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Misinterpretation of Some Islamic Teachings and Traditions as Gender Discrimination Against Women

ABSTRACT: This paper examines the misinterpretation of some Islamic teachings and traditions which are erroneously regarded as gender discrimination against women with a view to addressing them in consonance with Islamic rulings or practices. It examines why Islam prescribed veil, dress code for women; polygamy that the voice of women should not be heard by men; women stay behind men in prayer; and waiting/mourning period for women. The method for this research is purely written sources, including documents, monographs, manuscripts, books, journals, internet, magazines as well as the holy book of Al-Qur'an and Al-Hadith. The paper revealed that the "hijab" helps to safeguard the modesty and decency of a person and safeguards the moral ideals of a society. Also, during congregational prayer, Muslims stand side by side maintaining closeness by standing foot to foot, shoulder to shoulder, and demonstrating brotherhood and sameness in status. If men and women should stand in this position, it is impossible for them to attain full concentration due to difference in sexes. Also, Islam prescribes waiting period for widow to ascertain whether the woman is pregnant for the deceased husband. It is the Muslims themselves, through their ill practice of their religion, who give impetus to such misinterpretations. Thereafter, concluded that, as for Islam, gender equality is part of its jurisprudence and fundamental teachings.

KEY WORD: Misinterpretation, Islamic teachings and traditions, gender discrimination, veil, polygamy, prayer, mourning period for women, and Islamic jurisprudence and fundamental teachings.

ABSTRAKSI: "Salah Tafsir Beberapa Ajaran dan Tradisi Islam tentang Diskriminasi Gender terhadap Perempuan". Makalah ini mengkaji salah tafsir beberapa ajaran dan tradisi Islam yang dianggap keliru mengenai diskriminasi gender terhadap perempuan yang bermaksud untuk memberikan kesesuaian dengan aturan atau praktek Islam. Ia mengkaji mengapa Islam menganjurkan jilbab, etika berpakaian untuk perempuan; poligami bahwa suara perempuan tidak harus didengar oleh laki-laki; perempuan berada di belakang laki-laki dalam shalat; dan masa menunggu untuk wanita dalam berkabung. Metode dalam penelitian ini adalah sumber murni tertulis, termasuk dokumen, monograf, naskah, buku, jurnal, internet, majalah, serta dari kitab suci Al-Qur'an dan Al-Hadits. Makalah ini mengungkapkan bahwa "hijab" membantu untuk menjaga kesopanan dan kesucilaan seseorang dan menjaga cita-cita moral masyarakat. Juga, selama shalat berjamaah, umat Islam berdampingan menjaga kedekatan dengan berdiri dari kaki ke kaki, bahu ke membahu, dan menunjukkan persaudaraan dan kesamaan status. Jika laki-laki dan perempuan harus berdiri dalam posisi berdampingan, ini tidak mungkin bagi mereka untuk mencapai konsentrasi penuh karena perbedaan jenis kelamin. Juga, Islam mengatur masa tunggu bagi janda untuk memastikan apakah kehamilan wanita itu karena suaminya yang sudah almarhum. Adalah umat Islam sendiri, melalui salah amalan dalam agama mereka, yang memberikan dorongan untuk salah tafsir tersebut. Karenanya, disimpulkan bahwa kesetaraan gender merupakan bagian dari hukum dan ajaran-ajaran fundamental dalam Islam.

KATA KUNCI: Salah tafsir, ajaran dan tradisi Islam, diskriminasi gender, jilbab, poligami, shalat, masa berkabung bagi perempuan, serta hukum dan ajaran fundamental Islam.

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INTRODUCTION

Many aspects of the Muslims' lives were given misinterpretations, either out of ignorance or out of vengeful motives by non-Muslims. Yet, the issue of the relationship between man and woman, whether it is one of equality or discrimination, is on top of such misinterpreted aspects. Before discussing about the Islamic vision of this relationship, let us open up a rather sensitive subject which admits that it is the Muslims themselves, through ill practice of their religion, who gave such hostile pens the chance to pick holes!

In most Muslim societies, people tend to confuse what is religious with what is cultural. Thus, those who beat their wives claim that it is from Islam. Similarly, those who keep their female members of the family at home, all their lives claim that it is from Islam. More so, are those who keep their daughters uneducated, while their boys are sent to school and those who deprive girls of their share in inheritance, and so on.

It is the role of Muslim scholars, preachers, and writers to try their best to rectify this distorted image of the man-woman relationship, which has been totally created by the Muslims themselves, but exaggerated and spread by non-Muslims pens. This rectification of the vision on this issue, and other issues as well, is to be done through a thorough reading of the *Al-Qur'an* and the *Al-Hadith*. In these two noble sources, all perfect divine and prophetic directions of how to handle gender issues on the basis of equality and not of discrimination are clearly stated. Islam does not recognize discrimination between the two sexes. The idea of equality in Islam is ill conceived by non-Muslims, who look at the Islamic guidelines on sex as a sign of discrimination.

For instance, looking at the Islamic gender discourse, one realizes that men and women are equally treated by Allah in terms of their rights and responsibilities, either in this life or in the life to come. They are rewarded the same for their good deeds or punished the same for

the bad ones. Allah commanded the believers to offer their children the same chances of life, such as education and health care. Men and women receive the same salaries for the jobs they do. They share responsibilities of bringing up children and other household chores. But, according to the mentality of non-Muslims, equality means to treat both sexes alike in the light of biological, psychological, and physiological sameness, in addition to sameness in their roles in life. Of course, Islam can never feel comfortable with this weird gender perspective.

This idea of equality lays heavy burdens on women by giving them roles that are not for them, in addition to their natural role of reproduction. Some consider it discriminatory that Islam does not allow a pregnant mother to go for service in a military mission overseas, Islam does not allow women to have four husbands as it allowed men to have four wives. It prescribes four months waiting period for widow and not for widowers. Some regard it as discriminatory that women are not allowed to inherit the same amount as men that Muslim women should stay behind men in prayer and the use of proper veil *hijab* by women among numerous others. In a nut shell, Islam upholds equality but negates the abolishment of all natural demarcations between the two sexes to the extent of treating them as one and the same entity.

