

Social System of Islam

7.1 Social System of Islam- Human Brotherhood & Equality I

7.1 Human Brotherhood and Equality I

Host: How does this series related to the previous (6) series that we have completed?

Jamal Badawi:

In the first five series the focus was mainly on matters of belief and worship in Islam. For example, these series dealt with the question of monotheism, prophethood, Muslim belief and the Pillars of Islam. In other words the focus was mainly on matters of belief and pure acts of worship. The sixth series Moral Teachings of Islam it looked into the moral code in Islam including prohibitions and moral virtues.

The connection of this series with the previous series and the ones to come will all go back to the basic definition that Islam is a way of life. Islam is not a “religion” in the commonly understood form of religion as a set of beliefs or devotional acts. The Arabic word is *dean* which means a complete and comprehensive way of life that guides human existence not only in matters of belief and worship but also in moral aspects, in social life, political life, economic life and all other aspects of life as a whole. Islam’s organization of society is only part of Islam’s comprehensive view of life as a whole.

Host: What are the kinds of topics that are relevant to the social system of Islam?

Jamal Badawi:

There are two basic topic groups that fit under the title Social System of Islam. In the first group of topics we hope to show the connection between the social system of Islam and its basic roots. We will look at its belief roots, moral foundation, conceptual foundation or in other words the basic principles that rule how the social system should be established and how it should run in accordance with the revelation and the word of God. Today we will cover human equality, brotherhood, justice, balance, social solidarity cooperation and the role of leadership which all pertain to an ideal

true Islamic society. The second group of topics has to do with the family. When one looks at society or community the arch type is the family. The corner stone of a family in Islam (and other faiths too) is the woman. We will cover the status of the woman in Islam from the human, spiritual, social, political and economic rights. We will also address how the Islamic view is similar or different compared to other beliefs or ways of thinking. Then we will address the issue of the family, which is very important in the structure of Islam. We will cover the rules of engagement, marriage procedures and laws, rules regulating marital life and relationship, rules for how Islam solves problems and what steps are followed for dissolution of marriage (rights and obligation of both parties and the question of custody). We will cover the mutual rights and obligations of parents, children, relatives neighbors and the human interaction within close and distant family members.

Host: Is there anything unique about the way Islam perceives human equality and brotherhood?

Jamal Badawi:

There are some similarities between Islam and other revealed faiths in terms of the common origin of mankind. For example many faiths believe in the origin of Adam and Eve as the parents of mankind. It is not just people who are religious or those who believe in the “revealed religions” that believe this common origin of man. Even evolutionists or people who do not believe in God at all agree on the point of common origin. The difference is that they say the origin of man is not Adam and Eve but apes. Creationists (those who believe that the human being was created) say that there might have been stages of evolution of lower levels of existence but that mankind was created differently and as a human (he may have gone through stages of development) and there is a separating line between humans and other lower levels of existence. In any case the commonality is the parenthood of Adam and Eve. However Islam is quite a distinct faith and is not just a copy of previous faiths or that it borrows information from other religions. After all the source of Islam is from God as it was revealed.

We find that there are some areas regarding the origin of mankind that are not quite consistent with Islam. In some of the ancient religions for example, a belief used to be held that people were created in different levels. For example they believed some people were created from god’s head, their function is to be religious teachers, some who were created from god’s arms, in charge of being guards or soldiers, some who were created from god’s legs or thighs, are supposed to be farmers, and finally they believe that there are those who are created from god’s feet and their function is to serve other levels of human beings. This belief has nothing to do with the belief in Islam but actually is contrary and inconsistent with the common brotherhood of mankind and that all humans are created equal in the sight of God.

There are also other faiths that uphold the belief in the basic story of Adam and Eve but which have fundamental differences. For example, we find in some scriptures that God is referred to as God of a particular racial group; in the Quran there is not a single example where it says that God is the Lord of Arabs, of Muslims, of east or west, of blacks or whites but rather it always says the Lord of the universe or the Lord of humankind. This depicts that God does not favor a specific group of people or race but that He is God of all humanity.

In scriptures prior to the Quran we find that men are referred to as the sons of God and women are referred to as the daughters of men. Why is there a distinction? Why should men be identified as sons of God and women are not? This may reflect ideas that did not originate from revelations but came from people's religious writings which are not quite as expressive of the will of God. The Quran talks about men and women as creatures of God and both as being children of Adam and Eve and that they are all servants of God.

The other basic difference is that other scriptures (before the Quran) mention the story of Adam and Eve as a historical chronology. In the Quran, however, the story of Adam and Eve is not just presented as history but as a something that is appealing to the mind and heart as it motivates the individual to carry through this concept of the common origin of mankind and to establish true human equality and brotherhood. This is why throughout the Quran when the story of Adam and Eve is mentioned the concept is reiterated as a practical implementation of a workable system of human equality and brotherhood.

Host: How does human equality and brotherhood related to matters of belief in Islam?

Jamal Badawi:

Many people do not tie in belief to human equality and brotherhood. I beg to differ with this separation of belief from everything. The corner stone of belief in Islam is monotheism (belief that there is one soul creator and sustainer of the entire universe. If this belief is not present other consequences would effect the concept of equality. If a person believes that there is more than one power in the universe; there can not be equality or unity of mankind because it is automatically negated with the presence of two different powers. If someone believes there is another being or creature of God who shares in His authority or omnipotence then again there is no equality because it creates different levels humanity. The belief of an existence or

creator between human beings and God as an intermediary would negate a deep foundation of human equality and brotherhood.

The opposite is also as true in monotheism, the belief in one true creator and sustainer of the universe and only creator of the whole universe, as it follows that all human beings are equal in the sense that they are all the creations of God. The foundation then is laid down for true brotherhood and equality. A Muslim not only believes in the oneness of God but also in the oneness of prophet hood and that they were chosen righteous people (Noah, Abraham, Moses, Jesus and Muhammad (PBUH)) in order to convey His message to mankind. A Muslim believes that all of the prophets carried the same essential message which taught knowledge of God, knowledge of self, knowledge of human nature and knowledge of creations' role and wisdom behind it. The prophets brought basic guidance for mankind in regards to political, economic and social. In that sense all prophets are viewed by Muslims as brothers. If the prophets were like links in the same chain of revelation throughout history it must follow that anyone who claims elegance to those prophets must also be brothers or else they are negating the very foundation of the relationship of the prophets.

Host: How does human equality and brotherhood relate to the moral code of Islam?

Jamal Badawi:

Generally speaking the moral code of Islam relates to human brotherhood or the structure of society in the same way that all that all other aspects of the human on earth are related in Islam as one organic whole. There is an organic connection between belief, worship, moral code, economic life, political life and social life. The human body with its bone structure, circulatory system, digestive system and nervous system which are not separate compartments but rather interconnected with one another. In the same way Islam doesn't view life as separate compartments (religion, state, from, sacred, mundane) but as one with its moral code being defused within all teachings, including this particular topic.

In our discussion of the moral teachings in Islam we discussed prohibitions in Islam. The things that are prohibited such as drinking, gambling, fornication and adultery are not simply individual morals but are actions that are linked to social morality. The harm of these acts do not only effect an individual but harms society as a whole.

In the last ten programs about Moral Teachings of Islam we discussed a variety of topics dealing with moral virtues which effect the social structure positively if present and negatively if they are not implemented. The social system of Islam has its own roots in beliefs and in moral teachings.

Host: How is the story of Adam and Eve depicted in the Quran? What is the difference between this version and others?

Jamal Badawi:

The basic story is found in in the Quran but the distinctive feature of it is that it is not just a chronological story that is mentioned but rather a theme that runs through the entire Quran. The Quran is quite distinct because it does not throw the blame of the first mistake of Adam and Eve on Eve alone. Some people believe that it was the snake who tempted Eve and Eve who tempted Adam and that she carries the responsibility of tempting Adam and in some beliefs she is the reason for the fall of mankind.

In the Quran says that Adam and Eve both carry equal blame for their mistake. This is linked to human brotherhood, because if we blame one section of humanity for the fall of man then we will never be able to achieve human brotherhood (includes males and females). The Quran also indicates that both Adam and Eve prayed in repentance and that God forgave them and thus there is no concept of original sin in Islam. In Islam the human is not on earth as a punishment but is here as a trustee of God who was created for the purpose of living on earth. When the Quran speaks of the mistake of Adam and Eve it says Adam disobeyed his Lord and was mislead then God chose him, forgave him and guided him. There are three blessings that the Quran mentions. One, that God chose Adam for a very important mission on earth despite his mistakes. Two, God forgave him and so there is no original sin. Three, God provided him with guidance in order for him to achieve happiness in his earthly life and the life hereafter. It is quite clear when the Quran refers to the origin of man that it approaches it from the angle that all human beings are equal in the site of God and that all human beings are brethren whether they are male or female regardless of any of the artificial boundaries (race, color, social status etc).

7.2 Social System of Islam- Human Brotherhood & Equality II

Summary of 7.1 "Human Brotherhood and Equality I"

The main point that was discussed last time is that the concept of human equality and brotherhood is a very profound principle in Islam. It emphasizes that all human beings come from the same common parenthood through Adam and Eve and that there is no levels of people within their own creation. Nobody is superior to another on the basis of birth. There is no single place in the Quran where God is referred to as being Lord to a single group of people or race and that it always addresses God as Lord of the universe and mankind. This sets up the basic equation for human equality and brotherhood.

The main theme of the first program dealt with the foundation of human equality and brotherhood. The three basics of this foundation are: belief, moral code of Islam and the basic principles of Islam. The main point that was emphasized in regards to belief is that belief is not separate from a social system. We have shown that belief in the oneness of God has a serious implication in terms of human equality and brotherhood. Once we believe there is one God, no one in between God and man it establishes basic human equality.

Secondly, we referred to the oneness of all the prophets and the oneness of their message. This means that all the prophets were brothers and if their followers are sincere to the faith they too must be brothers.

In the second moral foundation we indicated that all aspects of the moral code of Islam whether they are prohibited act or moral virtues are not only acts of individual piety but are tied to social behavior and social morality. In the end of the last program we began addressing the conceptual foundation of the principles for human brotherhood. We briefly mentioned the story of Adam and Eve as depicted in the Quran is different from previous traditions. The story is not mentioned as mere historical chronology of events but is a principle that is repeated and relates to actual behavior and implication in terms of human equality.

7.2 Human Brotherhood and Equality II

Host: What is the story of creation as indicated in the Quran?

Jamal Badawi:

There are several references in the Quran to the story of Adam and Eve. In ten verses in Chapter 2 of the Quran (2:28:39) “How can ye reject the faith in Allah- seeing that

ye were without life, and He gave you life; then will He cause you to die, and will again bring you to life; and again to Him will ye return.

It is He who hath created for you all things that are on earth; Moreover His design comprehended the heavens, for He gave order and perfection to the seven firmaments; and of all things He hath perfect knowledge.

Behold, thy Lord said to the angels: "I will create a vicegerent on earth." They said: "Wilt Thou place therein one who will make mischief therein and shed blood?- whilst we do celebrate Thy praises and glorify Thy holy (name)?" He said: "I know what ye know not."

And He taught Adam the nature of all things; then He placed them before the angels, and said: "Tell me the nature of these if ye are right."

They said: "Glory to Thee, of knowledge We have none, save what Thou Hast taught us: In truth it is Thou Who art perfect in knowledge and wisdom."

He said: "O Adam! Tell them their natures. "when he had told them, Allah said: "Did I not tell you that I know the secrets of heaven and earth, and I know what ye reveal and what ye conceal?"

And behold, We said to the angels: "Bow down to adam" and they bowed down. Not so Iblis (Satan): he refused and was haughty: He was of those who reject Faith.

We said: "Oh Adam! dwell thou and thy wife in the Garden; and eat of the bountiful things therein as (where and when) ye will; but approach not this tree, or ye run into harm and transgression."

Then did Satan make them slip from the (garden), and get them out of the state (of felicity) in which they had been. We said: "Get ye down, all (ye people). With enmity between yourselves. On earth will be your dwelling-place and your means of livelihood- for a time."

Then learnt Adam from his Lord words of inspiration, and his Lord Turned towards him; for He is Oft-Returning, Most Merciful.

We said: "Get ye down all from here; and if, as is sure, there comes to you Guidance from me, whosoever follows My guidance, on them shall be no fear nor shall they grieve.

"But those who reject Faith and belie Our Signs, they shall be companions of the Fire: they shall abide therein."

This is one of the stories in the Quran as the same story is mentioned in different places with different emphasis on different points. This particular quote gives a broader view of the story of creation.

Host: Can you analyze the above text and give us some understanding of its implications?

Jamal Badawi:

The story as we read did not start by talking about how God created Adam but rather it started by saying that God created everything on earth for mankind even before Adam was created. This has very important implications as to the trusteeship of mankind and the basic mission for which human beings were created. The fact that the creation of earth was completed before the creation of mankind (Adam) implies that the essence of human life is not sin but responsibility.

The second interesting point is that when God announced the news of the creation of a trustee on earth the angels wondered (not objecting) how God would create someone who would shed blood and have corruption. How could the angels have known that there would be blood shed and corruption on earth? An explanation could be that the fact that God told them that mankind would be His trustee on earth. Trusteeship in the mind of angels may have implied that there would be a struggle for their choice which could have implied the possibility of evil or error. The other explanation is that God told the angels that He is creating humans from clay. Clay, same basic elements that are found on earth which means that this species of creation may have from the Spirit of God within him he also has a physical material body which is a reflection of

his materialistic nature which includes greed and temptation. For example in the Quran in (38:71) “Behold, thy Lord said to the angels: “I am about to create man from clay.” The implications here is that all human beings are created from clay through Adam and Eve; and all human beings are born through the basic reproductive functions, which leaves no room for some humans to claim that they are superior to others.

