and freedom as enjoyed by a man. The *Shari'ah* also provides an equitable⁷⁴ and fair role of woman in the economic life of the Muslim society. Just as much as they, husband and wife, share in the management of family affairs, she can contribute to the support of the family financially, although she is not legally bound to provide maintenance. This privilege is given to men under the injunctions of Quran.⁷⁵ Ibn-ul-Arabi (1076-1148) describes that the priority in one degree above of men is basically due to his responsibility as *qawwam* and it has two dimensions as given by Quran: (i) perfection in intellect and manner and perfection in religion, *Jihad, Amar Bil Maroof and Nahi Anil Munkar*; and (ii) due to his catering for all her expenses of *mahr*, and maintenance.⁷⁶

According to Imam Al Qurtabi, as a result of marriage contract, man is called *qawwam* that means protector, maintainer and supervisor of women affairs, and if he is not maintaining her then marriage contract will be *fasiq*.⁷⁷ But if we look at another important principle of life, it states that woman in term of her creation and nature, should not be subjected to go out, work and earn her own livelihood. Before marriage, her father is responsible for her maintenance, whereas, after marriage the responsibility devolves to her husband. One purpose of this differentiation is to keep her safe from roughing out like men.⁷⁸ Many religious scholars argued that man is superior to woman because she has been created from his rib.⁷⁹ Allah SWT has put her total responsibility over man.⁸⁰ Another Hadith refers to the same point, as it is stated:

Abu Hurayrah reported Allah SWT's messenger (PBUH) as saying: woman is like a rib, when you attempt to straight it, you would break it. And if you leave her alone you would benefit from her, and crookedness will remain in her.⁸¹

“Creating from rib” is a metaphorical expression that signifies the temperament of women due to their physique, psychological patterns of their minds and the nature of the work assigned to them. Women are

physically weaker than men; they cannot defend and protect themselves with their physical strength. Man and woman both possess different tasks.⁸² Islam, in the light of this fact, has ordered the men to treat women kindly and tolerate the incompatibility of temperaments. He should provide her a chance of maximum utilization of her physical and mental potentials in all spheres of life.

VI- Approach of Muslim States towards *Qawwam*

One may find number of families in Muslim societies where wife is having an edge due to her financial contributions or other abilities. This creates particular tension among feminists, human rights representatives, interpreters of contemporary era, and among the legislatures of different Muslim states where husband is codified as head of family and wife is bound to obey her husband. They considered legislation of Muslim states as threat to the safety of woman, children and to the family institution as it codified supreme power of husband in family sphere. Contrary to this, true Islamic teachings protect woman from worldly troubles and command men to protect her and maintain her for all worldly necessities. It is therefore, necessary to mention here the legislation of few Muslim states concerning the issue.

In many Muslim states, husbands and wives have equal rights and it is incorporated in their state legislation. In Indonesia, both spouses are enjoying equal rights and responsibilities as mentioned in article, 31⁸³ of the Marriage Act, “the husband and wife shall bear the superior responsibility of maintaining a household. The husband is head of the family, and the wife is the mother of the household”.⁸⁴ Under Morocco⁸⁵ law both spouses have mutual rights and responsibilities.⁸⁶ Furthermore, Turkish⁸⁷ Civil Code⁸⁸ removes husband’s position as ‘Head of Household’. They consider both spouses on equal footing with equal powers of decision making in households affairs.⁸⁹

Whereas, in few Muslim states, husband is not mentioned as head of household in legislation; in Pakistan⁹⁰, section 9 of Muslim Family Law Ordinance (hereinafter MFLO) deals with the inherent rights and responsibilities of husband to maintain his wife.⁹¹ Under MFLO, maintenance is the husband's duty, within the limits of his ability and he is bound to maintain her during marriage contract and even after marriage during her waiting period (*Iddah*). Contrary to this legislation, generally in Pakistan and especially in rural areas of Pakistan, husband considered himself as the head of the family who has all powers to control woman. He, sometimes, thinks he has authority to rule over his family.

Moreover, there are some other Muslim states where the husband is head of household or has other powers of control over the wife. These states include Philippines, Senegal and Cameroon.⁹² Under the law of Iran, the husband is the head and manager of the household; whereas in the law of Sudan, the wife is bound to serve and obey the husband (except in committing a sin) and to maintain her husband and herself with her husband’s money. Obedience to the husband is an obligation on the wife that starts at the time the husband pays *Maher* and provides the matrimonial home. Breach in obedience gives the husband the right to withdraw maintenance.⁹³

These Muslim states, codified family law rendering husband as head of family to protect woman rights and to bound husband to maintain her wife by giving him superior status. However, this notion is misused by many husbands in contemporary Muslim world.