SOME MISINTERPRETED ISLAMIC TEACHINGS AND TRADITIONS AS IT RELATE TO WOMEN

There are many Islamic teachings and traditions that are being misinterpreted as gender discrimination against women. These include the followings:

First, Islamic Dress Code for Women or Hijab. When it comes to the question of attire, sometimes the impression given by the non-Muslim media is that the Muslim women who observe proper *hijab* are being oppressed. Anybody who is familiar with the *Al-Qur'an*, 33:59 and 24:30-31, and the committed Muslim women know that they wear *hijab* not

because somebody is compelling them to do it. They know that they are committed to Allah and it is part of the wisdom He bequeath to the Muslims to be pure and respectable (al-Bahla, 1426 AH:3).

However, apart from the outer functions of a dress, the *hijab* helps to safeguard the modesty and decency of a person and safeguards the moral ideals of a society (Badawi, 1998:48-53). *Hijab*, therefore, has a moral function and must be accompanied by good behaviour. Appropriate dress (*hijab*) for both men and women is naturally important for a society, where sexual relations are strictly confined to marriage. To make it easy for people to live within the bounds of morality, they are required to wear clothes that conceal and do not reveal or accentuate their bodily charms and thus reduce or eliminate temptations (al-Albani, 1997:25-30).

Women are, therefore, naturally required to cover more of themselves than men. The *hijab* aids in giving identity and respect for the Muslim woman as an intellectually and morally upright human being useful to societal development and not a “pleasure object” for men’s lusts. It also minimizes the unnecessary envy and jealousy among some women that goes with the competition for beauty and show off (especially among the physically less fortunate and older ones).

Islam, being a universal religion, does not prescribe any particular form, colour, fashion, or style of dress. However, it should meet certain requirements of Islamic dress whatever the climate or region. These requirements apply to both man and woman. Dress should cover a person’s *awrah*. A man’s *awrah* extends from the navel to the knee. A woman’s *awrah* is the whole body with the exception of the face, hands, and feet. Dress should be loose fitting, but not transparent. Dress outside the home should not be worn for the sake of showing off, whether by glamorous garments that make for pride or excite admiration, envy or lust, or whether by rough and repulsive garments that are meant to draw attention to poverty or alleged

piety (al-Albani, 1997; and Sulaiman, 2014).

Proper dress is one of the outer symbols of the civilizing mission and power of Islam. The curious thing is that some people find it strange that Muslim women should cover themselves from head to foot, but do not find it strange that some Catholic sisters and nuns, for example, wear a similar type of dress; or that Mary, the mother of Jesus, is not shown bare-headed or in short dresses or skirts. This modest dressing is a virtue that people of all religions should accept and respect rather than criticize.

Should one say that a woman who uncovers herself and shows her body off has every right to do so, but that a woman who chooses to protect herself and her chastity has no right to do so? Modesty in dress and behaviour should be the norm not the exception. The veiling of the face by women is permissible (Sabiq, 1991:111); and left to the individual taste, but the face must be uncovered for *Hajj* (Sulaiman, 2011a).

Second, Islam Allowed Polygamy, While Not Polyandry or Plurality of Husbands for the Same Woman. It is evident that the nature of women is physiologically and psychologically different from that of men. Physiologically, she has only one womb and can have only one pregnancy at a time. A woman whose “husbands” wanted many children would have her health damaged by constant child-bearing. Secondly for the majority of people in the world (who have no access to DNA or *Deoxyribose-Nucleic Acid’s* testing), it would not be known which “husband’s” child she was carrying or who the child would belong to for purposes of maintenance, educational expenses, inheritance, etc.

Psychologically, women tend to be naturally monogamous, which is not the case with men. Furthermore, in all cultures, new and old, the headship of the family is normally man. One can imagine what would happen if the family had two or more heads.

Why is polygamy allowed in Islam?

Firstly, it must be made clear that Islam did

not introduce polygamy in the 7th century AC (After Christ). It was common practice in the ancient world (Doi, 1994:76; and Balogun, 2014:4). Secondly, polygamy was the practice of some of the earlier Prophets, such as Abraham, David, and Solomon, as the *Bible* testifies (Khabir, 2008; and Ajumobi, 2014). Such Prophets are nevertheless held in high respect by Jews, Christians, and Muslims alike.

In Islam, the verse which allows polygamy was revealed after the battle of *Uhud*, in which many Muslims were killed, leaving widows and orphans for whom due care was incumbent upon the Muslim survivors.

If you fear that you will not be able to deal justly with the orphans, marry women of your choice, two or three or four; but if you fear that you will not be able to deal justly (with them), then (marry) only one [...] (*Al-Qur'an*, 4:3).

From this verse, a number of facts are evident: (1) that polygamy is neither mandatory, nor encouraged, but merely permitted; (2) that the permission to practise polygamy is not associated with mere satisfaction of passion, it is rather associated with compassion toward widows and orphans, a matter that is confirmed by the atmosphere in which the verse was revealed; (3) that even in such a situation, the permission is far more restricted than the normal practice which existed among the Arabs and other peoples at that time when many married as many as ten or more wives; and (4) that dealing justly with one's wives is an obligation, this applies to housing, food, clothing, kind treatment, etc., for which the husband is fully responsible.

If one is not sure of being able to deal justly with them, the *Al-Qur'an* says: "then (marry) only one" (*Al-Qur'an*, 4:3). This verse, when combined with another verse in the same chapter, shows some discouragement of such plural marriages. The other verse plainly states: "You are never able to be fair and just between women even if it is your ardent desire [...]" (*Al-Qur'an*, 4:129). The requirement for justice rules out the fantasy that man can

"own as many as he pleases". It also rules out the concept of "secondary wife", for all wives have exactly the same status and are entitled to identical rights and claims over their husband. It also implies, according to the Islamic Law, that should the husband fail to produce enough support for any of his wives, she can go to the court and ask for a divorce.

The verse also says: "Marry", not kidnap, buy, or seduce. What "marriage" is as understood in Islam? Marriage, in Islam, is a civil contract which is not valid unless both contracting parties consent to it. Thus, no wife can be forced or "given" to a husband who is already married. It is, thus, a free choice of both parties.