Also God told the angels I know what you don't know. This could refer to the fact that the human species were blessed by God with certain knowledge. This knowledge could be that of the secrets of the universe and it could be the potential of the human being to receive God's message and the struggle to implement it. It could also be that this species is different from animals, material things and even angels because it has free choice. Why then would human beings claim that one is better than another if they are all created equally? The interesting point is, mentioned in this chapter (2) and in (17:70) in the Quran, that God ordered the angels to bow down to Adam. This means that anyone who claims to be human and is of the lineage of Adam and Eve who follows the right path will share the dignity shown by the angels to Adam. At the same time snobbishness and false claims of superiority (as Satan did when he disobeyed God) on the bases of sex, race, nationality or for any other reason are totally false and very dangerous. These were the main reasons Satan was thrown out of Paradise. It is clear from this that humans are not only equal on the basis of their creation and mission but they are equal in their basic nature and the temptations that they are subject to. They all also have great potential for goodness and improvement once they find the path of God.

Host: Other than the story of creation are there other parts of the Quran that enshrine the principle of equality and human brotherhood?

Jamal Badawi:

The style of the Quran varies depending on the audience it addresses. For example when the Quran addresses believers it says “Oh you who believe.” When it addresses broader human elements which are common among human beings it doesn't address them with “Oh believers” but with “Oh mankind.” Mankind refers to black, white, rich, poor, from the east or the west, believer in this or that faith or none believers making humanity the basic quality. In (2:21) “Oh ye people! Adore your Guardian-Lord, who created you and those who came before you, that ye may have the chance to learn righteousness.” This verse was mentioned prior to the story of creation which shows that aside from particular beliefs we should all remember that we were created by the same God. In (2:168) it talks about the right of all human beings to enjoy the legitimate bounties that God has created “O ye people! Eat of what is on earth, Lawful and good; and do not follow the footsteps of the evil one, for he is to you an avowed enemy.” Again it implies here that all human beings are equal. Another example which is really beautiful, in terms of male and female, in (4:1) “O mankind! reverence your Guardian-Lord, who created you from a single person,

created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women;- reverence Allah, through whom ye demand your mutual (rights), and (reverence) the wombs (That bore you): for Allah ever watches over you.” The point here is made and is not addressed to Muslims or believers but to mankind at large. Finally, equality is emphasized in the Quran that regardless of faith or a particular religious belief all mankind is going back to God to stand their trial and accountability.

Another example is found in (19:93-95) “Not one of the beings in the heavens and earth but must come to ((Allah)) Most Gracious as a servant. He does take an account of them (all), and hath numbered them (all) exactly. And everyone of them will come to Him singly on the Day of Judgment.” There are two interpretations: one, that every individual will come and stand their personal accountability or that all mankind will come before God for their accountability as one.

Host: Within the frame work of basic human equality is there any room for distinctions among human beings?

Jamal Badawi:

There are distinctions between humans but not in the basic human qualities. The absolute equality in the spiritual and human is that there is no superior human simply because of birth, race, nationality, etc. This doesn't mean that good and bad are equal. There are definitely objective and fair ways of making distinctions between people but in order to avoid mistaken judgments of the goodness of people the Quran in (49:13) “O mankind! We created you from a single (pair) of male and female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things).” This was revealed 1400 years ago and yet today we do not see such declaration (by United Nations or otherwise) that comes even close to its beauty or precision, beauty and comprehensiveness. Like the other verses it addresses mankind at large, regardless of belief or any other distinction that people might think of. This shows that there is only one basis of distinction between human beings that is expected by God and that is piety and goodness or taqwa. Taqwa enshrines everything that is good whether it is related to correct belief, moral qualities of a human or how beneficial one human is to another.

In this particular verse it talks about God creating nations and tribes so that they can get to know each other. In some traditions that preceded Islam some people believed that the source in a difference in human languages comes from the story of the tower of Babel (that God saw that people were building the tower and were becoming too

strong so He changed languages). In the Quran it says in (30:22) “And among His Signs is the creation of the heavens and the earth, and the variations in your languages and your colors: verily in that are Signs for those who know.” Variation in languages was a blessing rather than a result of rivalry between the power of man and the power of God. The variations in languages and colors is like a mosaic of life which makes it more interesting, more challenging and provides people with the chance to get to know each other. Every language is beautiful, every color is beautiful and every race is beautiful as these are variations instead of distinctions in terms of superiority.

7.3 Social System of Islam- Human Brotherhood & Equality III

Summary of 7.2 "Human Brotherhood and Equality II"

In the second program we continued the discussion about the common origin of mankind. We quoted a passage in the Quran with the story of creation and we analyzed the story with its emphasis on the trusteeship of mankind on earth, the dignified position of the human race and the origin of creation (Adam was created from clay and subsequent generations came from fertilized ovum) is the same which leaves no room for distinctions.

We emphasized that the Quran addresses in many verses mankind at large. It uses the term *alnas* in Arabic which means “mankind” without addressing Muslims or believers because there is a unity of origin, unity of the purpose of creation and unity of the ultimate destiny that is shared by all mankind.

We also indicated that the Quran does not recognize the superiority of any individual or a group of people over another by any criteria that people may use. There is a divine criteria and that is a person’s *taqwa* which is a person’s God consciousness, good deeds, moral character and beneficence to the rest of mankind.

In one of the commentaries about the Quran by Al Alusi he said there are some creatures who were created for earth, others that were created for heavens and others which were created for both. And he said that animals were created for earth, angels for the heavens and human beings were created for both the earth and the heavens. A human being is like animals in their basic carnal desires and is like angels in terms of intellect and worship of God. If the human was created without the intellect he would

not have been capable of truly worshipping God and if humans did not have carnal desires life would not have started on earth.

7.3 Human Brotherhood and Equality III

Host: What was the attitude of Prophet Muhammad (PBUH) regarding the issue of human equality?

Jamal Badawi

Prophet Muhammad (PBUH) came in the seventh century (Christian era) in a time when the world was dominated by religious establishments (not referring to one faith or the other). At this time many of the clergy claimed authority which was almost divine authority. They presumed themselves to be spokesmen for God. The Islamic attitude is that while jurists and scholars are deserving of respect and have the right like everyone else to interpret the scriptures they can not equate their own interpretation with the word of God. They can not claim that they are speaking for God outside of the specific divine revelation that was revealed to them.

In Islam the Prophet took away the concept of Church (a group of religious specialists who alone have the right to interpret the scriptures) or religious domination of a group of people. Another thing he emphasized is that this kind of equality should not apply to people in religious positions only but it applies to Prophets themselves. He himself as the last Prophet of God forbade people to over adore him. In Bukhari for example he warned people not to over adore the Prophet because over adoration could lead to deification. He warned people against falling into this trap and he said that when he is mentioned that one say “The servant of God and his messenger.” The other thing he taught people was that the basic equality of the human race meant that a human should never kneel before any other human being. The only one to kneel to is the Lord of all human beings regardless of their status.

In Abu Dawood and Al Tirmithi he said “Whoever of you feels so happy and proud that people are standing up in respect for him; let him take his seat in hell.” In his personal character, whenever he came to a place where people were sitting he did not push people around or going to sit in the forefront but rather he sat where ever there was space available. He also tried to demolish all false façades of aristocracy based on wealth, race, color or nobility of decent. In one narration in Al Tabari he says God does not look into the nobility of your decent, nor does He look into your lineage, nor does he look at your bodies, nor does he look into your property but he looks into your heart; whoever has a pious heart God will have compassion on him; you are all

the children of Adam and the most beloved of you in the sight of God is the most pious.”

In another narration by Abu Dawood and Al Timothy “Let him stop those people who are boasting about their parents who died; maybe those parents are the fuel of hell fire. God has relieved you of the shame of the days of ignorance the boasting of parents. People are of two types: a pious believer or miserable deviant. You all belong to Adam and Adam is created from clay!”

In the Farewell Pilgrimage, Prophet Muhammad shortly before his death tried to emphasize this point again. In one saying he says “Oh mankind, your God is one, your father is one, there is no superiority of an Arab over a none-Arab nor of a red (white) over a black except in taqwa.” This is a very important declaration of human rights and equality of all races under the same God and descending from the same parents. These teachings were not just words but were translated into the life and behavior of Prophet Muhammad (PBUH).

One indication of this is that among his closest companions (first to embrace Islam) there were all kinds of people. Some of them were noble Arabs who were rich like Abu Bakr and a lot who were poor like Abd Allah Ibn Um Maktumah; a very famous companion of the prophet who was not only very poor but also blind. In addition Suhibe, a Roman, Salman, who was Persian, and Billal, the Muathin (made the call to prayer) for the Prophet was from Ethiopia. This gives a cross representation of the variety of races and social economic status of people all regarded equally as one brotherhood around the Prophet (PBUH).

In the early stages of the Prophet’s mission we find that the rich and powerful among the Qurishite Arabs used say they would follow him but then they would ask why he kept the company of “Those poor and downtrodden people of lower social classes.” He refused this and once he said “Oh God, let me live as a poor person, die as a poor person and resurrect me on the Day of Judgment in the company of those who are poor.” He was only echoing what the Quran emphasizes that one should not be lowered as found in (18:28) “Let not thine eyes pass beyond them, seeking the pomp and glitter of this Life” and that one should keep company and persevere in the company of those who are sincere and who seek to please God.

Host: Are none-Muslims to receive equal treatment as Muslims?

Jamal Badawi

Yes, with evidence that is implied and implicit. It is implied in the point that we raised in the second program in the series that the Quran doesn't only address Muslims or believers but all of mankind. This implies clearly that in a matter of basic human compassion and kind treatment the it is not addressed to Muslims but to mankind. There are lots of implied evidence found in the Quran, Prophetic tradition as well as in the behavior of early Muslims who were true to the faith and really implemented the teachings of Islam. In the Quran in (4:92) it talks about involuntary man slaughter, and it says that if the person who was involuntarily killed was a believer the penalty who did the act is to free a slave and to give consolation money to the family of the deceased. Then in the same verse it says that if the person who was killed was not a believer/Muslim but belong to people who have a peaceful relationships with Muslims then the penalty is to free a slave and to pay consolation money to the family. This means the penalty is exactly the same regardless of the identity of the person who was involuntarily killed. This stands in contrast to many of the mistaken notions that people may have about Islam because of distorted literature.

I flew from Montreal to Halifax last week and sitting by me was an airline captain, who was on vacation, and we were chatting and he said "I have one problem with Islam." I asked what it was and he replied "I was lead to believe that Muslims believe that if they kill someone who is not a Muslim that it is ok." I said "Brother you have not been lead to understand but have been mislead to understand" and I started to explain to him the fact of the matter.

An example that brightly expresses this is found in one of the Prophetic traditions, when he said "Whoever hurts a none Muslim who is living under Muslim protection (have peaceful coexistence with Muslims) also hurt me." This means that the Prophet put the sanctity, human right and justice to a none Muslim at the level of himself.

Omar, the second Caliph after the Prophet (PBUH), who was walking in Medina and found a blind old Jew begging. He took him to his home, gave him provisions, and then he over the person in charge of the Muslim treasury and he told him to "Look after this person and people like him; we would not be fair to them if they pay taxes in their youth then we neglect them when they are in need." He then ordered that he be given a regular salary from the Muslim treasury.

In another occasion when he was traveling in Syria and he came across some Lepers, they were probably Christians as there were not too many Muslims in that area, and he immediately ordered that regular support would be paid to them. In another incident Khalid, one of the early heroes of Islam, made a treaty with the people of one territory that if any person becomes old (regardless of faith), faced disaster in their life

or were rich and became poor that the taxes would be alleviated and that he and his children would be supported from the Muslim treasury. There are many similar examples that can be found in Islamic history.

This is why I was really surprised to read in a recent book by Wilfred Cantwell Smith a famous writer on world religions. He wrote in a book “Towards a World Theology” that Muslims should really rethink Islamic law so that they realize that God doesn’t only want us to regulate relationships between ourselves and God or just within the community of believers (Ummah) but it should take into account the relationship between Muslims and non-Muslims. This surprised me a great deal because a professor like Smith should know better, because in Islamic law there is a whole body of literature dealing with the organization and regulation of relationships between Muslims and non-Muslims. Insinuating that Islamic law does not take this into consideration is a grave mistake that needs to be corrected. There are volumes upon volumes in Islamic law that deal with the relationship of Muslims with non-Muslims and that deal with treaties between them and all other aspects of international relations.

Host: The Quran also addresses Muslims in particular, can you explain this as some Muslims may think that this somehow undermines the concept of brotherhood?

Jamal Badawi

There is no conflict between both. When the Quran addresses the believers to perform certain religious duties pertaining to their faith there is no sense in it addressing all of mankind. Of course the Quran does say “Oh mankind worship your Lord” in the general sense but when it comes to the five daily prayers there is no sense in addressing somebody who doesn’t believe in it. Another example would be if the Quran addresses Muslims to fast, it would not make sense to direct this to all mankind. In terms of specific religious duties there is no need for the Quran to address all of mankind.

When the Quran talks about brotherhood in faith it does not substitute it for broader human brotherhood. This type of brotherhood is within the boundaries of larger human brotherhood. When we talk about the brotherhood of believers, it is not a chauvinistic or exclusive type of brotherhood. An example of how Islam corrected previous notions of this is found in (3:75) in the Quran where it condemned the attitude of people before Islam who believed that it was God’s revelation to not take usury from co-religions but that it was ok to take it from others. This again indicates that moral behavior is not contingent on whether the person you are dealing with is Muslim or non-Muslim.

Brotherhood of faith in an Islamic context we are addressing something that is consistent with human brotherhood and supportive of human brotherhood. This doesn't negate the enhancement of human brotherhood when people share the same faith. The belief in one God, in a final message, in the final Prophet, in the final Scripture and in a set of principles that are enshrined in the Scripture can help. The Quran teaches Muslims tolerance and in one verse it says that if God willed it He could have made all of mankind of one group. As we mentioned in the last part of the previous program humankind is like a mosaic, as God willed it, and one has to learn to live within this mosaic.