VII- Conclusion

Everyone moves within the circle of rights and obligations. Men are responsible for the protection and care of the family and women are responsible for taking care of home and children. As it is mentioned in the saying of Prophet (PBUH): “All of you are guardians and responsible for your wards. The ruler is a guardian and the man is a guardian of his family; the lady is a guardian and is responsible for her husband’s house and his offspring; so all of you are guardians and responsible for your wards”⁹⁴This Hadith holds the word “*man is responsible for protection and care of his family*”, which illustrates that man is neither *hakim* nor ruler but guardian of the family. This is only a separation of powers in one’s own sphere for the better management of the house.⁹⁵ It is further concluded that proper contextual interpretation of the Quran can meet the needs of contemporary human rights regime.

Moreover, Al-Hibri states that the traditional or out of context interpretation conflicts with the Quran because [I]n the Qur’an we have the following passage: “The believers, men and women, are ‘*awliya*,’ one of another”⁹⁶. “*awliya*” means “protectors,” “in charge,” “guides.” It is quite similar to “*qawwamun*.” How could women be “*awliya*” of men if men are superior to women in both physical and intellectual strength?⁹⁷ As the Quran is free from contradictions “Do they not consider the Qur’an (with care)? Had it been from other than Allah, they would surely have found therein much discrepancy.”⁹⁸ The contradiction must be in the conservative translation and application of the verse, which can be resolved by approaching the verse from the Quranic contextual interpretation.

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2. Muslim Family Laws Ordinance, 1961, Pakistan
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4. Turkish Civil Code.2002
5. Indonesian Marriage Act, 1974
6. The Moroccan Family Code (Moudawana), 2004
7. Islamic Family Law, Malaysia
8. The Civil Code of Islamic Republic of Iran
9. Egypt's Islamic family law of divorce, The Law of 1985.
10. Muslim Personal Law of 1991, Sudan.

¹“And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquility with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect.” See Abdullah Yusuf ‘Ali, *The Meaning of the Holy Qur’an*, at Surah 30, verse 21 (Abdullah Yusuf ‘Ali trans., 5th ed. 1993).

²“We did send apostles before thee, and appointed for them wives and children: and it was never the part of an apostle to bring a sign except as Allah permitted (or commanded). For each period is a Book (revealed)”. *Ibid*, at Surah 13, verse 38.

³ Abi Abdullah Mohammad bin Yazeed Ar Rabai Ibn-e-Maja Al Qazweeni, *Sunnan, book of Nikah*, Trans. Allama Waheed-uz-Zaman, (Lahore: Islami Kutub Khana).

⁴ By pronouncing it *Misqaq-E-Ghalizah* in Qur’anic verse 4: 21, “And how could ye take it when ye have gone in unto each other, and they have Taken from you a solemn covenant?”, See Abdullah Yusuf ‘Ali trans, *The Meaning of the Holy Qur’an*.

⁵“They are your garments and ye are their garments”, *Ibid*. 2:187.

⁶ It is a marriage contract under Islamic Law.

⁷“The woman and the man guilty of adultery or fornication,- flog each of them with a hundred stripes: Let not compassion move you in their case, in a matter prescribed by Allah, if ye believe in Allah and the Last Day: and let a party of the Believers witness their punishment”. See Abdullah Yusuf ‘Ali trans, *The Meaning of the Holy Qur’an*, at Surah 24, verse 2.

⁸ Anis Ahmed, *Women and Social Justice*, (Institute of policy Studies, Islamabad, 1991), 27.

⁹ Asgher Ali, *The Qur’an Women and Modern Society*, (India: New Down press Ink, 2005), 44.

¹⁰ Sahih Bukhari, *Kitab al-jumah, Bab al-Jumah fi Al-Qur'an*, Hadith No.893.

¹¹ Like Executive, Judiciary and legislature have different powers. They are neither superior nor inferior from each other. But it is for the better management of the state. The same rule is applicable for demarcation of duties of men and women in the family institution.

¹² See Abdullah Yusuf 'Ali trans, *The Meaning of the Holy Qur'an.*, at Surah 74, verse 38.

¹³ *Ibid*, at Surah 46, verse 19.

¹⁴ Asma Barlas , Islam, Women, and Equality: Reading the Qur'an for Liberation , "Believing Women" in Islam, *Unreading Patriarchal Interpretations of the Qur'an* (University of Texas Press, 2002).

¹⁵ Muhammad Tahir Mansoori, *Family Law in Islam Theory and Application*, (Islamabad, Shariah Academy, International Islamic University ,2009), 24.