As to the first wife: (1) she may be barren or ill or for other reasons may see in polygamy a better solution than divorce; (2) she may divorce her husband if he marries a second wife, provided that the right of unilateral divorce or *ismah* was included in her marriage contract; (3) she can go to court and ask for a divorce if there is evidence of maltreatment or injustice inflicted upon her; and (4) she may also ask her husband to release her by *khul'*.

But, if polygamy is discouraged and loaded with such constraints, could it have been better if the *Al-Qur'an* simply forbade it? To answer this question, we may have to raise another one:

Third, Can Polygamy be a Better Solution in Some Cases? Scholars in the past and at present, Muslims and non-Muslims, have consistently pointed out such cases. The following are a few examples which are tied with the general approach of Islam to individual and social problems:

On the individual cases. Firstly, a man who discovers that his wife is barren, and who at the same time instinctively aspires to have children and heirs. In a situation such as this, the man would either have to: (1) suffer the deprivation of fatherhood for life; and (2) divorce his barren wife and get married to another woman who is not barren.

In many cases, neither solution can be considered as the best alternative. Polygamy

would have the advantage of preserving the marital relationship without depriving the man of fathering lawful children of his own.

Secondly, a man whose wife becomes chronically ill would have one of several possible alternatives: (1) he may suppress his instinctive sexual needs for the rest of his life; (2) he may divorce his sick wife at the time when she needs his compassion most, and get married to another woman, thus legally satisfying his instinctive needs; and/or (3) he could compromise by keeping illicit sex partners.

Now, let us discuss these alternatives from the point of view of the Islamic teachings. The first solution is against human nature. Islam recognises sex and sexual needs and provides for legitimate means for their satisfaction. The second solution is clearly less compassionate, especially where there is love between the two parties. Furthermore, divorce is described by Prophet Muhammad SAW (*Salallahu Alaihi Wassalam* or Peace Be Upon Him) as the “permitted thing which is hated most by God”. The last solution is plainly against the Islamic teachings, which forbid illicit sexual relations in any form.

To sum up, Islam being against immorality, hypocritical pretence of morality and against divorce unless no better solution is available, provides for a better alternative which is consistent with human nature and with the preservation of pure and legitimate sex relationships. In a situation like this, it is doubtful that any solution would be better than polygamy, which is, after all, an optional solution.

On the social cases. Firstly, anthropologists tell us that among various tribes and societies, polygamy is a social and economic necessity. In some very poor areas, the infant mortality is very high. Children, on the other hand, are a source of additional labour for the earning capacity of the family. To have more children under such situations would require the practice of polygamy. It is for this very reason that Christian missionaries in some

African regions justified their permission to local people to practise polygamy without being excommunicated from the church. One researcher has even found through his studies that women in such societies not only accept polygamy, but some of them even prefer it.

Secondly, aside from cases where for various reasons woman outnumber men, devastating wars, in the past and at present, have taken their toll mainly amongst men. The result is not simply more women who cannot find husbands, but even more widows who may aspire to a respectable family life. In such a situation, if polygamy is bad, the limitation on polygamy is far worse.

Both unmarried women and widows are human beings. Unless their instinctive needs are legitimately satisfied, the temptation is great for corruption and immorality. But, aside from the moral question these women are also exploited. They are used as tools for men’s pleasure, yet have no guarantees, no rights or security, financial or emotional. Should they become pregnant, it is their burden alone.

But, even if such women are ready to pay the price for this personally, society also suffers seriously from such situations. The increasing number of illegitimate children born today under conditions such as these provides a potential base for tomorrow’s maladjusted people and even criminals. Furthermore, it is inhuman and humiliating for those children to grow up without knowing who their fathers are and without enjoying a clean and normal family life.

Fourth, Why the Voice of Women Should Not be Heard by Men? There is no indication whatsoever either in the *Al-Qur’an* or in the *Al-Hadith* in support of this view (Niazi, 1976:27). On the contrary, the Prophet Muhammad SAW (*Salallahu Alaihi Wassalam* or Peace Be Upon Him) used to listen to the voices of women: other than his wives. In the *Al-Qur’an*, 58:1, the case is mentioned of a woman who came to lodge her complaint, and a revelation came to him about it. It is an obvious proof that the Prophet Muhammad

SAW never considered women's voices as part of their *awrah* (Hamza, 2001:65).

Women are not prohibited from speaking. However, they should not speak in a tone that could be seductive as Allah indicated in the *Al-Qur'an*, 33:32, "[...] be not over soft in your speech, lest any whose heart is diseased should be moved to desire (you), but speak in a kindly way". This command definitely cannot be for the husband and wife since it is not *haram*, i.e. forbidden, to speak to each other in a seductive tone. It applies to men who are unlawful to her.

Likewise, women are not prohibited from raising their voices. In an *Al-Hadith*, it was reported that the Prophet Muhammad SAW heard a woman reciting the *Al-Qur'an*, 88:1, aloud at night as he was walking in the streets of Madina and he did not stop her (Al-Ghazzali, 1302 AH:43). Furthermore, the companions of the Prophet Muhammad SAW used to ask the wives of the Prophet Muhammad SAW questions, and they used to answer them. An example is the case of the girl who complained about being forced into marriage by her father (Al-Bukhari, n.y.a:95).

In fact, it is further reported that Aisha RA (*Radiallahu Anhu* or May God Bless Her) used to call *adhan*, and lead women in congregational prayer. Accordingly the Shafi'i and Hanbali Schools consider the *adhan* (call to prayer) of women as permissible (Abubakar, 2003:50). This is permissible provided that the women hold their congregational prayer separately from men, and that it does not cause any undesirable consequences.

This is an additional piece of evidence for the permissibility of women's speaking aloud. Even during the time of Umar's Caliphate, a woman in the mosque publicly disagreed with him on a legal ruling. He accepted her correction and did not reproach her for speaking in public in the mosque (ITE, 2002:25).

Fifth, Why Do Women Stay Behind Men in Prayer or *Shalat*? The criticism stems from the wrong assumption that staying behind is because they are considered spiritually inferior to men. This is obviously untrue (*Al-Qur'an*, 33:35).