Host: Sometimes people make distinctions between people who are converts or people who are born into a particular faith, what is the position of Islam regarding this subject?

Jamal Badawi

First, I would like to comment on the term convert, because a person who accepts Islam is not a convert. The word conversion might give the sense of changing the nature of things but the Quran describes it in (30:30) "So set thou thy face steadily and truly to the Faith: (establish) Allah's handiwork according to the pattern on which He has made mankind: no change (let there be) in the work (wrought) by Allah that is the standard Religion: but most among mankind understand not." Islam means to submit to the will of God and follow His path, the mission of all prophets throughout history has been to follow this path. Every child's yearning towards his creator; knowledge of God and spirituality is breathed into them. On this basis when a person becomes a Muslim, he is not converting to Islam but is simply embracing Islam and being embraced by Islam. A person is returning to their nature and perhaps a better term would be a revert than a convert.

In Islam there should be absolutely no distinction between people because of how they embraced their faith, whether by being born into it or through one parent or because they are reverts. When a person becomes a Muslim in Islam they don't have to go to a priest (there is no priesthood in Islam) as one doesn't need someone else to give them this status because it is something between that person and God. This is a reflection of human equality; why should a person have the right to tell someone that they are accepted or excommunicated from the faith. Faith is between the person and his Creator. No body can make one believe or stop them from belonging to a faith.

The final example is found in (9:11) it talks about people who might have at one point fought Muslims as ardent enemies "But (even so), if they repent, establish regular

prayers, and practice regular charity,- they are brethren in Faith: (thus) do We explain the Signs in detail, for those who understand.”

7.4 Social System of Islam- Brotherhood of Faith

Summary of 7.3 "Human Brotherhood and Equality III"

In the last program we continued the subject of human equality and brotherhood and we sighted some of the deeds and sayings of Prophet Muhammad (PBUH) in order to make clear the principles that were announced in the Quran. We indicated that the only criterion for superiority between human beings is piety (faith and righteous deeds) and that God does not look into people's bodies, wealth or nobility of decent. God only looks into people's hearts. We are all children of Adam who was created from clay (dust). We pointed out that human brotherhood is not only extended among believers but both the Quran and sayings of the Prophet indicate that it is to be extended to none Muslims (not fighting Muslims/ at peace) as well. We referred to a saying of the Prophet that said that whoever hurts a none Muslim living under Muslim protection is hurting the Prophet.

Within this brotherhood there is nothing wrong with having brotherhood of faith. This is not a substitution for the broader human equality but falls within its boundaries. Then we went on to analyze brotherhood of faith; we indicated that in Islam there is no distinction between someone who is born to Muslim parents/parent or a person who is a revert. It is not a matter of a person claiming decent but rather what a person really is.

7.4 Brotherhood of Faith

Host: Is there superiority for those who are able to communicate (speak, write and read) the Arabic language (of the Quran)? Also, is there distinctions between Muslims if they reside by Muslim holy places (I.E. Mecca and Medina)?

Jamal Badawi:

First of all, it is definitely a blessing for any person to know or learn how to communicate in Arabic. It would definitely help a person understand the Quran and

avoid some of the problems that arise from translations of the Quran. It is also an act of worship to recite the Quran in its original language. This, however, does not mean that a person who does not speak Arabic is not more righteous than someone who does speak Arabic. Indeed, there is no language in itself that is regarded as a holy language, even if it is the language of the scripture. The Quran itself is holy because it is the word of God. The words of the Quran in the exact Arabic wording is holy. In every language including Arabic have profanities so we can not say that a language is holy, but the revelation of God in itself is holy. The Prophet (PBUH) defined language from a linguistic aspect “Arabic is a tongue, whoever speaks it is an Arab.” In other words he is saying that the ethnic aspect is not significant and that we can go beyond ethnic bonds. However knowledge in the language itself doesn’t make someone more superior than another.

Residing near holy places is a blessing and can be inspirational but it doesn’t mean that one has inherent superiority regardless of one’s own behavior, understanding and practice of Islam. There are many infractions done by people living in Medina and Mecca. There is no particular privilege by virtue of language or where someone lives, but by faith, sincerity and good deeds. This whole variation is based on the concept of nationalism and parochial type of things but in Islam all Muslims are regarded as an Ummah (not a nation)!

Host: What does the word Ummah mean and how does it differ from the word nation?

Jamal Badawi:

I avoided using the term nation because this term usually refers to a group of people who share a particular language, reside within a particular geographic area, a group of people who share a group of history or a group of people who share a common interest. When we talk about brotherhood of faith it is not regarded in itself as a distinction between people. The term Ummah which is found in the Quran itself means a community of believers who have a fellowship in faith. When we say community we are not talking about community or group of people who are interacting face to face or living close to each other. Ummah is a community of believers who transcend the boundaries of place and time. It transcends the boundary of place because Islam does not believe in this narrow nationalism. Nationalism is perceived as a narrow parochial attitude typically expressed with the motto “My country; right or wrong.” This is not accepted in Islam. It appears that one of the major reasons of the suffering the world in the past and today are these fanatic nationalisms. The suffering that was inflicted on humanity in the World Wars, if traced back can be found to be related partially to nationalism.

The Prophet Muhammad (PBUH) said something very eloquent and concise about this attitude of nationalism. He said “He is not of us, he who proclaims, asabiah,

fanaticism (parochialism/partisanship) ,who fights for fanaticism and who dies for fanaticism.” Then the companions asked him what do you mean by asabiah and he replied “Helping with acts of oppression or acts injustice.” This gives a clear indication that one of the major problems facing the world today is to support one’s own people even though they are committing acts of oppression. Oppression can be in the form of aggression or by supporting tyranny of the majority. So both internal and external problems may lie in in the feeling of partisanship which is not really for reasons of faith but simply for superficial foundations.

Host: We just discussed how faith supersedes space can you cover how it supersedes time limits?

Jamal Badawi:

Superseding time means that faith is not time bound. This goes back to the term that Quran uses that believers are one brotherhood; brotherhood doesn’t only apply in all place and cross all those barriers but it is a brotherhood or fellowship in faith that extends throughout history. A believer does not only feel a part of a given community of believers but is a part of a whole caravan of believers throughout history. This is clarified best by referring to the terms used in the Quran. An example is found in (49:10) “The Believers are but a single Brotherhood: So make peace and reconciliation between your two (contending) brothers; and fear Allah, that ye may receive Mercy.” Time is not specified in this verse as all believers throughout history are a part of this brotherhood. This indicates that it is not part of history in the sense of being part of a given community of believers after the birth or coming of a great prophet or a great religious teacher, but throughout history from Adam to the last Prophet, Muhammad (PBUH). All of these people who sincerely followed their prophet and the true path of God are all brothers and part of this community. Islam does not accept the narrow exclusivist type of approach that those who follow this or that prophet are on the true path. All prophets followed the true path but people after them are the ones who might have changed or tampered with their teachings. A clear example from the Quran is found in (59:10) “And those who came after them (the previous believers) say: “Our Lord! Forgive us, and our brethren who came before us into the Faith, and leave not, in our hearts, rancor (or sense of injury) against those who have believed. Our Lord! Thou art indeed Full of Kindness, Most Merciful.” This shows that it is not only about being a part of the existing believers but belong to all believers throughout history.

In two other citations in the Quran (23:51-52) and in (21:92) the messengers and their followers are told that “Verily, this brotherhood of yours is a single brotherhood, and I am your Lord and Cherisher: therefore serve me (and no other).” The verse in chapter 21 comes after the mention of at least 15 prophets including Abraham, Isaac, Jacob, Lot, Zachariah, John the Baptist, Jesus, Noah, Ezekiel, Jonah, Ishmael, Job, Idris, David, Zul kifl and Solomon. After the Quran mentioned all of these prophets

who came in different place at a different time it still says “Verily, this brotherhood of yours is a single brotherhood.” This shows that the matter of salvation is not restricted to people who followed a specific person or believed in a particular prophet but that it is the grace of God that has been granted to all prophets and all of their sincere followers.

Host: How does blood relationships relate to the question of brotherhood of faith? Is there one that takes precedence over the other?

Jamal Badawi:

Brotherhood of faith takes precedence over all barriers (including blood relations). Brotherhood in faith’s foundation is the believe and love of God. Basically it is a relationship in God and for God. The Quran warns us against letting blood relationships supersede relationships of faith. For example in the Quran in (9:24) it makes it clear that one should not put family or fortune above the love of Allah “If it be that your fathers, your sons, your mates, or your kindred; the wealth that ye have gained; the commerce in which ye fear a decline: or the dwellings in which ye delight- are dearer to you than Allah, or His Messenger, or the striving in His cause;- then wait until Allah brings about His decision: and Allah guides not the rebellious.” One may have good relationships with relatives but the brotherhood of faith is relatively more significant and important. This does not mean that relatives have no claim on each other (we discussed in *The Moral Teachings of Islam* the rights of relatives) but one should not put disbeliever from among his relatives above his relationship with a believer in God.

The Quran gives us a clear indication of how we can balance conservation of faith and kindness to relatives (31:14-15) “And We have enjoined on man (to be good) to his parents: in travail upon travail did his mother bear him, and in years twain was his weaning: (hear the command), “Show gratitude to Me and to they parents: to Me is (thy final) Goal. “But if they strive to make thee join in worship with Me things of which thou hast no knowledge, obey them not; yet bear them company in this life with justice (and consideration), and follow the way of those who turn to me (in love): in the end the return of you all is to Me, and I will tell you the truth (and meaning) of all that ye did.”

In the Quran we find several examples family members where one is a believer and one is not and the believer can not help in the salvation or deliverance of his close relative. The Grace of God is a very important element for a person’s salvation but this is not a substitute for individual responsibility, true faith and practice. There are four examples found in the Quran of a father who is a believer and a son who is a non-believer, a son who is a believer and a father who is a non-believer, a husband who is a believer and a wife who is a non-believer and a case of a wife who is a believer and husband who is a non-believer.

When the Quran tells the story of Prophet Noah it clearly says in (11:43) after Noah build the ark “O my son! Embark with us, and be not with the unbelievers!” and his son refused. His son went up on the mountains in order to avoid being drowned, but “the son was among those overwhelmed in the Flood.” After his son drowned with the disbelievers, Noah as a father felt a great deal of sympathy towards his son and then God told him (11:46) “O Noah! He is not of thy family: For his conduct is unrighteous”

The second example is of a believing son and a disbelieving father which is the case with Prophet Abraham. His father, Azar, was an idol worshiper and Abraham out of love for his father tried to invite him to the path of truth. The Quran discusses the dialogue between father and son in depth as Abraham tried to invite him to faith. Once Abraham realized that his father was an enemy of God he disassociated himself from him. The Quran says in (9:115) “But when it became clear to him that he was an enemy to Allah, he dissociated himself from him: for Abraham was most tender-hearted, forbearing.”

The third example is of a believing husband and disbelieving wife. The Quran gives examples in chapter 66 of two cases: the wife of Noah and the wife of Lut. Both these women did not join their husbands on the true path and on the Day of Judgment they will be told to “Enter ye the Fire along with (others) that enter!” (66:10)

The opposite is also true of a believing wife and disbelieving husband. An example of this is found in the Quran about a Pharaoh whose wife, Asia, became a believer. Her husband was furious and tried to force her away from the path of truth. The Quran describes the beautiful prayer that she used to say as found in the Quran in (66:11) “And Allah set forth, as an example to those who believe the wife of the Pharaoh: Behold she said: “O my Lord! Build for me, in nearness to Thee, a mansion in the Garden, and save me from Pharaoh and his doings, and save me from those that do wrong.”

An interesting saying of the Prophet (PBUH) describing some of the women who achieved perfection: One was Asia (some say she was killed as a result of her belief), the second was Khadijah (wife of the Prophet), third was Fatimah (daughter of the Prophet) and the fourth was Mary mother of Prophet Jesus (PBUH). These are a variety of examples that showed that faith came first.

7.5 Social System of Islam- Social Relations & Choice of Friends

Summary of 7.4 "Brotherhood of Faith"

The main thrust of the topic which was a continuation of the broader are of human equality and brotherhood was the concept of Ummah. Ummah means a community of believers (Islam does not except the term nation because it is very limited by geography, time, history or language) who are part of one brotherhood of faith. We said that brotherhood of faith extends across different places and also extends throughout history. A believer belongs to all believers regardless of where they are or were located and belongs to all believers regardless of when they were alive. This manifests the unity of all prophets and the unity of all believers throughout history quite clear.

We also indicated that brotherhood of faith takes precedence over all other consideration whether the are linguistic, ethnic or otherwise. Brotherhood of faith also takes precedence over blood relationships unless the blood relationship is also part of the faith in which case blood relationship becomes more desirable. One should not sacrifice faith for the sake of blood relationships. We covered certain examples from the Quran of people who have very close familial ties (husband, wife, son etc.) which become distant when one of them is a disbeliever.

7.5 Social Relations and Choice of Friends

Host: What is the role or significance of friendship in a truly Islamic society?

Jamal Badawi:

Friendship has a very important part, not only from an Islamic point of view but from a sociological point of view of friendship's role in molding the mind, thoughts and attitude of a person. To an extent friendship shapes a person's soul (spirituality and beliefs). Spirituality is greatly influenced by what kind of people a person associates with. If this is the impact on individuals then the delicate selection of friends has to do with the overall progress or lack of progress of society. From a Muslim point of view, if a friendship is based on the love of God and commitment to faith then it is blessed by God, if it is based on trivial benefits then it is not likely to last. More specifically, Prophet Muhammad (PBUH) as narrated in Abu Dawood "A person

follows the deeni, way of life, thinking and approach, as his close friend so be careful as to who you take as a close friend.”