¹⁶ Shahid Aziz, *Relationship between husband and wife*, (The Light, London edition ,March,2006) ,4.

¹⁷ Cited in *A Bundle of Flowers*, Trans. Ayatullah Sayyid Kamal Faghiih Imani, (Library Isfahan, Islamic Republic of Iran , 1997) .

¹⁸ See Abdullah Yusuf 'Ali trans, *The Meaning of the Holy Qur'an.*, at Surah 4, verse 34.

¹⁹ Shahid Aziz , *Relationship between husband and wife*,4.

²⁰ Imam Fakhr ud-Deen ar-Razi is an author of "Mafateeh ul Ghayb" also known as "Tafsir Kabir" - A voluminous work covering many aspects including science and medicine. Ibn Taymiyyah once critically said of this tafsir that it "contains everything but tafsir".

²¹ Qazi Abu Bakr ibn al-Arabi is author of "Akam al-Qur'an"- Known as 'Qazi ibn al-Arabi' (ibn Arabi the judge)to distinguish him from the famous Sufi ibn Arabi, he was a Maliki jurist from Andalusia (Muslim Spain) His tafsir was published in 3 volumes and contains commentary on the legal rulings of the Qur'an according to the Maliki school.

²² Imam Abu Abdullah al-Qurtabi: "al-Jami' li Akam il-Qur'an" by the famous Maliki Jurist of Cordoba. This 10-volume tafsir is a commentary on the Qur'anic verses dealing with legal issues. Although the author was a Maliki he also presents legal opinions of other major schools of Islamic jurisprudence; thus it is popular with jurists from all of the schools of Islamic law. One volume of this tafsir was translated into English by Aisha Bewley.

²³ al-Jasas book "Akam al-Qur'an" - Based on the legal rulings of the Hanafi school of Islamic law. This was published in 3 volumes and remains popular amongst the Hanafis of India, the Middle East and Turkey.

²⁴ He was well known Indian Islamic scholar.

²⁵ His book Tafheem ul Quraan - One of the most widely read Tafsir, is another relatively modern exegesis of the Quran. It is written mostly for the general public with a view to relate the Islamic teachings to all sphere's of life. It is criticized for its free style explanations.

²⁶ A known Egyptian Islamic Scholar.

²⁷ Javed Ahmad Ghamidi, *The Social Shariah of Islam*, Trans. Shahzad Saleem,(Lahore: Al- Mawrid),161.

²⁸ Abdullah Yusuf 'Ali trans, *The Meaning of the Holy Qur'an*, Surah 4, verse 34.

²⁹ This choice is based on man's best capacities rather than his superiorities. See Ghamidi, *The Social Shariah of Islam*,pp.160-165.

³⁰ Different Interpretation of this term in different times, Now days, *Mullas* has interpreted in their own term which is *hakim*.

³¹ Abdullah Bin Hamid Ali, *Is Intelligence Gender Specific in Islam*, Online available at http://www.lamppostproductions.com/files/articles/Gender_Intelligence.pdf (Last accessed 10-11-2010).

³² Allama Abu Bakar Ahmed bin Ali Al Razi Jasas Al Hanafi, *Ahkam-al-Quran*, Urdu Trans. by Abdul Qayyum, (Islamabad: Shariah Academy IIUI, 1999), 496.

³³ Al Hakeem Al sheikh Tantawi, *Al Jawahir fi Tafseer Al-Qur'an Al Kareem*, (Dar-ul-Fikr), Vol. 3, 39.

³⁴ Abdullah Yousuf Ali, *The Holy Qur'an Translation and Commentary*, (Islamabad: Dawah Academy International Islamic University, 2004), 219.

³⁵ Tahira Saffarzadeh, *The Holy Qur'an Translation with commentary*, (Tehran, Iran, Alhoda, 2007).

³⁶ To know the actual misconception and malpractices existed in Pakistani society, interviews were conducted from rural and urban woman on above mentioned issues.

³⁷ Maududi, S. Abul A'la , *The Meaning of the Qur'an*, Trans. by Ch. Muhammad Akbar, Edit. A.a.Kamal, (Islamic Publications, Lahore) Vol. 1.

³⁸ *Ibid*, 329, 333.

³⁹ *Ibid*.

⁴⁰ Lal Muhammad Chawla,, *A study of Al-Qur'an Al Kareem*,(Islamic Publications Lahore, 1991) Edition. 1.

⁴¹ Maulana Abdul Majid Daryabadi,*Tafseer-e-majdi*,(Islamic Book Foundation, Islamabad).