Viewing the objective of *shalat*, which is the act of communication with Allah with maximum concentration and meditation, one needs to examine other alternative positions women can occupy that could fulfill this noble objective. These positions are the front and the side (WAMY, 1998:16-18; and Balogun, 2003:20).

Considering these positions, there is no doubt that neither women nor men can achieve concentration. No woman can feel at ease when staying in front of men in prayer, and men would likewise be distracted. Staying side by side would be equally distracting. In the congregational prayer, it is enjoined on the believers to stay side by side maintaining closeness by standing foot to foot, shoulder to shoulder, demonstrating brotherhood and sameness in status. If men and women stand in this position, it is impossible for them to attain full concentration. Therefore, the best position is for the women to form their rows behind men, as commanded by Allah. It is not a position of inferiority, but simply a practical arrangement for the good of both.

Sixth, Divorce Only by Men. Many people alleged that in Islam, only men can initiate divorce, whereas women have no right to divorce her husband. This information is not correct. There are several types of divorce in Islam, each with its conditions. A woman who has any problem in her marriage has several options to end the marriage.

It must first be said that in Islam marriage and the family are very important and divorce is to be used only as a last resort when all attempts at reconciliation have failed.¹ However, there are a number of reasons why a couple cannot live together, such as alcoholism, abuse, cruelty, extreme incompatibility etc.

Basically, there are 4 types of divorce: (1) divorce pronounced by the husband; (2) divorce by mutual consent, but pronounced by the husband; (3) *khul'*, whereby a wife

¹See, for example, an article entitled "Divorce (*Talaq*) in Islam: Rules of Divorce (*Talaq*) in *Al-Qur'an*". Available online also at: [http://www./divourc/why divorce in islam.htm](http://www./divourc/why%20divorce%20in%20islam.htm) [accessed in Ado-Ekiti, Nigeria: March 26, 2015].

agrees to pay back all or part of her *mahr*, or whatever may be agreed on, in order to be released; and (4) divorce by the court if the wife complains and it is confirmed that the husband is not fulfilling his legal obligation of her maintenance, or abandons her, or is taking alcohol, or is harming her in any way etc. In this case, she is not required to pay back anything to the husband (Sulaiman, 2012a).

The husband has the stronger right to pronounce divorce, since he bears financial responsibility for the household and its maintenance (even if the wife happens to be wealthy). However, he must be conscious that if he pronounces divorce, he will not be able to take back the *mahr* (wedding gift to the bride), or any of the gifts he has given his wife during the marriage. Moreover, it is normally the wife who is entitled to custody of the children especially the younger ones (Mohd, 2015).

Seventh, Permission to Beat Wife. The *Al-Qur'an* does not permit the beating of a wife at will. The only cause in which it is sanctioned (*Al-Qur'an*, 4:34) is if she is guilty of *nushuz*, and then only as a third and final sanction that may save the marriage from divorce. *Nushuz* has been interpreted by A. Yusuf Ali (1403 AH) as “disloyalty and ill-conduct”; while Muhammad Asad (2001) refers to “women whose ill-will you have reason to fear”.

Some of the scholars of *Fiqh* have stressed that it refers particularly to a wife refusing to carry out her religious duties, such as prayer and fasting. *Nushuz* obviously refers to some serious level of misbehaviour, which could threaten the continuation of the marriage, not just to minor annoyances and the natural give and take between partners in a marriage (Azeez, 2013:35-38).

Al-Qur'an, 4:34, prescribes a series of steps in dealing with *nushuz*. Firstly, the husband should speak seriously to the wife and advise her against any wrongdoing. If she fails to respond, he should avoid sexual relation with her. Failure still, he is permitted to beat her lightly. If the wife, however, stops her misbehaviour, he should accept her change of

heart. If, on the other hand, the misdemeanor continues, the family on each side should appoint an arbitrator to see if it is possible to reach reconciliation between the partners after which, divorce would be the final step.

From the above, it is clear that the *Al-Qur'an* does not sanction random violence or continuous violence by a husband against a wife, just because he is of a short-tempered or sadistic nature. Beating of this type is regarded as *idrar* or *harm* to the wife and constitutes grounds for a *shari'ah* court to grant her a divorce, as cited in the Maliki School of Islamic Jurisprudence. The Prophet Muhammad SAW (*Salallahu Alaihi Wassalam* or Peace Be Upon Him), according to an *Al-Hadith*, said: “[...] the best of you will never beat your wife” (cited in Abu Da'ud, 1372 AHb).

Muhammad Asad (2001), in his commentary of the *Al-Qur'an*, 4:34, sheds more light on this topic as follows:

It is evident from many authentic traditions that the Prophet himself intensely detested the idea of beating one's wife, and said on more than one occasion, “Could any of you beat his wife as he would beat a slave, and then lie with her in the evening?” (cited in Al-Bukhari, n.y.b:42-43).

According to another Tradition, he forbade the beating of any woman with the words, “Never beat God's handmaidens” (cited in Abu Da'ud, 1372 AHa). When the above *Al-Qur'an* verse authorizing the beating of a refractory wife was revealed, the Prophet is reported to have said: “I wanted one thing, but God has willed another thing and what God has willed must be best” (Abu Da'ud, 1372 AHa).

With all this, he stipulated in his sermon on the occasion of the Farewell Pilgrimage, shortly before his death, that beating should be resorted to only if the wife “has become guilty, in an obvious manner, of immoral conduct”, and that it should be done “in such a way as not to cause pain or *ghayr mubarrih*”.² On the basis of these traditions, all the authorities

²Authentic Traditions to this effect are found in Muslim, Tirmidhi, Abu Da'ud, Nasa'i, and Ibn Ibn Majahi. (1371 AH). *Sunan Ibn Majah*, Volume 1. Cairo: n.p. [no publisher], p.318.

stress that this “beating”, if resorted to at all, should be more or less symbolic “with a toothbrush, or some other such things” (at-Tabari, 2001); or even “with a folded handkerchief (*razi*)”.

Muslim scholars (e.g. Ash-Shafi’i) were of the opinion that it is just barely permissible, and should preferably be avoided. They justified this opinion by the Prophet’s personal feelings with regard to this problem (Muslim, n.y.).