The Quran also warns against making friends who will push one away from the true path rather than helping him become a better believer. In (25:27-29) in the Quran it says “The Day that the wrong-doer will bite at his hands, he will say, “Oh! Would that I had taken a (straight) path with the Messenger. Ah! Woe is me! Would that I had never taken such a one for a friend! He did lead me astray from the Message (of Allah, after it had come to me! Ah! The evil One is but a traitor to man!).” There is a verse in the Quran that says people who were so close to each other, on the Day of Judgment would become enemies of each other as it comes down to the real crunch of receiving the Grace of God and salvation or being punished.

Host: How does group spirit fit within Islamic teachings?

Jamal Badawi:

Islam encourages people to interact within the boundaries of Islamic teachings for a good purpose. Islam is not an individualistic type of faith (just between a person and God) that is detached from the surroundings. On the contrary, one of the main things that Prophet Muhammad warned against is monasticism. People who live in monasteries might be holy people as they are self-sacrificing and living in hard conditions just worshipping God and studying scripture. It actually sounds very nice and spiritually uplifting but even then it is not regarded as the ideal at all as the Prophet said there is no monasticism in Islam because it is an attempt to seek individual salvation away from society rather than through struggling with society. Islam is a faith which is based on collective action, on getting to know each other and working together for the common good. The case of a person getting hurt in the process of social reform or while helping the community is not an excuse to stay away from society.

Some people asked the Prophet (PBUH) about the different degrees of belief and the Prophet was narrated as saying, in Al Tirmithi, that the believer who mixes with people and tries to do something useful while being patient and perseveres in the face of attacks or personal hurt is better than one who does not mix with people and has no patients. When we look at the teachings of Islam we find that many rituals are designed to inculcate the community spirit and is not a totally individualistic spirituality. For example, every male Muslim (optional for females) has to attend the Friday group prayer. By design this is meant to get the largest number of people together in order to develop a community spirit in a righteous way. Other acts such as prayers at festivities are also meant and can never be implemented without this communal type of spirit.

As narrated in Ahmad the Prophet (PBUH) indicated that even when people pray (regular prayers not just the Friday Congregational prayer) it is always better to pray in a group. He says that if two people pray together it is better than each of them praying separately, if four people pray together it is better than each two praying separately, if eight pray together it is better than four and four praying so the more one has in a good righteous type of function it would be better.

To summaries it in one of the sayings of the Prophet he says that a true believer is easy going, gentle and friendly.

Host: Are there situations where a Muslim may not be encouraged to mix with other people?

Jamal Badawi:

There are cases and there specifications where people should not mix with others. First of all, as a believer one has no obligation to keep the company of those who take their faith as a joke or belittle it. There is a specific verse in the Quran that says don't associate with those who take their faith as a joke. Friendship is not given at any price, there should be good reason for it.

The other case is if there is lots of commotion or evil in a given society where it might be better to compare the pros and cons of mixing with it verses not mixing with it. If one finds that mixing with that particular group there is more evil taking place it might be better to keep away. However, this does not mean that one should not try to correct the evil so long as one has some power to do so. If all means fail and one is sure that those people are not trying to be on the right path it might be better to stay away. But however this must be limited to cases where to one's best judgment there is very little hope. The reason I am saying that this must be limited is because of a hadith in both Bukhari and Muslim when Prophet (PBUH) was asked what type of people are the best and he replied "A person who strive in the path of God with his life and his property." Then they asked who was next and he said "A person who is secluded in the worship of Allah." This does not contradict the discouragement of monasticism but it shows that in some circumstances it might be desirable to stay alone if you can not correct the existing situation. Practically speaking there is seldom the occasion where there is a need to be secluded in any society no matter how much evil there is. It is always possible to find a few people who uphold faith in God and to find people who uphold faith in God and believe in the laws of God and His moral standards and by joining with them one can have a smaller community and fellowship of faith.

Host: What is a sound basis for friendship in Islam?

Jamal Badawi:

Brotherhood of faith must be in God and for God. This fellowship stems from the love of God, the shared belief in God and pursuit of the true path and the fellowship is intended to cement the proper attitude towards faith. These are basic points that allow for a lasting and acceptable friendship in Islam. This implies that friendship should not be based on benefit, or because they belong to a particular club, social class, ethnic group or for sheer materialistic benefits. These points alone are not excepted as sound basis for friendship. Indeed there are beautiful citations that we find in the Quran and in the sayings of Prophet Muhammad (PBUH) about the foundation of friendship. In a Hadith Qudsi God revealed to the Prophet "Those who love each other in my Glory will be under the shadow of my protection on The Day of Judgment where there is no protection but Mine." In a similar saying narrated in Abu Dawood the Prophet indicated that a number of people would be envied (not in a negative sense) their position on the Day of Judgment who are neither prophets nor martyrs: these people are those who loved each other for the sake of Allah and then he recited from the Quran (10:62) "Behold! Verily on the friends of Allah there is no fear, nor shall they grieve." Prophet Muhammad (PBUH) indicated clearly that one of the signs of true faith is when one loves a brother or sister of faith only for the sake of God. He also says that there are three things that if are found in a person would be a sign of faith and one of them is that a person loves the other for no benefit but for the sake of God.

Host: What measures can nourish friendship?

Jamal Badawi:

First of all, one should avoid corruption, hypocrisy and egotistic attitudes because these are the things that might change the hearts and destroy the existing friendship. In one of the very interesting sayings of the Prophet he says "In the name of He in Whose hands is my soul: if two people loved each other and then separated, the separation must be because of a sin done by one of them." In other words if both friends keep on the path of God their friendship will remain but if there is deviation by one or both of them this would be the beginning of the crumbling of their friendship.

The Prophet (PBUH) recommended that as a social courtesy that people should try to get to know each other. Fore example in Al Tirmithi he said "If a person takes another as a brother, close friend, he should ask him about his name, his fathers name and where he comes from because this provides for more closeness and

friendship.” Sometimes people think that social courtesy is a recent development but this is something that the prophet said was important 1400 years ago. The other thing that he recommended as is found in Ahmad is that if a person feels that he really loves someone for the sake of God that he should tell him. Another recommendation that the Prophet made is that one should visit with his close friends. In one of his sayings narrated in Muslim he says if a brother goes to visit his brother for no reason but for the sake of Allah, there will be an angle calling to him that he has good tidings of good place in paradise. Also, God would say “My servant visited another servant of Mine only for My sake and there is no reward for him less than Paradise.”

Another recommendation of the Prophet is the exchange of gifts. In one of his sayings in Al Tirmithi he says “tahadow” which means exchange gifts among each other. This was recommended because it would remove any ill feeling from the hearts. There is also a reference in the Quran that one should try to reciprocate kindness with kindness. For example if a person greets another with AsalamuAlikum (Peace unto you) one should respond in a better way WaalikumAlslalam WarahmatuAllah (Peace and Mercy unto you). The Prophet also recommended that if a person is invited for food unless there is a very good excuse one should not refuse and humbly go to it and eat and thank them for the invitation. In Abu Dawood we find that it is greatly recommended to eat with other believers.

One of the most noble things that keep friendships going is the feeling of unselfishness. A higher degree of nobility is giving preference to one’s brother over ones own needs. The Quran describes some of the early Muslims who would need something but would sacrifice it in order to help another who is in need. One of the very famous sayings of Prophet Muhammad (PBUH) is “None of you would be a true believer until he loves for his brother or sister what he loves for himself.” This becomes an obligation when one’s brother is in need or suffering. In this context the Prophet says that “God will look after you needs so long as you look after your brother’s need.”

Host: What are acts that should be avoided in order to protect friendship?

Jamal Badawi:

One is not to belittle or mock of one’s brother (this applies to other people as well). We find lots of recommendations in chapter 49 of the Quran. Secondly, one should avoid taunting others with the deliberate attempt to hurt their feelings. Do not call people names that they don’t like, in fact the Prophet says that one should call a person with the name that he loves best. Fourth one should avoid back biting which the Quran compares to eating the flesh of one’s dead brother. Spying should be avoided. One should be humble and avoid snobbishness as the Quran and the sayings

of the Prophet indicate. One should avoid attributing evil motives to what another is doing and give the benefit of the doubt. Abide by the prohibitions of drinking, gambling, monopoly and cheating which are all acts that threaten brotherhood and create hard feelings between individuals or groups of people. The Prophet was so sensitive that he said if three people are sitting together it is not proper for two of them to have a discrete conversation while making the third person feel left out. Finally, one should always try to make peace between people who are in a dispute and try to protect this brotherhood from these casual yet inevitable problems.

7.6 Social System of Islam- Social Responsibility I

Summary of 7.5 "Social Relations and Choice of Friends"

The topic last week was an extension of our topic on brotherhood with a focus on selection of friends. We indicated that selection of friends is part of Islamic teachings because it has a far reaching impact on the character and way of thinking of an individual. We indicated that Islam encourages righteous social interactions and that the Prophet (PBUH) described the believer as a person who is gentle, friendly and easily gets along with other people. The exception to this rule is in areas or situations where there is lots of corruption and it may be hard for the person to be in the midst of this corruption in which case keeping away is better.

Finally, we said that in order for this friendship to be strong and grow it must be based on sincerity and belief in God and the love of God. We also mentioned the saying of the Prophet (PBUH) that loving one's brother for the sake of God is one of the signs of faith and that those people who love each other for the sake of God will have light on their faces on the Day of Judgment and that they would be under the protection and Grace of God.

In order to protect friendship one should do and avoid certain things. We discussed some of the Prophetic teachings that say that people should visit each other and help each other and so on. Some of the things to be avoided to prevent any harm to friendship is mockery, usage of improper names or titles, spying, being snobbish and other similar types of acts.

7.6 Social Responsibility I

Host: How can you relate social responsibility to religion, as many believe that religion is mainly for regulating their relationship with God?

Jamal Badawi:

Islam does care about regulating a person's relationship with God; without regulation a person would feel lost as there would be no sense of objective and no sense of direction. The foundation of Islam teachings is to establish and nourish one's personal relationship with God. This relationship provides the total orientation of the individual and effects his attitude towards all other issues. It is also important to emphasize that Islam is not an individualistic type of religion or a religion that exclusively focuses on the man to God relationship. Islam's focus is not only on the man to God relationships but also on the man to man relationships. It is true that the beginning point is a person's relationship with God which is like the foundation of a house, but the foundation alone is not enough to make a house. This is a necessary condition but not a sufficient condition to complete the total integrity of the faith. Social involvement in Islam is part and partial of the total picture.

Host: Can you give us proof that the focus in Islam is not exclusively on the individual but also on communal responsibility?

Jamal Badawi:

When going through the Quran we find that when certain commands, teachings, injunctions are made they are in most cases in the plural. This is true even in matters of belief even though belief is done at an individual level; the Quran addresses "O believers" or "O you who believe" in the plural. Even in pure acts of devotional worship (a person's entire life could be constant acts of worship) we find that the Quran also addresses the plural. *Akimo alsalah*, establish prayer (in the plural), *ato alzakah*, pay the poor due (in the plural) and the same thing goes for the pilgrimage. All of these acts are addressed to the Muslim community (Ummah) in the plural.

The same kind of address is used in the Quran in other areas of life as well such as social and political organizations. For example when it says that matters are to be solved by basic consultation among them. In economic teachings when it talks about the prohibition of usury it addresses the plural. Most people say that moral teachings are basically individual but even then the plural is used. This gives a clear indication that the society at large must cooperate in order to fulfill the duty of their trusteeship on earth as servants of God. In that sense a Muslim can comfortably say that social development and active involvement is part and partial of their religious duties (not just a social duty).

Host: Are there any specific mechanisms that have been established to help achieve this necessary development?

Jamal Badawi:

In order to achieve this level of involvement there all kinds of mechanisms that can be classified in a simple way. There are mechanisms that relate to education and motivation which is essential in order for people to understand their role as good citizens of the world. This may include building institutions (family, social and economic institutions) in such a way that they cooperate together in achieving the overall objective of the community. This includes a mechanism which is very important in Islam known as “Amr bilmaarof wa nahi anilmunkar” which means to ordain the good and forbid the evil.

Host: Can you elaborate on the concept of ordaining the good and forbidding the evil?

Jamal Badawi:

The essential basis for this particular concept, is a relationship between believers where they always cooperation between each other to promote things that please God and help each other achieve their functions here on earth. One of the most interesting verses in the Quran that deals with this area is in (9:71) “The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise.”

The Quran provides the quality of enjoining the good and forbidding the evil as one of the basic characteristics of a community being better than another community (not better under false pretences but in goodness). There is a verse in the Quran that addresses true believers in (3:110) “Ye are the best of peoples, evolved from mankind, enjoining what is right, forbidding what is wrong, and believing in Allah.” Again it doesn’t say that this is the case because one believes in a particular faith, belongs to a particular race, belong to a particular geographic area or belong to a particular generation but it says that this is the case because you enjoin what is right, forbid what is wrong and you believe in God. The Quran makes it an obligation in any true community of believers to carry out their duty of ordaining the good and forbidding the evil. It comes as a command in the Quran in (3:104) “Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity.” It does not stop at that as it makes a warning that should the community of believers neglect to perform that

duty they may be punished as other people before them were punished. We read in the Quran how God cursed those disbelievers, then it gives a description of these disbelievers (5:79) “Nor did they (usually) forbid one another the iniquities which they committed: evil indeed were the deeds which they did.” The Prophet’s (PBUH) explanation is that someone would do something wrong and his friend would feel that this is not right, then he will sit with him as he does the wrong and then he will get used to it which will eventually lead to immolating the evil and being part of it. A true Muslim or believer tries to take a positive step rather than to agree with what everyone does but rather takes an affirmative step to try and change a bad situation into a better one. In that sense it is quite obvious that the Quran very closely ties social welfare and development with ordaining the good and forbidding evil.

Host: What are some specific measures that can be taken in order to ordain the good and forbid the evil?