⁴² He has given references from bible as to the subjective position of women to their husbands marking the difference in attitude and instructions for dealing with women by Islam. He also provides references from sociological literature for the family structures and systems in dealing with the issue. See Daryabadi, *Tafseer-e-majdi* 325, 326.

⁴³ Qurtabi,Muhammad bin Ahmad Al Ansari, *Al Jamai' Al Ahkam Al Qur'an*, (Dar-ul- Fikar, 1952), 169.

⁴⁴ Abduh cited in Barbara Stowasser, *Gender Issues and Contemporary Quran Interpretation*, in Islam, Gender

and Social Change 34 (Yvonne Yazbeck Haddad & John L. Esposito eds., 1998), 35.

⁴⁵ Asghar Ali Engineer, *The Rights of Women in Islam* (1996), 45.

⁴⁶ “And their husbands have the better right to take them back in that period, if they wish for reconciliation. And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree (of advantage) over them. And Allah is Exalted in Power, Wise”. See Abdullah Yusuf ‘Ali trans, *The Meaning of the Holy Qur’an, Surah 2*, verse 228.

⁴⁷ S. Saleem, *Islam and Women: Misconceptions and Misperceptions*, (2005). 167

⁴⁸ *Ibid.* 169-170.

⁴⁹ *Ibid.*

⁵⁰ H. A. Jawad, *The Rights of Women in Islam: An Authentic Approach*, (Basingstoke: Macmillan, 1998).

⁵¹ Sayyid Qutb, *In the shade of Qur’an: Fi Zilil Al-Qur’an*, ed. Adil Salahi and Ashur Shami (Leicester : The Islamic Foundation, 2001), Vol.3, p.8.

⁵² *Ibid.*

⁵³ Maulana Mufti Muhammad Shafi, *Ma’ariful Qur’an*, Trans. Muhammad Shamim, Rev. Maulana Muhammad Taqi Usmani (Karchi: Maktaba –e- Darul – Uloom ,2004).

⁵⁴ *Ibid.*, 418.

⁵⁵ Abdullah Yusuf ‘Ali, *The Meaning of the Holy Qur’an*, at Surah 4, verse 59.

⁵⁶ Betty Minstead, *Feminist Theology and Women in the Muslim World: An Interview with Riffat Hassan*, (Women Living Under Muslim Laws Dossier, No. 4, Aug./Sept. 1988), 31,

32, available at www.wluml.org/english/pubs/pdf/dossier4/D4-07-Islam.pdf.

⁵⁷ Barbara Stowasser, *Gender Issues and Contemporary Quran Interpretation*, 39.

⁵⁸ Azizah Al-Hibri, *A Study of Islamic Herstory: or How did We Ever Get into this Mess?* in Women and Islam 212 (Azizah Al-Hibri ed., 1982). 218.

⁵⁹ Maulana Mufti Muhammad Shafi, *Ma’ariful Qur’an*, Trans. Muhammad Shamim, Rev. Maulana Muhammad Taqi Usmani (Karchi: Maktaba –e- Darul – Uloom ,2004), Vol.2, PP.417-418.

⁶⁰ *Ibid.*

⁶¹ Dr Israr Ahmed, a famous religious person in Pakistani society also interprets word Qawaam as Hakim. For further reading listen her lectures on Surah An Nisa.

⁶² On the position of women in Islam and Islamic society, Online available at <<http://www.islaminireland.com/documents/On%20the%20Position%20of%20Women%20in%20Islam%20and%20in%20Islamic%20Society.pdf>> (Last accessed 10-11-2010).

⁶³ “God has got ready forgiveness and tremendous rewards for the Muslim men and women; the believing men and women; the devout men and women; the truthful men

and women; the patiently suffering men and women; the humble men and women; the almsgiving men and women; the fasting men and women, the men and women who guard their chastity; and the men and women who are exceedingly mindful of God". (Al Ahzab, 35)

⁶⁴ Hassan Abdalla Al Turabi, *Women in Islam and Muslim Society*, Online available at <<http://www.jannah.org/sisters/turabi.html>> (Last accessed 16-12-2010).

⁶⁵ Abu Dawud ,*Sunan*, Kitab al Nikah, Trans.Ahmad Hassan, *The Right of Husband over His wife*, Book 5, Chapter707 , Hadith No. 2135.

⁶⁶ "Allah SWT has made the one of them to excel the other".

⁶⁷ Shafi, *Ma'ariful Qur'an*, 419.

⁶⁸ A woman has given great tasks of childbearing, breast feeding and looking after her children. These all tasks need same physical, psychological and mental powers.