Eighth, the Islamic Mode of Mourning. The waiting period is sanctioned by the holy book of *Al-Qur’an* and *Al-Sunnah* (Sulaiman, 2012b). Muslim jurists have unanimously agreed on its essentiality since the injunction of the *Al-Qur’an* is quite explicit on this subject.

Such of you as die and leave behind them wives, they (the wives) shall wait, keeping themselves apart, four months and ten days. And when they reach the term (prescribed for them), then, there is no sin for you in aught that they may do with themselves in decency. Allah is informed of what ye do (*Al-Qur’an*, 2:234).

The Prophet also explained this, in an *Al-Hadith*, reported by Imam Bukhari that reads:

It is forbidden to mourn for a dead person for more than three days, except in the case of a widow for whom mourning is allowed for four months and ten days (cited in Al-Bukhari, n.y.c).

The holy book of *Al-Qur’an* prescribes this waiting period for widow, so that it will be known whether the woman is having the pregnancy for the deceased husband in her womb, so that there will be no confusion about the paternity of such a child if the woman seek to remarry. Also, the waiting period a woman observes, whether short or otherwise sheds light on the seriousness of marriage and its sacredness in Islam. Meanwhile, if the widow is pregnant, then her waiting period should continue until she delivers. “And for those with child, their period shall be till they bring forth their burden.” (*Al-Qur’an*, verse of *Al-Talaq*:4).

There are also instances in which the Prophet indicated that the duration of waiting

period of widow is four months and ten days. One of such instances was when Sabai’atu al-Islamiyyah informs the Prophet that her husband died and left her with pregnancy and has delivered the baby and wanted to remarry. She asked whether she will still observe four month and ten days waiting period. The Prophet told her to go and marry since the waiting period of a pregnant woman comes to an end with her delivery (cited in al-Shawkani, n.y.:306-307). The point here is that the Prophet affirmed four months and ten days as the duration for waiting period except for the pregnant woman.

However, there are some codes of conduct to be observed by a widow observing waiting period. These are meant to protect the integrity of the widow from unscrupulous persons. She is, therefore, required to remain in the house of her husband and observe her waiting period. Her remaining in the house of the husband curtails her free movements.

She should not also adorn herself during the period. Doing that reminds her of the days of joy with her late husband. She will, therefore, feel like having a man who would appreciate her and shower complementary remarks on her adornment. This may tempt her into committing *zina*. Therefore, she should avoid all forms of adornments, including wearing ornaments, coloured dresses as well as make-up. This will keep men away from her. She is not required to wear black clothes or black head cover (al-Shawkani, n.y.:306-307).

A widow should not accept invitation from prospective suitors. She should remember that she is still in the bond of her deceased husband and understand that some men do not actually mean what they say. In other words, some men mean evil to her.

There are some problems associated with widows and their waiting period. Some of these problems are the creations of the widows themselves. These include their refusal to observe waiting period in the houses of their deceased husbands, which gives rise to immoral activities by the widows, such as free

movements even at night and acceptance of gifts and present from unscrupulous people. If they had remained in their matrimonial homes, such problems would not here arise. Though such a woman (a widow in her waiting period), however, is permitted to go out to fulfill a need, such as seeking medication or buying necessary stuff if there is no other person to do that. She is also permitted to go for work if she is a career woman, working as a teacher, a doctor, a nurse, or the like. In all these cases, she is allowed to go out of her house as could be understood that she is not going out for socialization (Ali, 1973:32-36).

As a precaution, a widow should not go out at night without any necessity, because many evils happen in the dark hours of the night; while during the day time, she may go out to fulfill her necessities and buy whatever she needs. She must not remarry during the waiting period (Muhammad, 2010).

There are, however, differences of opinion as to whether a widow should pass the term in the house of the deceased or not. *Sayidina Umar, Uthman, Abdullah ibn Umar, the four Imams, and many other great jurists* are of the opinion that she should reside in the house of the deceased husband (cited in Aliyu, 2008:23). *Sayiddah Aishah, Ibn 'Abbas, Sayidina Ali, and some other great jurists* are of the opinion that she is free to pass the period wherever she likes (cited in Doi, 1983:297).

The pagan Arabs before Islam and Africa had similar practices, where a widow was considered a part of her husband's property to be inherited by his male heirs. Widows were, usually, inherited in marriage to the deceased man's eldest son from another wife. The *Al-Qur'an* scathingly attacked and abolished this degrading custom: "And marry not women whom your fathers married – Except what is past it was shameful, odious, and abominable custom indeed" (*Al-Qur'an*, 4:22).

In Islam, widows have the freedom to marry whomever they choose. There is no stigma attached to widowhood in the holy book of *Al-Qur'an*:

If any of you die and leave widows behind, they shall wait four months and ten days. When they have fulfilled their term, there is no blame on you if they dispose of themselves in a just manner (*Al-Qur'an*, 2:234).

This shows that just as Islam has instructed the virgin to marry, so also it has instructed the widow to remarry (Doi, 1983:297). And the widows have been instructed to remarry more, especially because there are some people who think it is below their dignity that they should marry the widow in the family. It is to discard this bad custom that the widow has been instructed to remarry. But, of course, that does not mean that every widow must remarry. Only such widows as are marriageable and those for whom remarriage is necessary are the ones who should remarry.

Some women become widow, when they have grown old; some others are there whose circumstances do not permit them to remarry (they may have a disease which does not let them remarry) or some may have a large number of children. Still others may not like that they should remarry. In all such cases, the widow should not be compelled to remarry; but such a woman should be tied to a husband. Of course, the bad custom of keeping a widow compulsorily without a husband the whole of her life must be abolished.³

It is noted worthy that Islam is vehemently against forceful marriage in all its ramifications. That is why Allah says:

O you who believe! You are forbidden to inherit women against their will, and you should not treat them with harshness that you may take back part of the (*mahr*) dowry you have given them (*Al-Qur'an*, 4:19).