Jamal Badawi:

The Prophet (PBUH) said “Whoever of you sees something wrong then he must try to change it with concrete action (literal translation is by the hand but it does not portray the meaning: the meaning is concrete affirmative action) if he is not able to do so, then he should use his tongue (advice etc) and if he is not able to do so then at least he should change it in his heart (disagreeing or despise it). Then he goes on to say that the last one is the least of faith.

Host: Could you comment on the hierarchy used by Prophet Mohammad in the three stages of changing evil?

Jamal Badawi:

It is clear that the first one, positive affirmative action, is preferable to using ones tongue. This does not mean that one should disregard all circumstances and conditions and mechanically apply the saying of the Prophet (PBUH). The idea here is to achieve the most effective results.

Suppose one walks down the street and finds a bunch of kids tying a rope around the neck of a cat (or any animal) and pulling it and the cat is about to suffocate. If one starts preaching the cat will be dead by the time anything is done. In this case one needs to intervene and rush to the rescue of the cat. Another situation could be that a friend is an alcoholic or on drugs, it may not be helpful to the situation to take the alcohol or drugs away but kind discussion and reasoning might have more effective

results than the use of the hand. One needs to decide what method is most effective under different conditions. What is intended by action before words is that one should not just stop at words and many times the evil in society are not fought by words. People can write books or preach from pulpits (this is needed) but our human experience that this is insufficient as major reforms can not take place unless the community joins together in concerted action to enjoin the good and forbid the evil.

Host: Is it expectable for people to not want to be involved in social development?

Jamal Badawi:

As far as I know this is not an acceptable attitude for a Muslim. One of the sayings of the Prophet is that anyone who does not care about the affairs of the believers is not one of them. He doesn't say it is wrong but rather that he is not one of them. The main reason why people are reluctant to correct the wrong seems to fall within various categories.

One, is the fear of criticizing others, some say the easiest way to loose a friend is to criticize them which is not an Islamic attitude because it over emphasizes a person's ego. We should look at the great humility and humbleness of a great person like Omar the second Caliph after Prophet Mohammad (PBUH) when he said "May God have mercy on any person who gives me my fault as a gift." To take criticism as a gift and not as an injury is the kind of attitude that one should adopt. If the community at large accepts constructive courteous criticism then there would not be such a fear attached to correcting the wrong.

Second, people hesitate to take part in social development because they don't want to be the crusader from among millions. This again is wrong if everybody thinks that their actions will not make a difference than who is going to act? One should have the attitude of trying to help no matter how little, regardless of the results as one is doing it to please God (not one's self or anyone else). This may also encourage others to do good. The main problem with people not wanting to get involved is apathy. People think that if they are good individually as Islam is not an individualistic religion in the sense that one achieves their own individual piety and salvation and that religion is a personal relationship between man and God is accurate but misleading because it overlooks the need to be involved. I realize that in some instances it may be difficult to stop evil (for example if there is an armed robber and one is unarmed etc.). In many cases the criminal is a coward and unless he feels that the people acquiesce to oppression he can be restrained. An example is a true story that took place a few years back in New York. One night someone was mugging a young lady who started screaming. When people heard the woman screaming they

turned on their lights and were looking to see what was going on. The mere fact that people were paying attention scared the criminal into leaving her. Then people turned off their lights and went back to bed so he started attacking her again and she started to scream again and so people heard her and turned their lights on. This was repeated again for the third time, and it shows how those people were good for nothing as they just watched. The following morning she was found murdered in the street. If some people helped her it would have sufficed, but even the least action of calling the police or leaving the lights on were not done. When we ask “Why?” its because nobody wanted to get involved. It is appalling how many people have apathy and how people see others getting attacked in the street or stealing and no one does anything about it. When we talk about involvement we are not only talking about individual acts of heroism (some people arrest criminal on their own) which are not enough unless it becomes a general attitude among the population that is proactive in stopping crime and oppression will anything change.

The Quran warrens us against this attitude in (8:25) “And fear tumult or oppression, which affecteth not in particular (only) those of you who do wrong: and know that Allah is strict in punishment.” Evil is not isolated and the evil that effects others could effect us tomorrow and if we help someone today someone else will help us tomorrow. An interesting similitude was given by Prophet Muhammad (PBUH) about apathy when he said “If people do not try to stop evil they are just like a group of people who are on a ship with some people on the upper deck and others are on the lower deck. So a person from the lower deck said that instead of going up and down in order to get water and other things why not make a whole in the ship so that we can draw the water directly? Unless, everyone on the ship stop him, he would drown and he will take everyone else with him.” Society is drowning, but no body is doing anything about it because they don’t want to intervene. This is what is causing problems in society, and this is why social involvement is a special concept that has lots of important implications.

7.7 Social System of Islam- Social Responsibility II

Summary of 7.6 "Social Responsibility I"

First we emphasized that Islam is not an individualistic religion which only regulates the relationship between man and God. Islam actually goes beyond that as it also regulates the relationships between mankind and between mankind and the universe at large. In the Quran it addresses people in the plural not only in matters of government, economic or social system but even in matters of pure worship, like prayers in order to show the collective orientation of the faith. We also discussed some of the mechanisms of translating these points into action; building a righteous

society by using the concept of enjoining the good and forbidding the evil. We indicated that enjoining the good and forbidding the evil is an obligation on the Muslim, if they are true to their faith, because part of cooperating for the common good of the society. We also mentioned the saying of the Prophet (PBUH) that if someone sees something wrong that one should try to change it by action, then by words and if that doesn't work then to change it in his heart. We indicated that there is wisdom in this order of importance but that one should take into account what is more effective in a given situation. Finally, we discussed one of the main objections that people use (that they don't want to get involved) when it comes to enjoining the good and forbidding the evil, an apathetic feeling which is not only harmful to society at large but eventually when everyone turns their face the other way the punishment and destruction will effect everybody.

7.7 Social Responsibility II

Host: Some people argue that the principle of enjoining the good and forbidding the evil goes against the injunction in the Quran that says that there is no compulsion in religion, is this true?

Jamal Badawi

There is actually full harmony between both. It is true that there is a verse in the Quran in (2:256) which says "Let there be no compulsion in religion: Truth stands out clear from Error: whoever rejects evil and believes in Allah hath grasped the most trustworthy hand-hold, that never breaks. And Allah heareth and knoweth all things." It is a cherished Islamic principle that one can not force (by force or improper means) someone to believe in something that he or she did not accept. This however does not negate the collective responsibility to fight evil and corruption and indecency in society. Indeed tell me of any society that tolerates the spread of evil and corruption and their excuse is that there is no compulsion in religion. No compulsion in religion means that one is free to accept whatever faith they want but one is not free to damage society and infringe on the rights of other people. Compulsion is not bad, when a cop stops someone because they made a traffic violation or ask someone to take a breath test one is compelled to do so, and society accepts this because there are legitimate reasons for it.

A truly Islamic society has an important mission and a responsibility which is grave and requires taking concerted action to propagate the good and to stop evil. This is not interference with the freedom of religion but protection of religion from those who want to tamper with the rights of other people.

Host: Is it true that there is a verse in the Quran that says that a person should not get involved with a person who is misguided if they are guided themselves?

Jamal Badawi

You are referring to (5:105) “O ye who believe! Guard your own souls: If ye follow (right) guidance, no hurt can come to you from those who stray. The goal of you all is to Allah, it is He that will show you the truth of all that ye do.” The misunderstanding of this verse is not new because even in the days of the Prophet (PBUH) he carefully explained it. The first Caliph, after the Prophet, Abu Bakr was quoted in Al Tirmithi and Abu Dawood as having said to the people that they were misinterpreting this verse. He says “You are misusing this verse. I have heard the messenger of Allah say “If people see an oppressor and do not try to check him, it would be about time that God would send a punishment that would engulf all of them.” This means that, collectively speaking, even if we are good if we do not stop it, God’s punishment would involve the good and the evil.” He went on to say “I also heard the Messenger of God say “If there is any nation among whom rebellion against God is a practice, and they are able to change but they do not, then God will be able to engulf them with His punishment.”

It follows like the previous verse that there is no problem with reconciliation but this doesn’t mean that one has the license to do whatever they want be it good or evil. When the verse says not to worry it means in the sense of not killing one’s self because someone does not believe. If someone does not believe and does not infringe on the rights of others, does not spread corruption and evil then it is fine and the verse is applicable. But if someone is deliberately cutting at the roots of society while people ignore it and mind themselves is alien to the spirit of Islam. In Islam one can not turn their back to their responsibility which is to establish the Will of God on earth.

Host: When the “Will of God” is mentioned some people think that this can be interpreted in the wrong way leading to its miss use; how can this misuse be prevented in an Islamic situation?

Jamal Badawi

There is no faith on earth that guaranties that everybody will be perfect, so long as there are imperfect human beings. The teachings of Islam have built in mechanisms that make sure that things can not be justified from a theological basis if they are not right. There are unique and very strict guaranties in Islam. To start with, the notion that somebody is claiming to implement the Will of God emanates from the understanding of the revelation. The concept of revelation in Islam is a little different compared to other communities of believers. There are some people who do not believe that revelation refers to a particular Holly Book, Scripture or certain legal

injunctions but they feel that revelation is something experiential and is some sort of spirit within a person that guides them and shows them the right path. There is a big difference between personal insight and revelation which represents a specific and actual reflection of the Will of God. The danger of claiming that revelation is the matter of experiential feelings is really dangerous. For example recently we heard about the Yorkshire Ripper in Britain who started murdering prostitutes and when he was questioned he simply said that it was the Will of God. Anybody who wants to do evil can take advantage of this loose concept of revelation being an individual spirit guiding them. A Muslim would not say that there is no relevance to personal insight that God may grant to those who are pious, but this insight is not binding on others. To justify evil actions on the basis of insight that infringes on the rights of other people is a very poor excuse. In Islam the line is drawn quite clearly and the only decisive expression of the Will of God are the decisive words of the Quran (the actual words of God) as well as the explanation of Prophet Muhammad who was guided by the Angel of Revelation in whatever he taught. That removes the misinterpretation of the Will of God from becoming a law as it is not binding on others. Even if people differ as to how to interpret the Will of God from the clear text of the Quran and Sunnah it is still not an experiential matter that will clarify it but the concept of Ijmaa. Islam has a mechanism where jurists have to discuss the situation with other jurists and come up with consensus on the basis of the Quran and Sunnah. This interpretation still does not give everyone a license to enforce it by hand. For example, in a matter of criminal even if the interpretation is right and consented to by all the learned scholars one must still have a just state in order to implement certain aspects of criminal law.

Host: What is more important enjoining the good or social concern?

Jamal Badawi:

Worship is not just made up of rituals as the Quran indicates this point clearly in (2:177) "It is not righteousness that ye turn your faces Towards east or west; but it is righteousness-to believe in Allah and the Last Day, and the Angels, and the Books, and the Messengers; to spend of your substance, out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the ransom of slaves; to be steadfast in prayer, and practice regular charity; to fulfill the contracts which ye have made; and to be firm and patient, in pain (or suffering) and adversity, and throughout all periods of panic. Such are the people of truth, the Allah fearing." All of these moral, social, political aspects are all ingrained in the Islamic definition of worship or righteousness. It is very difficult to make a close line of distinction between worship and social concern because they are all a form of worship. In a saying by Prophet Muhammad (PBUH) found in Bukhari, Muslim, Tirmithi and Nasaii he said "A person who is looking after an orphan or a poor person is just like the person who puts his life on the line for the sake of God and just like a person who stands in prayer at night and fasts during the day." So pure acts of worship like fasting, praying and sacrificing ones life are as good as taking care of an orphan.

In another occasion the Prophet (PBUH) was traveling and it was very hot, some people were fasting and some were not, those who were fasting fell down in exhaustion and the people who were not fasting set up tents to protect them and to provide them with care. The Prophet said “Those who are not fasting have taken all the reward today!” Someone who is devoted to a community is just as good as someone who is suffering and going through thirst and hunger. This is the attitude that Islam takes towards the notion of social concern. We can not separate it by saying that worship is one thing and social involvement is another.

Host: How can social concern be translated into concrete actions?

Jamal Badawi:

One of the most crucial aspects of social concern is social solidarity. This solidarity might take different forms: family, which is the corner stone of society, which includes kindness to parents, kindness to wives and kindness to children. Islam sees that if there are broken families then society is broken and it appears that most of the problems in society that we face today are largely a result of family breakdowns. By having solidarity, love and affection within the family one builds a basis for social solidarity. Social solidarity in the more general and collective aspect involves the obligation to perfect a job or assignment that is given to one and each person should feel that they are guardians of the overall good of society. The Prophet (PBUH) said as narrated in Bukhari and Muslim that “Each person is like a Sheppard and each one of you is responsible for what you are given.” Another sub concept under the social concept is cooperation. The Quran in (5:2) says “Help ye one another in righteousness and piety, but help ye not one another in sin and rancor: fear Allah for Allah is strict in punishment.” This is again an aspect that keeps society together. Another aspect is the protection of the weak; the Prophet said as narrated in Ahmad that if there is a neighborhood where one of the people wakes up hungry that God disassociates Himself from them. Another Hadith says He is not a believer who sleeps with a full stomach while his neighbor sleeps while hungry. Another Hadith which shows the beauty of this unity and solidarity as narrated in Bukhari and Muslim where he says “The similitude of true believers is like a big structure which the different parts holding and supporting each other.” In another Hadith he says “Believers in mutual affection are like one body, if one part aces the whole body aces.” People should be regarded, in a given community, as one single body without ignoring any one part of the body.

Host: Can you elaborate on the concept of social justice in Islam?

Jamal Badawi:

Social justice is not a good translation for the Arabic word *adl* which means just balance. This is used in reference to cosmic things like God created the world in just

balance. The exact word is used in the Quran in (87:2) “Who hath created, and further, given order and proportion.” and (82:7) “Him Who created thee, Fashioned thee in due proportion, and gave thee a just bias.” In normal cases the symmetry is obvious when we look a person’s eyes, arms and legs. In the area of social life God speaks of adl in (4:58) “Allah doth command you to render back your Trusts to those to whom they are due; And when ye judge between man and man, that ye judge with justice.” The idea here is not only to have justice in the legalistic sense or judicial sense but rather to establish a social structure that does not persecute one group, one minority, one race or the weak.