⁶⁹ It is general rule of precedence that man's head over his hand, his heart over his stomach. In this case, precedence of man's head over his hand does not diminish the role and importance of the hand, similarly, precedence of man does not lowering of the status of women, because both of them are parts of each other's body, if man is the head, women is the body. See Shafi, *Ma'ariful Qur'an*, 419

⁷⁰ Abdul Ghaffar Hassan, *The Rights and Duties of Women in Islam*, (Islamabad.Darul Islam) Online available at < <http://www.ittaleem.com/showthread.php?t=14994>> (Last Accessed on 13-12-2010)

⁷¹ "They spend from their means".

⁷² According to Tantawi the reasons are known for *mehar* and *nafaqa*

⁷³ Al Hakeem Al sheikh Tantawi, *Al Jawahir fi Tafseer Al-Qur'an Al Kareem*, (Dar-ul-Fikr), Vol. 3, , p. 39.

⁷⁴ "Women have similar rights over men as men have over women" (2 : 228).

⁷⁵ On the position of women in Islam and Islamic society, Online available at <<http://www.islaminireland.com/documents/On%20the%20Position%20of%20Women%20in%20Islam%20and%20in%20Islamic%20Society.pdf>> (Last accessed 10-11-2010).

⁷⁶ Abi Bakar Mohammad Bin Adullah Al Maroof Ibnul Arabi, *Ahkam Al-Qur'an*, (Al Qahira: Dar-ul-Fikar), Vol. 1.

⁷⁷ Muhammad bin Ahmad Al Ansari Qurtabi, *Al Jama'i Al Ahkam Al-Qur'an*, (Dar-ul Fikar, 1952), 170.

⁷⁸ It is hardly conducive to her running around offices and markets, doing jobs and laborious work to earn a live hood.

⁷⁹ But this view is contradictory. It is a biblical explanation, not a Qur'anic one. Woman is not created from the rib of man as mentioned in the verses of Qur'an 4:1 and 16:72.For detail see, Shehzad Saleem, *Islam and Women: Misconceptions and Misperceptions*,(2005).

⁸⁰ Shafi, *Ma'ariful Qur'an*, 420.

⁸¹ Muslim, *Sahih*, Divorce in regard to Women, Trans. Abdul Hamid Siddiqi, Vol.2, P.752, Hadith No. 3466. Further See Hadith No. 3467, 3468 and also see *Bukhari*, (Hadith No: 3135).

⁸² Some scholars consider man and woman as active and passive members. Which are interrelated with each other and cannot be separated.

⁸³ Under art.31(3), “the husband shall protect the wife and provide her with all the necessities of life in accordance with his capabilities, while under A. 34 the wife shall take care of the household to the best of her ability”.

⁸⁴ Women under Muslim Laws, *Know our rights: women, Family, Laws and Customs in the Muslim World*, (Nottingham: The Russel Press, 3rd Edn,2006),161.

⁸⁵ In Morocco, people are followers of Malki School of thought.

⁸⁶ Under art. 51 of the Moudawana, “spouses have mutual duties and rights, including: cohabitation, mutual fidelity. respect and affection, the preservation of the interests of the family; mutual inheritance; the wife’s assuming with the husband responsibility for managing household affairs and the children’s education; consultation on decisions concerning the management of family affairs, children and family planning; good relations with each other’s relatives. This gender-neutral list drastically amended the pre-2004 provisions”.

⁸⁷ The followers of Hanfi School of thought.

⁸⁸ The new amendment was added under article 41 and 186.

⁸⁹ The New Legal Status of Women in Turkey, *Women for Women’s Human Rights* (Istanbul, New Ways, 2002).

⁹⁰ The followers of Hanfi School of thought.

⁹¹ Many inherent rights can be understood from Dissolution of Muslim Marriage Act.

⁹² Women under Muslim Laws, *Know our rights: women, Family, Laws and Customs in the Muslim World*, (Nottingham: The Russel Press, 3rd Edn,2006), p.162.

⁹³ *Ibid*.

⁹⁴ Bukhari, *Sahih*, Kitab al jumah, Bab al Jumah fi Al-Qur’an, Hadith No.893.

⁹⁵ Like Executive, Judiciary and legislature has different powers. They are neither superior nor inferior from each other. But it is for the better management of state. The same rule is applicable for demarcation of duties of men and women.

⁹⁶ Abdullah Yusuf ‘Ali trans, *The Meaning of the Holy Qur’an*. Surah 9, verse 71

⁹⁷ Azizah Al-Hibri, *A Study of Islamic Herstory: or How did We Ever Get into this Mess? in Women and Islam 212* (Azizah Al-Hibri ed., 1982), 218.

⁹⁸ Abdullah Yusuf ‘Ali trans, *The Meaning of the Holy Qur’an*. Surah 4, verse 82.