Ninth, Islamic Moral Justifications for Women Inheritance. Muslim mothers, wives, daughters, and sisters had received inheritance rights one thousand three hundred years before

³See, for example, an article entitled "The Wisdom Behind *Iddah* (Waiting Period)". Available online also at: <http://www.islam-qa.com/en/cat/361> and <http://www.islamfortoday.com/women.htm> [accessed in Ado-Ekiti, Nigeria: October 1, 2015].

Europe recognized that these rights even existed. The division of inheritance is a vast subject with an enormous amount of details (*Al-Qur'an*, 4:7, 11, 12, and 176). The general rule is that the female share is half the male except the cases, in which the mother receives equal share with that of the father.

This general rule, if taken in isolation of other legislations concerning men and women, may seem unfair. In order to understand the rationale behind this rule, one must take into account the fact that the financial obligations of men in Islam far exceed those of women. A bridegroom must provide his bride with a marriage gift. This gift becomes her exclusive property and remains so even if she is later divorced. The bride is under no obligation to present any gifts to her groom.

Moreover, the Muslim husband is charged with the maintenance of his wife and children. The wife, on the other hand, is not obliged to help him in this regard. Her property and earnings are for her use alone except what she may voluntarily offer her husband (Sulaiman, 2011b). Besides, one has to realize that Islam vehemently advocates family life. It strongly encourages youth to get married; discourages divorce (Mutahari, 1981); and does not regard celibacy as a virtue (Abdul Rauf, 1972:87).⁴

Therefore, in a true Islamic society, family life is the norm and single life is the rare exception. That is, almost all marriageable women and men are married in an Islamic society. In the light of these facts, one would appreciate that Muslim men, in general, have greater financial burdens than Muslim women and thus inheritance rules are meant to offset this imbalance so that the society lives free of all gender or class wars. After a simple comparison between the financial rights and duties of Muslim women, one British Muslim woman has concluded that Islam has treated women not only fairly but generously (cited in Lemu & Heeren, 1978:23).

⁴See also, for example, <http://www.jannah.org/sisters/inheritance.html> [accessed in Ado-Ekiti, Nigeria: February 22, 2015].

Apart from recognition of women acknowledged, as equally essential for the survival of humanity, Islam has given her a share of inheritance. Before Islam, she was not only deprived of that share, but was herself considered as property to be inherited. Out of that transferable property, Islam made an heir, acknowledging the inherent human qualities in woman. Whether she is a wife or mother, a sister or daughter, she receives a certain share of the deceased kin's property, a share which depends on her degree of relationship to the deceased and the number of heirs. This share is hers, and no one can take it away or disinherit her. Even if the deceased wishes to deprive her by making a will to other relations or in favor of any other cause, the Law will not allow him to do so (WAMY, 1998:25).

Any proprietor is permitted to make his will within the limit of one-third of his property; so, he may not affect the rights of his heirs, men and women. In the case of inheritance, the question of quality and sameness is fully applicable. In principle, both man and woman are equally entitled to inherit the property of the deceased relations but the portions they get may vary. In some instances, man receives two shares; whereas woman gets only one. This removes the preference or supremacy of man to woman. The reasons why man gets more in these particular instances may be classified as follows:

Firstly, a man is the person solely responsible for the complete maintenance of his wife, his family, and any other needy relations. It is his duty by Law to assume all financial responsibilities and maintain his dependents adequately. It is also his duty to contribute financially to all good causes in his society. All financial burdens are borne by him alone (Esposito, 1982:155; and Adebambo, 2010:23-28).

Secondly, in contrast, the woman has no financial responsibilities whatsoever except very little of her personal expenses, the high luxurious things that she likes to have. She is financially secure and provided for. If she is a

wife, her husband is the provider; if she is a mother, it is the son; if she is a daughter, it is the father; if she is a sister; it is the brother, and so on. If she has no relations on whom, she can depend, then, there is no question of inheritance because there is nothing to inherit and there is no one to bequeath anything to her.

However, she will not be left to starve as the maintenance of such a woman is the responsibility of the society as a whole, the state. She may be given aid or a job to earn a living, and whatever money she makes will be hers. She is not responsible for the maintenance of anybody else besides herself. If there is a man in her position, he would still be responsible for his family and possibly any of his relations who need his help. So, in the hardest situation her financial responsibility is limited, while his is unlimited.⁵

Thirdly, when a woman gets less than a man does, she is not actually deprived of anything that she has worked for. The property inherited is not her earning or her reward for her endeavors. It is something coming to her from a neutral source, something additional or extra. It is something that neither man nor woman struggled for. It is a sort of aid, and any aid has to be distributed according to the urgent needs and responsibilities, especially when the distribution is regulated by the Law of God (Valibhai, 1981:233; and Lemu, 2004:31-44).

The male heir, on the other hand, is burdened with all kinds of financial responsibilities and liabilities. We have, on the other side, a female heir with no financial responsibilities at all or at most with very little of it. In between, we have some property and aid to redistribute by way of inheritance. If the female is deprived completely, it would be unjust to her because she is related to the deceased. Likewise, if we always give her a share equal to the man's, it would be unjust to him. So, instead of doing injustice to either

side, Islam gives the man a larger portion of the inherited property to help him to meet his family needs and social responsibilities.

At the same time, Islam has not forgotten her altogether, but has given her a portion to satisfy her very personal needs. In fact, Islam in this respect is being more kind to her than to him. Here, we can say that when taken as a whole the rights of woman are equal to those of man although not necessarily identical (*Al-Qur'an*, 4:11-14 and 176).

Tenth, Islamic Rulings on Child Marriage.

There is no maximum or minimum age limit prescribed in the *Al-Qur'an* or *Al-Hadith* for marriage. It is left to people's discretion. This varies from girl to girl, one girl may be ready at the age of nine, and another may not be ready even at 25. As regard to this, 'Abdul-Hamîd Siddiqî says:

Islam has laid down no age limit for puberty for it varies with countries and races due to the climate, hereditary, physical and social conditions. Those who live in cold regions, attain puberty at a much later age as compared with those living in hot regions, where both male and female attain it at a quite early age (as cited by Abd al-Ati, 1963:103; and Al-Sheha, 2001:16).