Host: What are the main characteristics of a truly ideal society?

Jamal Badawi:

First of all, in order to describe a society as a purely Islamic regardless of the failure or degree of success that Muslims have achieved it must be a society in which the ultimate authority in the Hand of God. This means that society does not follow the interpretations or misinterpretations of humans beings. We have guaranties and method for the proper methodology of interpretation. When there is a society established on this foundation the rules are not just enforced by the government because one fears that they will be punished if they don’t follow them but rather it gives it a spiritual sanction, it gives it respectability and it makes one realize that the rules are not bias in any way because it is coming from God.

Second, it is a society that has a historic mission which goes beyond mere existence, national glory but one that has mercy unto all mankind with its universal brotherhood and equality. Third, it is a society that is justly balanced that takes care of the needs of the individual including the various segments in society, spiritually and material progress. Fourthly, it is a society where controls are not just in appeal to the power of the law or just spirituality but rather both of them work together to motivate the individual to comply. The challenge is for both Muslims and non-Muslims to strive towards this ideal which is in line with divine guidance.

7.8 Social System of Islam- Emancipation of "Slaves" I

7.8 Emancipation of “Slaves” I

Host: What was the situation in regards to “Slaves” when the Prophet Muhammad (PBUH) came with the message?

Jamal Badawi:

One major characteristic was that slavery was wide spread in all parts of the world. It may have taken different forms but some form of it did exist everywhere and in some cases it was not limited to a particular ethnic group or color. Some people use the term Slave to refer to Slav which refers to people from Europe (for example from Yugoslavia or other European origin) who were enslaved during the medieval times.

The other major characteristic is that slavery had several sources. Prisoners of war was one source of slavery. There were also cases where people simply kidnapped people who were free and then they enslaved them. Some cases which slaves were taken were raids, or failure to pay debt (one is taken as a slave in payment of the debt). It is very difficult to generalize but during the 7th century (when Prophet Muhammad came) and for some time afterwards the nature of slavery seemed to be brutal and in many cases the person was stripped of their humanity. Many legal systems including Roman Law allowed the master to do whatever he wished with the slave. The slave was regarded as a commodity (thing) not a person. Sometimes torturing or killing the slave was regarded as being perfectly legal because they were regarded as possessions. Also, many people are familiar with the Roman sport where they let their slaves (carrying swords and lances) fight and kill each other for their personal entertainment.

In this kind of atmosphere the task before Islam was challenging and difficult. It not only required physical emancipation but it also required the psychological and human emancipation. It required changing people themselves, the psychology of both the slaves and their enslavers in order to bring them back to the original concept of human equality and brotherhood.

Host: Can you expand on the issue of psychological emancipation?

Jamal Badawi:

The corner stone of Islam is based on the removal of any servitude of one human to another and that all servitude is to God. Islam literally means to achieve peace through submission to God (not to another human being). This basic notion was reflected by many of the first Muslims when he went to the battle against the Persians and the ruler asked them “What brought you here?” and he said beautiful words which

are widely quoted “We came to bring people from the worship of other human beings to the worship of the one who created all of them.” This basic notion has been emphasized over and over in the Quran that, regardless of their state, human are all brothers (example in chapter 4 of the Quran that all mankind was created from a single soul so that there is not one type who is superior to the other). We quoted (in the last 7 programs) the saying of Prophet Muhammad that we are all created from Adam and Adam was created from dust. The Quran in chapter 30 indicated quite clearly that the differences between people’s languages or colors is not a basis of superiority but rather is a sign of God’s mosaic of creation. The Prophet (PBUH) emphasized over and over again that all the notions of superiority (other than piety) during the Time of Ignorance is rejected. In the collection of Hadith in Bukhari he says that there is no superiority of an Arab over a non-Arab or black over white or white over black except by virtue of piety.

In addition to this Islam made it preferable for a person to marry a slave believer (be it male or female) than to marry someone who is not a believer even though they are “free” or attractive as found in (2:221) of the Quran. The Quran and in chapter (4 it almost urges Muslims to marry the good slave girls “Ye are one from another.” The foundation is to establish the basic conception of the human as such and that all of these variations by way of superiority or inferiority mean nothing.

Host: How should people in bondage be treated? What basic rights are recognized?

Jamal Badawi:

The Quran and the sayings of the Prophet (PBUH) are full of examples of this. For example in (4:36) which commands the believer to worship God and not to associate others with Him and it talks about kindness and compassion in the treatment of: parents, relatives, neighbors, wayfarers and what one’s right hand possess who are people in bondage. The Quran indicates that the state of bondage is nothing but a transitory stage and something that should not be regarded as something inherent. In one of the explanations by Prophet Muhammad (PBUH) he was appealing to people to be kind and compassionate towards people in bondage, he said “These are you brothers and if was the Will of God the situation could have been reversed.”

A person under bondage is only in a transitory stage and are equated in their basic human rights with any other person. A person under bondage, temporary as it may be, has the full right to believe whatever they believe and practice their faith. This is emphasized in the Quran in (2:252) where it prohibits any compulsion in faith regardless of the people involved. Prophet Muhammad (PBUH) as narrated in Bukhari and Muslim (the most important collections of Prophetic sayings) indicated that a person in bondage should be treated as a brother not as a slave. In one saying he said “Your slaves are your brothers; and whomever has a brother of his with him

let him feed him of what he eats, clothe him of what he wears and let him not charge him with any labor that is beyond his power and if he does he must give him a hand.” In terms of punishment we quoted in a previous program about a person who asked the Prophet how many times they should forgive a slave and the Prophet said seventy times a day! The Prophet (PBUH) very strongly objected to the harsh treatment of people in bondage.

In matters of leadership the Prophet says in Bukhari he says “Listen and obey even if the ruler selected among you is an Ethiopian slave so long as he establishes the Book of Allah among you.” The Prophet did not leave any aspect but worked on it. In one of his sayings as narrated by Abu Hurira he says “Let no one of you say “my slave boy” or “my slave girl” but let him say fataiya or fatati.” Fataiya or fatati can be translated as my son and my daughter or some translate it as my man and my maiden. Till the last moment of his life, when Prophet Muhammad (PBUH) was on his death bed he said “Prayer, prayer and what your right hand possess.” Which means I commend you to be observant of two things: prayer and to be kind and compassionate to people who are still in bondage.

Host: How did these teachings influence the attitude of Muslims at the time?

Jamal Badawi:

These teachings influenced them tremendously both in the lifetime of the Prophet (PBUH) and after him. Any aberration or deviation that might have taken place by some Muslims or people claiming to practice Islam has nothing to do with true Islam. One of the most close companions of Prophet Muhammad (PBUH), Bilal was an Ethiopian slave and when he turned to Islam his master used to torture him severely (there are lots of stories about the torture that he endured). Once Abu Bakr, one of the companions of the Prophet, passed by him while he was being tortured was appealing to Bilal’s master to have compassion on him. The master refused and finally told Abu Bakr that if he wanted he could buy Bilal. Abu Bakr used his own funds to buy Bilal and set him free. Bilal turned out to be one of the most prominent figures in the history of Islam and he was the personal Muathin (call to prayer) of the Prophet.

On a different occasion Abu Bakr was seen wearing a simple garment while his slave was wearing better material and some people asked him how come his slave was wearing something better than himself. He replied that he was old and his slave was a young man who liked to wear new things of fine material and should enjoy it. Omar, second Caliph after the Prophet, said that if Salim (who was a slave) was living today I would have appointed him a regional ruler (and he meant it). Abu Hurira, the famous narrator of Prophetic tradition, once saw a man on riding on his horse or

camel and his slave was walking behind him. Abu Hurira got angry and told the man to “Carry him behind you because he is your brother and his soul is just like your soul.”

Even in cases when the companion of the Prophet were off track like Abu Zar got into an argument with a black man and out of anger he said “You! Son of a black woman.” and the Prophet (PBUH) got very angry and his face turned red and said “Things have exceeded the limits. Things have exceeded the limits. There is no superiority of the son of a white woman over the son of a black woman.” In another narration the Prophet was reported to have said to Abu Zar “You are a person with traces of ignorance of the days proceeding Islam.” This effected the feelings of Abu Zar to the point that he put his cheek on the earth and begged the black man that he insulted to put his foot over his cheek. Of course the black man was so noble that he did not do it.

Indeed it is a well known fact that all of the companions of the Prophet were engaged in tremendous activities of emancipating slaves and ones who were rich (like Abu Bakr) did spend logs of money from their own wealth to buy slaves and set them free. Many of the sons of these slaves came to occupy very prominent positions in Islamic history. An example is Osama Ibn Zaid, the son of a slave, was appointed commander of an army that had many of the noble Kurishites under his command. Among the scholars and jurists of Islam there were people like Atta’ Ibn Rabah, a black man, who was regarded as a prominent jurists, Imam or religious leader in Mecca (the Holiest shrine in Islam). Other very famous companions other than Bilal include Almuktad Ibnul Aswad who were very prominent and accepted without any issues. All the credit goes to Islam as we know that the background of Arabs was no better than any other place where races and superiority of ethnic background was quite prominent.

Host: Did Islam provide any legal provisions to emancipate those who were under bondage?

Jamal Badawi:

First of all, their rights are protected not just out of goodness but legally. One of the sayings of the Prophet found in five collections of Hadith; Bukhari, Muslim, Tirmithi, Nasa’ ai and Abu Dawood where the Prophet says “Whoever kills a slave, we will kill him. Whoever mutilates the nose of a slave we will mutilate his nose. Whoever sterilizes a slave we will sterilize him.” This puts them from a legal sense at the same level as any other person.

Islam greatly encourages the emancipation of slaves. In (90:13) of the Quran one of the main things that can save someone from being thrown into the Hell fire is to free a slave. In the saying of Prophet Muhammad (PBUH) as narrated in Al Nassai and Abu Dawood he mentioned a number of things that would help in saving a person in the Hereafter which included feeding the hungry, visiting the sick and then he added emancipate those who are in bondage.

Islam legalized emancipation in some circumstances which would help a person atone for certain sins. For example in (5:92) one of the punishments in the case of involuntary man slaughter that the person would be subjected too. In other cases that have to do with family this also can apply: for example if a man swears not to sleep with his wife and he wants to go back on it then he has to free a slave. Some jurists say that a person who deliberately breaks his fast, for even one day during the month of Ramadan, the atonement would be to free a slave. These sins are constantly being committed because we are only human and thus there are always slaves being emancipated.

Another thing that the Prophet indicated is that if a person jokingly says to his slave that he is free then he automatically becomes free. If a person severely beats or slaps his slave on the face, the only atonement for it is to set him free as narrated in Muslim. If two people have claim on a person in bondage and one of them frees him then he is automatically free. It is quite obvious that Islam teaching on the spiritual, moral and legal level were all geared towards gradually getting rid of slavery.

Host: Why didn't Islam just make slavery illegal from the beginning and thereby it would have brought about faster change?

Jamal Badawi:

In order to bring about change to something that is deeply rooted like slavery one has to look at the methodology of change and how to stop the sources of slavery and then one can consider additional positive steps to free those who are in bondage. The main problem here is that slavery was a deep rooted social, political and economic institution and it is very difficult to rid a society from it by just issuing an order. We know what happened in the US when it was ordered without first freeing people spiritually, morally and psychologically.

Secondly, Islam dried all the resources of slavery. The Prophet (PBUH) considered it a big sin to take anyone is free and enslave them. For example one can not enslave someone because they are in debt but rather they have to help him. The only

source that remains at least for a temporary basis is in the case of war captives or prisoners of war until such times as arrangements can be made with the enemy. Otherwise all other sources were totally forbidden.

Third, the door was opened by way of atonement, encouragement and charitable activity to free whomever remained a slave. It required more time to move in a smooth and sure way rather than creating commotion that would not lead to any benefit.

Host: The final prohibition of intoxicants took place during the lifetime of Prophet Muhammad why didn't the final prohibition of slavery also take place during his lifetime?

Jamal Badawi:

Intoxication is a personal habit and within the ten years of the establishment of the Islamic state in Medina it was enough time to detoxify society. Slavery, however, was so deeply rooted that it required more than ten years. As I indicated before once one dries the sources and opens the door all it takes is one or two generations to totally rid society from this. If the true spirit of detoxification from slavery was followed then slavery would have completely disappeared in no more than one or two generations. The fact that some people violated this whether they were Muslim or non-Muslims has nothing to do with the spirit of Islam as the path was clearly established.

7.9 Social System of Islam- Emancipation of "Slaves" II

Summary of 7.8 "Emancipation of "Slaves" I"

First we indicated that at the advent of Prophet Muhammad (PBUH) 1400 years ago slavery was both wide spread and inhuman. The challenge of Islam was to try and change the situation by providing emancipation on three planes: physical, psychological and spiritual. We mentioned that the approach that is found in the Quran and Prophetic tradition is to first show that there is no such division of people into masters and slaves and that there is only One Master of the whole universe and that is God. The second thing that is emphasized is the equality of all humans and that there is no superiority or inferiority on the basis of ethnic, nationalistic or any other ground. The only criterion that people are differentiated by are piety and good

deeds. We also indicated that Islam took a further step by changing the total nature of the institution from slavery to more of a domestic servant in preparation to totally remove it from existence. There was one Hadith that said “Your servants (he did not say slaves) are your brothers.” So it was not only changed from a slave which was regarded as a thing to a servant but it was even changed from a servant to a brother. We also indicated the Quran’s emphasis in chapter four of good treatment not only of parents but also of people who are in bondage. It follows from this that in Islam all harassment, humiliation or indignity had to be stopped towards people who were enslaved. It was also indicated that Islam opened the door to emancipate those who were in bondage, either through people who were in charge of them by releasing them in order to atone for their sins. Also, they were released if they were tortured or slapped (freeing is the only method of atonement for committing these acts against ones servant). In the history of Islam we find many great figures that were former slaves or came from the decedents of former slaves including Bilal, Al Mukdad, Zaid Ibn Haritha, Osama, Atta’ a Ibnu Rabah and others.

In the last part of the program we addressed why slavery was not eventually totally forbidden like intoxicants. We indicated that intoxicants is a personal habit and from the beginning of the Islamic State in Medina there was only about ten years left in the life of Prophet Muhammad (PBUH) and enough time to detoxify people from drinking. However, the slavery was a very deeply rooted institution that required more than ten years to really rid the society from it. Islam approached the problem from two angles. One it dried the sources of acquiring new slaves (kidnapping, aggressive war or taking people for unpaid debts) with the exception of legitimate warfare. On the other hand it opened the door for the release of people who were in bondage through different methods.

7.9 Emancipation of “Slaves” II

Host: Is it right that Islam succeeded in drawing up all the sources except those of war captives?

Jamal Badawi:

This is correct but with some qualifications for the term war. It is only acceptable in war that is legitimate from an Islamic sense. This automatically eliminates wars that are waged out of aggression for others who are peaceful, wars for national glory or expansion of territory and no other purpose. Wars waged for raiding people or taking people as captives as was the norm before Islam was not permitted. When we say war we are saying the kind that is permitted from the point of view of Islamic jurisprudence. War is only permitted under two circumstances: one is to fight back aggressors and to remove human tyranny which may stand in the way of people’s freedom of choice and particularly freedom of faith. It follows that if a person is captured in a war of these types he is really an aggressor and nothing more, and to say

that one is not allowed would be too simplistic and unrealistic. Islam gives the right to capture this person but puts restrictions in regard to what can be done to him and how he should be treated. Islamic law is specific as to how those people should be treated. The most important point is that they should be treated with compassion. One example is in the case of the Battle of Badr, one of the early battles with the pagans, the people who were taken into captivity were given the better food by their captures even though they were the aggressors. In fact, at a later time, many people were so impressed with this compassion that they turned to Islam. This shows that the main purpose is not to collect people but to give them guidance. Even in the case of war captives it does not mean that every POW (prisoner of war) is destined to be enslaved or to remain in bondage. In fact in a society like that of the 7th century where they did not have prisons or concentration camps and the only realistic way to have them under the charge of some of the people who participated in the battle. This was the only realistic way to look after them both in terms of their needs as well as for security purposes until hostilities came to an end. Even in the cases of legitimate warfare bondage was never viewed as a perpetual state of bondage at all.

Host: Is there any documentation that shows that the state of bondage was meant to be a transitional situation and not a perpetual situation?

Jamal Badawi:

Yes, we find proof of this in the Quran, Prophetic Traditions and behavior of the Prophet (PBUH). In (47:5) it talks about what happens in battlefields and warfare and it says that after inflicting punishment on aggressors in the battlefield “thereafter (is the time for) either generosity or ransom.” Ransom in Islam can be one of three basic things: first is a ransom or payment of certain amounts of money (a person who fights an aggressive war inflict damage in property and life), second is the exchange of POWs (happened in the lifetime of Prophet Muhammad when he freed POWs for the freedom of captured Muslim soldiers) and the third case is quite unique as they would ask the POW to offer useful services to the community in return for his freedom. Now sometimes they allow people to give community service instead of being thrown into jail and people think this is a concept of the twentieth century but it is not. One of the early examples after the Battle of Badr in the 7th century the Prophet Muhammad (PBUH) offered some of the captives their freedom if they taught ten Muslims how to read and write. This is a constructive approach that is mutually beneficial and of course a POW would rather be a teacher than a prisoner. In some cases the Prophet implemented the part of the verse that says “generosity” and he let some of the prisoners go for nothing in return.

Host: Can you explain the position of Islam on the question of concubines?

Jamal Badawi:

Concubines in accordance to many (non-Muslim) authorities was an institution that existed prior to Islam just like slavery. Many authorities indicate that having concubines was quite common among the Semites and especially among the Jewish traditions. Even some Jewish prophets had concubines. When Islam came it did not accept the institution as it was and the approach was to gradually change the nature and perception of the institution and then gradually removing it from existence. Basically, a woman who is captured in the battle field is treated exactly the same as men in terms of being treated kindly and with compassion. In the case of women captured in the battle case (not the normal case) adds an additional problem as women are more prone to having violence being committed against them than men (rape by the victorious army). Until now we hear about the wars that go on in different places where a great deal of violence is committed against women in particular. This raises a number of problems even if these women are spared the initial or possible plunder by the victorious army, they might have lost their bread winner (fathers, husbands or brothers) which makes this problem more complex. On one hand one must take measure to prevent violence and rape being committed against them and on the other hand one has to protect society from corruption and from circumstances pushing women to earn their living from dishonorable means.

Islamic law did permit cohabitation with concubines or captives. This provided a number of benefits. One is that the relationship is basically a marriage because the concubine is regarded as a wife. The difference between this relationship and regular marriage is the absence of consent. Of course consent is a very important issue in marriage, according to Islamic law, but in the unusual case of warfare and captivity there are restrictions on freedom. Another benefit is that the women are not imprisoned or put into concentration camps nor do you leave them in society (might lead to prostitution) and temptation is prevented. One can not preach for people to be chaste while opening the door for temptation and possibility of problems. In this case a concubine is provided with a husband, home and all her needs in addition to her instinctive needs. This protects her from other men because she practically has the status of a wife. Also, if the woman bears a child for her husband then the child is immediately freed upon his birth. Also, upon the death of her husband she becomes free because once she bears a child he no longer has the right to give her away. Even then we find in terms of the Prophetic Tradition and practice a strong recommendation was made that the woman be freed and then offer her marriage. This would allow for normal husband wife type of relationship.

In Bukhari Prophet Muhammad says if a person has a concubine whom he brings up correctly by teaching her, frees her and then marries her that God will give him two rewards. This is a highly commendable act which actually happened with the Prophet when he acquired a concubine in battle whom he freed with the offer to send her back to her family or marriage. She accepted to marry him and as a result a hundred of her people were freed by Muslims because they were holding captives the relatives of the

Prophet's wife. This was an indication by the prophet that Muslims should free the concubines without condition which is more human and commendable.

Host: Is it possible for the person in bondage to initiate any kind of action which would bring about emancipation?

Jamal Badawi:

This is known as Mukataba, which literally means a deed, but means that any person in bondage can go to the person who is holding them, offer them a contract that a mutually agreed upon sum would be paid for his freedom.

Host: What if the master refuses the contract?

Jamal Badawi:

The explanation of this is found in (24:33) "And if any of your slaves ask for a deed in writing (to enable them to earn their freedom for a certain sum), give them such a deed if ye know any good in them: yea, give them something yourselves out of the means which Allah has given to you." This means that one should accept the contract and give them financial help or reduce the amount that they offered. It was reported that Omar, the second Caliph after the Prophet, insisted that one companion by the name of Anas Ibn Malik to free a person by the name of Serean (Omar actually threatened him). Some jurists say that if it was permissible to reject the contract Omar would not have threatened Anas should accept the contract. Serean turned out to be the father of one of the great scholars in Islam known as Muhammad Ibn Serean. Many jurists agree that if a person refuses to accept a contract the Muslim ruler has the right to force the person to accept the contract and free the person.

Host: In terms of the given environment how are they able to obtain the funds needed to obtain their freedom?

Jamal Badawi:

In the Quran in (9:60) when it specifies the way charity should be spent and it says wa filriqab "Alms are for the poor and the needy, and those employed to administer the (funds); for those whose hearts have been (recently) reconciled (to Truth); for those in bondage and in debt; in the cause of Allah and for the wayfarer: (thus is it) ordained by Allah, and Allah is full of knowledge and wisdom." So a person seeking freedom

is entitled legally to partake in the charity. Aside from institutional charity the Prophet (PBUH) encouraged people to help pay for people to gain their freedom.

A famous incident in the lifetime of Ali, the fourth Caliph after the Prophet, where a servant came to him and asked if he should go ahead with a contract even though he had no money. The Caliph said yes and asked people to give him charity. People gave him so much that the servant could pay his master and had some left over. He asked the Caliph what he should do with the rest of the money and the Caliph said that he should use it to help another person in bondage.

An interesting thing that happened during the rein of Omar Ibn Abdulaziz, who came about a hundred years after Prophet Muhammad. One of his regional rulers in North Africa, Yahya Ibn Saeed, wrote to him and said “I collected the money for charity and there are not enough poor people to take it, what should I do with it?” Omar said “Use that money to buy people in bondage and then set them free.” This is a unique aspect of Islamic history that is unparalleled.

7.10 Social System of Islam- Place of Family in Islam

7.10 Place of Family in Islam

Host: What is the significance of the family and how does this tie in with the social system of Islam?

Jamal Badawi:

In the first nine programs we talked broadly about the social system in Islam but we have not talked about the corner stone of this system which is the family. From the Islamic point of view the progress and welfare of society or the disintegration and destruction of society is very much tied with the family. If we have strong families we would have a strong and cohesive society and if we have broken families then the society will slowly disintegrate. There are problems that we hear about that are of concern to everyone such as teenage pregnancies, divorce and family problems, drug abuse, alcoholism and juvenile delinquency. It is not unusual to find that the origin of most of these problems can be traced back to broken homes and families.

I am not implying that family is the only institution that can be blamed for social malaise because there are usually other economic, political or spiritual problems as

well. The family is definitely one of, if not the crucial element that effects the strength or weakness of society. The family is the corner stone of the whole social system from a n Islamic point of view.

Host: What are the main topics we will be touching on in the main topic of family in Islam?

Jamal Badawi:

There are seven areas that we will cover. First of all, how we define family and all questions related to lineage and adoption. Second, the foundation of the family structure is the woman. The role she plays is much greater than anybody else's role in establishing a healthy family. We will look into the history of how women were viewed in the past (in civilizations, philosophy and literature preceding Islam). Third, we will cover what position Islam accords to the Muslim woman. In this we will try to cover the position of a Muslim woman from the spiritual, human, economic (rights and property), public life (work or public affairs) and social point of view. Fourthly, we will cover the structure of a family and how to constitutes a family within Islamic teachings. We will cover areas such as engagement, the position of Islam with respect to dating or courting and how sex is views in Islamic teachings. The related issues are could pertain to marital relationships, mutual duties of husband and wife, birth control, abortion and nursing (as a basic right for children). Fifthly, we will address the mutual duties and responsibilities of parents and children. Sixthly, we can not deal with the subject of the family without dealing with difficulties that they encountered, family problems and desolation. We will cover what Islam proposes as ways of dealing with family problems and disputes that may arise between husband and wife, how these disputes can be settled and at what point it would be desirable to go beyond the family and seek outside help to resolve these problems. Then we will cover issues pertaining to divorce, conditions of divorce, waiting periods, remarriage and related issues. Seventh, we will touch on the law of inheritance in Islam.

Host: Can you define family from an Islamic perspective?

Jamal Badawi:

On one level we can define the family from a Muslim perspective as the entire human race. In fact, when we talk about the family most people think about father, mother and children. In one sense the father is Adam, the mother is Eve and the children are everybody else. In one sense the entire human race is a family as found in the Quran in (4:1) "O mankind! Reverece your Guardian-Lord, who created you from a single person, created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women;- reverence Allah, through whom ye demand your mutual

(rights), and (reverence) the wombs (That bore you): for Allah ever watches over you.” Thus the Quran presents the entire human race as one family in the broadest definition of the term. In fact elsewhere in the Quran we find that it is common that all of mankind is addressed as children of Adam. The universality of the way the Quran addresses the whole human race as one family is derived from Islamic monotheism or belief in the oneness of God, one universe and one human family.

We can also define family at another level: of those who belong to the family of believers who followed prophets or messengers all the way from Adam, Abraham, Moses, Jesus to Mohammad (PBUT). These followers are considered one family of believers as is found in the Quran in chapter 49. This chapter describes believers as being a part of one family that extends horizontally across time and vertically across different places.

Within these two definitions we are not precluding the more precise and narrow definition of people who are related by blood or marital relationships. The introduction to the family was not meant to evade this aspect of family but we wanted to show that family can be defined in the sociological sense one should not forget the broader ties with believers and with humanity at large.

Host: Would it be accurate to imply that the Muslim family is an extended family?

Jamal Badawi:

The term “family” need not necessarily imply that it is an extended or nuclear family. Most often sociologists use the term nuclear family to refer to the western style regarding the family as mainly being parents and their children. Extended family is used by families in other cultures where within the same household one has a family composed of family children, grandparents and in-laws. The way Islam looks at the family does not mean that it is extended or nuclear but it can accommodate both. To have one single household that the family resides in does not establish the foundation for having family ties. This also does not mean that all family members have the same degree of relations with the individual. In one sense we can say that there are degrees of relationships. The first degree would be the relationship between husband, wife, children and the grandparents. These degrees do not mean that the person has no obligation towards relatives who are farther away from the individual. The difference in the relationship is in degree not in principle. In Islam the nuclear family have rights which are mainly unequivocal rights and more precise rights. In Islamic law the rights of people of the first degree are very clear and there are very little differences among Muslim Jurists as to what those rights

are. Even though there are rights towards other relatives they are not to the same level as the nuclear family and Jurists may differ in what these rights are.

Host: Some people argue that family issues and relations should be left to the family as they are not matters that have to do with the society or laws; how would Islam respond to this point of view?