However, the *Al-Qur'an*, chapter 4, verse 6, speaks about the age of marriage as related to the degree of maturity of intellect. Social circumstances dictate (to a large extent) the age of marriage. Where there is high risk of immorality, early marriage is preferred. When there is no risk, the marriage can be delayed.

The causes of the confusion are the following *Al-Hadith*. Firstly, a girl should be married latest 3 months of her menstrual period, otherwise the parents will be punished for any immorality she may commit. This saying was not found in any of the recognized collections of *Al-Hadith* and appears to be an invention that is in oral circulation. It ignores the fact that such a requirement would be in many cases quite impossible, even if it were desirable. As far as Islam is concerned, Allah does not place a burden on any soul beyond its

⁵See an article entitled "Islamic Inheritance Jurisprudence" in *Wikipedia: The Free Encyclopedia*. Available online also at: <http://en.wikipedia.org/wiki/Islamicinheritancejurisprudence> [accessed in Ado-Ekiti, Nigeria: November 30, 2015].

capacity (*Al-Qur'an*, 2:286). In the same vein, there is room for every individual to decide for him/herself. The Prophet himself gave his own daughter Fatima in marriage to Ali, when she was 18 years old. She was born during the period of reconstruction of *Ka'bah*, when the Prophet was 35 years old.⁶

Secondly, another week, *Al-Hadith* account that 'Aishah was 6 when betrothed to the Prophet and she married him at the age of nine. This *Al-Hadith* has often led to the belief that child marriage is permissible in Islam. The *Al-Hadith* has generated mixed reaction from the Muslims world over.

It was observed that the age of 'Ayishah has been erroneously reported in the *Al-Hadith* and that the *Al-Hadith* is highly unreliable and problematic. A careful analysis of this, *Al-Hadith* revealed that:

One, most of the *Al-Hadith* are reported only by *Hisham ibn 'Urwah* reporting on the authority of his father. An event as well known as the one being reported should logically have been reported by more people than just one, two or three.⁷

Two, it is quite strange that no one from *Medinah*, where *Hisham ibn 'Urwah* lived the first seventy one years of his life has narrated the event, even though in *Medinah* his pupils included people as well-known as *Malik ibn Anas*. All the narratives of this event have been reported by narrators from Iraq, where *Hisham ibn 'Urwah* is reported to have had shifted after living in *Medinah* for seventy one years (*ibidem* with footnote 7).

Three, *Tehzibu'l-Tehzib*, one of the most well-known books on the life and reliability of the traditions of the Prophet reports that according to *Yaqub ibn Shaibah*: "Narratives reported by *Hisham* are reliable except those that are reported through the people of Iraq".

⁶For more information about the position of Islam on child marriage, see <http://www.law.cornell.edu/uscode/17/107.shtml> [accessed in Ado-Ekiti, Nigeria: November 30, 2015].

⁷See, for example, Al-Zahbi (n.y.), *Mizanu'l-ai' Tidal: Al-Maktabatu'l-Athriyyah*, Volume 4, Pakistan: Sheikhpura, p.301-302, is a book on the life sketches of the narrators of the *Al-Hadith*.

It further states that *Malik ibn Anas* even objected on those narratives of *Hisham*, which were reported through people of Iraq (*ibidem* with footnote 7).

Four, *Mizanu'l-ai' Tidal*, another book on the traditions of the Prophet reports that when *Hisham* was old, his memory suffered quite badly (A` la'ma'Inubala', 1992:289).

Another important duty demanded from the guardian of children is "to educate them". Let us ask the question, "How many Muslims can educate their children satisfactorily, before they reach the age of seven or nine years?" The answer is "none". It is logically impossible to educate a child satisfactorily, before the age of seven.

Then, how can one believe that 'Aishah was educated satisfactorily at the acclaimed age of seven at the time of her marriage? Abu Bakar, her father, was a judicious man; so, he definitely would have judged that 'Aishah was a child at heart and was not satisfactorily educated as demanded by the *Al-Qur'an*. He would not have married her to anyone. If a proposal of marrying the immature and yet to be educated seven-year-old 'Aishah came to Prophet, he would have rejected it outright because neither Prophet nor Abu Bakar would violate any clause in the *Al-Qur'an*.

Therefore, marriage of 'Aishah at the age of seven years would violate the maturity clause requirement of the *Al-Qur'an*. Therefore, the story of the marriage of the seven-year-old immature 'Aishah is a myth.

Also, a woman must be consulted and consented to make marriage valid. As a result, the Islamic marriage allowed for a credible permission from woman as a pre-requisite for the marriage to be valid. By any stretch of imagination, the permission by a seven-year-old immature girl cannot be a valid authorization for marriage. It is unconceivable that Abu Bakar would take seriously the permission of a seven-year-old girl to marry a fifty-year-old man.

Similarly, the Prophet would not have accepted permission given by an immature girl who, according to *Shahih Muslim*, took her

toys with her when she went to live with the Prophet. Therefore, the Prophet did not marry seven-year-old 'Aishah, because it would have violated the requirement of valid permission clause of Islamic marriage decree. Therefore, it was neither an Arab tradition to give away girls in marriage at an age as young as seven or nine years, nor did the Prophet marry 'Aishah at such a young age. The people of Arabia were undecided on this type of marriage, because it never happened in the manner it has been narrated.

Finally, all Muslims agree that the *Al-Qur'an* is the book of guidance. Muslims need to seek for guidance from the *Al-Qur'an* to clear the confusion on the matter of the age of 'Aishah at her marriage. Does the *Al-Qur'an* allow or disallow marriage of an immature child of seven years of age?

There are no verses that explicitly allow such marriage. However, there is a verse that guides Muslims in their duty to raise a child and the ones deprived with the death of one or both parents. The guidance of the *Al-Qur'an* on the topic of raising orphans is also valid in the case of children (*Al-Qur'an*, 4:5-6). On children who has lost either both parent, Muslims are enjoined to: (1) feed them; (2) clothe them; (3) educate them; and (4) test them for maturity "until the age of marriage", before entrusting them with management of finances.

Here, the *Al-Qur'anic* verse demands meticulous proof of their intellectual and physical maturity by objective test results before the age of marriage, before to entrusting their property to them. Also, the Prophet, according to the *Al-Qur'an*, is a model for all humanity. The *Al-Qur'an* says that he was at the highest of moral pedestal. Even if child marriages were common in his community, he could not have gone for it, because it is against the *Al-Qur'anic* injunctions of 4:6 and 4:21.

In the light of this verse, no responsible Muslims would hand over financial management to a seven or nine year old girl. If one cannot trust a seven year old to manage financial matters, she cannot be intellectually

or physically fit for marriage. Conclusively, we do not know the exact age at the time of her marriage, due to lack of reliable records.

However, based on the evidences presented above, the marriage of a fifty-two-year-old Prophet with Aishah at age of nine is only a proverbial myth. On the contrary, Aishah was an intellectually and physically mature *bikr* (virgin adult with no sexual experience) when she married Prophet. Though, early marriages are originally recommended for Muslims, it is to preserve the chastity of youths. Delay of marriages is very helpful for *Shaytan*. When a girl reaches the level of maturity (physically and psychologically), it is recommended to marry as soon as possible.

Allah has created human beings with sexual desires. The urge for sex can be very strong, especially in adolescence and, in most cases, it (the urge) must be satisfied, either in a *halal* way or in a *haram* way. The desire for such satisfaction has made young boys and girls engage in actions that are unthinkable. Vibrators and other sex toys are everywhere in our neighborhood. Having said this, no one need to tell somebody how rampant pre-marital sex is in schools. Teenage pregnancies are nothing new, and so is abortion and the health risks those innocent girls are subjected to.

Early marriage doesn't mean that the spouses could not be mature and responsible, the *Al-Qur'an* hints that: "If you find them of sound judgment" (*Al-Qur'an*, 4:6). That means puberty or marriageable age is not enough to be qualified for marriage. If a son is capable to run a household life and he is able to maintain mentally, psychologically, and financially and everything of his wife, then early marriage is the only way to keep children away from *haram* (Hanbal, n.y.:210).

It should be mentioned that from an Islamic point of view, many problems in society today can be traced back to the abandonment of early marriage. Most people confuse early marriage with the marriage of a girl who is not capable (what some refer to underage marriage).

However, there is a difference between the two.

The reference in *Al-Qur'an*, 4:6, has stated *rushd* (intellect) as a vital condition for a girl to be married.

Eleventh, Women as Witnesses. The *Al-Qur'anic* verse regarding the testimony of two women being equal to that of one man is as follows:

And get two witnesses out of your own men and, if there are not two men, then a man and two women such as ye choose for witnesses, so that if one of them errs, the other can remind her (*Al-Qur'an*, 2:282).

Allamah Rashid Rida', the famous Egyptian scholar and disciple of *Mufti* Mubammad 'Abduh, in his commentary on the *Al-Qur'an*, quotes the following opinion of his teacher, on the question of the testimony of women:

And our teacher *Imam* (Mubammad 'Abduh) said that the real reason for this is that it is not the business of women to engage themselves in financial matters; therefore, her memory in such matters is weak, but this is not the case with regard to domestic affairs in which a woman has stronger memory than man. This is because it is the nature of mankind, both male and female, that their memory becomes strong in those matters in which they engage themselves (cited in Noibi, 2004).

According to Mubammad 'Abduh, when the *Al-Qur'an* declared that two female witnesses were equal to one male witness, the reason was that in those days, women generally did not deal with financial matters or matters not related to domestic life. Therefore, their memory in such matters was not strong but in domestic matters. Therefore, it may be inferred from Muhammad 'Abduh's statement that if the females in a society are advanced enough to engage themselves in matters other than those purely domestic and their memory becomes strong enough in such matters, their testimony can be as acceptable as that of men and, in such cases, their testimony can be treated as equal to that of men (cited in Noibi, 2004:23).

Commenting on this *Al-Qur'anic* verse, another well-known scholar from University

of Al-Azhar, *Shaykh* Mahamud Shaltut (1966), argues that as to the saying of God: "If there are not two men, then one man and two women", it does not belong to the context of the witness upon which a judge bases his decision. It is, on the other hand, situated in the context of advice for devising the means of certitude and satisfaction in regard to (the safeguard of) the rights of parsers in a deal. The *Al-Qur'an*, 2:282, says: "O ye who believe, when you contract a debt for a fixed time [...] the one may remind the other". Thus, the context here is the surety of rights *and* that of adjudication (Shaltut, 1966:211).

As regards the *Al-Hadith*, which we have quoted above and in which women have been declared to be defective in understanding, it is a matter, according to these scholars, which should be considered in the particular social context of the Arab society of the Prophet's time. It is true that women at that time were defective in understanding for they lacked experience of human affairs outside their home life (Abu Shuqqa, 1990:109-112).

But, if women become educated and gain experience of the general life of the community, if they take part in trade, commerce, industry, and public service; and thereby acquire sufficient wisdom, then, perhaps the words used in the *Al-Hadith* will not apply to them (Karwai, 2006:20).

CONCLUSION

This paper has examined the misinterpretation of some Islamic teachings and traditions, which are regarded as gender discrimination against women with a view to addressing the misconceived Islamic injunctions or practices. The paper revealed that the *hijab* helps to safeguard the modesty and decency of a person and safeguards the moral ideals of a society. Also, in the congregational prayer, it is enjoined on the Muslims to stay side by side maintaining closeness by standing foot to foot, shoulder to shoulder, demonstrating brotherhood and sameness in status. If men and women should

stand in this position, it is impossible for them to attain full concentration.

Islam prescribes waiting period for widow to ascertain whether the woman has a child for the deceased husband. The paper observed that it is the Muslims themselves, through the ill practice of their religion who aided misinterpretation because in most Muslim societies, people tend to confuse what is religious with what is cultural. It, however, concluded that the superiority of an individual in Islam is based on a rule which is devoid of the sex of the individual.

Women in Islam, therefore, have a unique status as they are granted numerous rights not provided by any other system (cf Karwai, 2006; and Khabir, 2008). As for Islam, gender equality is part of its jurisprudence and fundamental teachings.⁸

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⁸**Statement:** Herewith, I declare that this paper is my own work; it is not product of plagiarism and not yet also be reviewed as well as be published by other scholarly journals.

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