Jamal Badawi:

The nature of duties between different members of the family is instinctive and innate. On the other hand it is important to realize that when society is involved in regulating family relations (when Islamic Law steps in) it doesn't step in to replace the innate feelings but to supplement them. The main purpose is to provide protection so that the inalienable rights that various members of the family have on each other is fulfilled with some kind of justice. In the absence of some of these controls one may run into problems. If one depends on innate emotions one may find that a parent overly favors children in terms of inheritance which would be based on emotions and could result in taking away the rights of the other children. For this reason Islamic Law tries to resolve these issues by establishing basic minimum rights to guaranty lack of discrimination. The basic notion is that a Muslim family does not entirely depend on emotion and the natural sense of duty nor does it entirely depend on enforcement of the Law but it rather works in a balanced of both to achieve this.

Host: Can you explain the role of lineage in the family structure in Islam?

Jamal Badawi:

Lineal identity is very essential and plays an important role in the Muslim family. On the basis of this lineal relationship in regards to duties, responsibilities, obligation for maintenance, rights of the deceased and inheritance are all related in Islamic Law to the exact lineal identity. In Islam a person should not mask his true identity. In (33:4) the Quran responded to two falsifications that the pre-Islamic Arabs fell into: one was that if a man got mad at his wife he would tell her that she was to him like his mother and would not touch her or have relations with her and the second error was that when they adopted a child they simply considered him to be their natural child and they gave him their name. The Quran says "Allah has not made for any man two hearts in his (one) body; nor has He made your wives whom ye divorce by Zihar your mothers: nor has He made your adopted sons your sons. Such is (only) your (manner of) speech by your mouths. But Allah tells (you) the Truth, and He shows the (right) Way." Thus Islam stands against masking or falsifying the individual's true identity. This doesn't mean that one should not have any respect or consideration for the adopted person but rather to give him his proper lineage.

Host: What happens in the case that the father of the individual is not known? Does it make an exception to the rule?

Jamal Badawi:

The next verse in (33:5) says “Call them by (the names of) their fathers: that is more just in the sight of Allah. But if ye know not their father’s (name, call them) your Brothers in faith, or your maulas, But there is no blame on you if ye make a mistake therein: (what counts is) the intention of your hearts: and Allah is Oft-Returning, Most Merciful.”

Host: Does Islam view adoption to be lawful or unlawful?

Jamal Badawi:

The problem with this confusion is the an issue with semantics and terminology. In the Western context the word adoption might have a variety of meanings some fit with Islamic Law and some do not. What is not accepted: if someone adopts a child and gives him their family name instead of his real name and the text makes this clear when it says don’t mask their identity. There is no shame in being adopted and having a different family. Also, it sometimes means that when the adopter dies that his natural children and his adopted children inherit in the same way. This in Islamic law is not excepted as the natural children definitely have more claim than an adopted child. But if what is meant by adoption is to look after an orphan or taking care of someone who is left out or abandoned there is no prohibition against this in Islamic Law. Indeed it would be an act of humanity and compassion to look after those unfortunate individuals. The Prophet (PBUH) had an adopted son, Zaid Ibn Haritha, and before these verses were revealed he was called Zaid Ibn Muhammad (Ibn means the son of). Even though the adopted child does not inherit at an equal level as the natural children this does not preclude the adopter to include the adopted child in his will (within the laws of inheritance).

Host: What are the basic objectives or functions of the family according to Islam?

Jamal Badawi:

First of all, Islam views the family as a divinely ordained institution (not an optional or a spontaneous institution). Islam does not recognize any other institution that can replace the family. While Islam regards the family and marital relationships as a divinely inspired institution which is noble and sacred it is also a social contract (with certain mutual rights and obligations). A third element is that family can not be

separated from fellowship in faith and that this is essential in the long run for the stability and welfare of marriage. Fourth it is necessary to clarify that while Islam upholds the basic equality of both sexes this does not preclude certain differentiations in roles, duties and responsibilities which are not contradictory to the equity but are rather needed to provide for the complementary nature of family relations. The next logical point would be what role does the family play in society. A good source that summarizes these points in a brief way is a little booklet written by Khursheed Ahmad published in Britain. Six basic functions are put together. One, family is in charge of preservation of the human race (procreation). Second, protection of the morals of society and individuals by providing the only legitimate avenue for satisfaction of the sexual urge through marital relationship. Third, is socialization where the family serves as a vehicle through which the psychological and social need of children and their value orientation takes place. Fourth, it provides stabilization of psychological and emotional needs. Fifth, it provides for social and economic security which is guaranteed through mutual rights within the family. Finally, it is a motivating source for the individual to work hard and learn the sense of mutual sacrifice and beneficence.

7.11 Social System of Islam- Position of Women in Ancient Civilization

Summary of 7.10 "Place of Family in Islam"

Basically, we said that since we are dealing with the social system in Islam, the corner stone of society is the family. We started off by indicating that from a Muslim point of view a family can be a number of persons who are related by blood or by marriage. In this condition Islam accommodates what people call nuclear family (father, mother and children) and the extended family as it need not necessarily be one or the other. It was also indicated that the family is partly based on lineal identity and that Islam pays close attention to this as we found in chapter thirty-three in the Quran where a person is forbidden from being given false identity. For example if a child is adopted he should not be given the name of the family adopting him but should keep the name of his natural parents. Islam is not against adopting or fostering which is to take a child who is lost or orphaned and to look after his or her needs. Within this meaning it is allowed and even the Prophet himself adopted. The other thing that we discussed was the meaning, place and objectives of the family in Islam. We said that the family is a divinely inspired institution which is very important. Family is a social institution with some of the main objectives which include procreation, protection of morals in society, providing stability, providing value orientation for the child, providing security at a psychological and emotional level for members to do their best for the good of the family and society at large.

7.11 Position of Women in Ancient Civilization

Host: What is the relevance of examining the position of women in ancient history and what are some of the historical aspects relating to women in society?

Jamal Badawi:

I think that with the start of any important subject it is important to start with some background. We are not saying that this was the position of women before Islam and that its purpose was completed at the arrival of Prophet Muhammad (PBUH) in the seventh century. We are not saying that because if we say that then it may imply that Islam introduced some improvement or some reforms which are good for that time but that may not be adequate for this society. This is not what was intended and we will see as we go on that Islam was at least 1400 years ahead of its time. When we talk about divine revelations and injunctions which are well preserved in the form of scripture then we are admitting the divine source from a Muslim point of view that we are accepting God's eternal knowledge of the past, present and future.

Host: What are some of the ways by which women were viewed by some of these earlier civilizations? Lets start with some of the eastern civilizations first?

Jamal Badawi:

An interesting reference by David and Vera Mace published in New York in 1960 with the title of Marriage East and West. There are three quotes that represent the typical treatment of women in ancient civilization. It will be obvious from these quotes that the women were not highly regarded at all. The book quotes an ancient Chinese poet by the name of Fu Hsuan who wrote in the third century BC "How sad it is to be a woman, nothing on earth is held so cheap." Furthermore we find that according to the teachings of Confucius that "The main function of a woman is to obey: in childhood and early youth she obeys her father, when she is married she obeys her husband, in widowhood she obeys her son, the quality of her obedience is to be unquestioning and absolute." Some people may say that there is nothing wrong with a daughter obeying her father or a wife obeying her husband within reasonable requests, but the problem here is that even in widowhood a woman should obey her son and that this obedience has to be unquestioning and absolute! We will find that this is not true as the only unquestioned obedience is to God and not to any human being. Some used to believe that when a son was born he was a god who fell from the heavens and that a girl was not a celebrated event.

The second reference is to the culture of Buddhism. In one quotation "Women are full of sin, nothing is to be dreaded so much as a woman." The book also refers to the Law of Manu from Hindu ancient civilization "A woman whose mind, speech and body are kept in subjection acquires high renowned in this world and in the next." The author of the book added that women had no business with the text of the Vida (Hindu Scripture) having therefore no evidence of law and no knowledge of expository texts. Women were not allowed to remarry after the death of their

husbands. Most often they acted as servants in the household of their relatives of the deceased husband. In some cases a woman would have to burn herself when her husband dies. Despite the prohibition of this practice currently some believe that until now in isolated cases this practice continues (there is no clear documentation of this). According to Encyclopedia Britannica in the eleventh edition it indicates that in the Law of Manu women were excluded from inheritance. In other words inheritance was to pass only to the male side of the family. In page (74) of the same book Marriage East and West the authors conclude that the picture is all too clear in China, India and in Japan had the same story. The thought in great eastern cultures about the nature of women shows little variations.

Host: Let us turn our attention to the ancient civilizations of Europe?

Jamal Badawi:

We will look at the Greek and Roman civilizations. In a book called History of Civilization by E.A. Allen in Volume 3 he says "Athenian women were always minors subject to some males: father, brother or to some of their male kin." He also indicates that the consent of the girl for marriage was not required and "that she simply received from her parents her husband and her lord." The Roman women as reported in the same reference in page 550 "A Roman woman was regarded as a babe, a minor, a ward and a person incapable doing anything according to her own individual taste, a person continually under the tutelage and guardianship of her husband." In Encyclopedia Britannica it was also indicated that according to Roman Law if a woman gets married her property automatically passes on to her husband and she would not be allowed to dispose of it as she pleased or without his permission. The woman was not allowed to have a will or negotiate a contract even on her own property. There are aspects of this treatment that persisted even after Christianity spread. The West and the East were united on the issue of the subjugation of women.

Host: What about the treatment of women in the Middle East?

Jamal Badawi:

The Middle East was the birth place of many of the world's major world religions and the situation was not much better than it was in the East or West. We can refer to the Hebrew tradition which extended over hundreds of years and the Arabian women which will both help us understand the reforms that Islam brought. We will discuss the Hebrew tradition in the next program when we get into the comparison of the Bible and the Quran regarding the attitude towards women. We will touch briefly on the aspect of Arabian women. As I said earlier the situation was not any better than the East or West. Some examples would be that if a person received news of the birth of a girl his face darkened and they got sad and very upset about it unlike when given

the news of a the birth of a son. The other practice that was very inhuman, which totally disappeared after Islam, was the female infanticide. Some people used to burry their daughters alive. Some of the reasons were fear of shame that the girl may bring to the family. Of course this was not universal or the race would have disappeared but the very fact that such inhuman type of attitude existed is quite revealing. It was not uncommon in Arabia (before Islam) after the death of the husband that the woman herself becomes an object of inheritance as part of the husband's estate.

Host: Were there any exceptions to this negative attitude towards women?

Jamal Badawi:

It is reasonable to say that the view was generally negative towards women. It is very difficult to talk about a civilizations that continued for hundreds of years and to say that there were no incidents where women were treated with respect. There are some acceptations which however were sometimes restricted to nobility. Usually in a rich or ruling family women got better treatment than in other cases. Throughout history there have been many women who had talent, personality and determination could still make their presence felt despite the overall conditions. It is noteworthy that recent discoveries that the image of god was a female. Some of the cave temples discovered in the Soviet, Ukraine, Southern Spain and southern France some estimate to be between 30,000-2,000 BC that the superior deity that was worshipped at the time was a female. The concept of goddess was not limited to one place but is found in different parts of the world. In Egypt for example the supreme being as believed by the ancient Egyptians (before Islam) was Isis. In Babylon the goddess was Tiamat, in Ancient Sumeria Ishtar, in Ancient Greece it was Demeter and in Rome it was Maitre. They might have different names, but basically they all had the same concept of glorifying the female image of god.

Some authors dismiss these as relating to the fertility cults but others see more relevance to that than just cults. In some of the ancient writing they seem to refer to the mother goddess as the creator, the law giver, the judge and the queen of the heavens. An interesting thing that was written in Egypt that dates back 1400 B.C. it says "In the beginning there was Isis, the oldest of the old the goddess from whom all becoming arose mistress of heaven, mistress of the house of life, mistress of the word of god." Another very interesting myth is that of the Sacred Sun and Lover. The myth goes that through the union of the Sacred Sun and the goddess all existence is granted continuity. He was usually known as the dying and resurrecting god (this was the believe a long time before Christ), as the fields of earth die each year only to be born in the spring. This myth about the Sacred Sun was referred to by different names such Baal, Osiris, Tammuz and Hates which all relate to the mother goddess. This kind of archeological evidence shows that in civilizations preceding what we found in China, Japan or India was not always negative. There were times

when women were regarded as goddesses and it was reported in some references some women were the priestess

Host: Would it be useful to look at the position of women in both the Bible and the Quran?

Jamal Badawi:

Yes, it would be useful in a number of ways. We have been talking about women in history and of course an important part of this history is that which has been influenced by the three major religions Judaism, Christianity and Islam. The closest revealed religions to Islam would be Judaism and Christianity. There are many basic similarities between these three faiths that have to do with the belief in God, Prophethood and the life here after. There may be variations in the way they are interpreted, but the comparison of these three faiths would help us better understand the subject.

The other point that is of great significance is that often many statements about women and their position in Islam that are erroneous are made in speeches, newspapers, articles, books by scholars in the West who are Jews or Christians. Many times those statements are not supported with any evidence from scripture. Recently, I was giving a lecture in Montreal and a sister brought to my attention article in which the writer says that in accordance to Islamic Law (he did not say that this was the practice of some) the consent of the girl is not required in marriage. This is a statement that is totally apposed to what the Quran says and what the teachings of Prophet Muhammad(PBUH). There are many statements that are erroneous and are based on myth and misinformation which have been circulating for quite some time, that has caused an erroneous stereotype in regard to the views of Islam towards women (and many other issues). Another similar incident took place in Kansas city where someone brought to my attention an article where the author said that in Islam the woman is only allowed to have a bath once and that is on the night when she is wedded. This is something that is so absolutely ridiculous that even a person who does not know about Islam would know that this is totally out of line. Sometimes references take parts of quotations from the Quran and use it out of context, thus it is important to bring forth the scriptures of Judaeo-Christian traditions, mainly the Bible, and to compare it to the Quran and Hadith (Prophetic Tradition).

7.12 Social System of Islam- Position of Women in Ancient Civilization

Summary of 7.11 "Position of Women in Ancient Civilization"

The first point addressed the relevance of women in history. We said that Islam did not just make some improvements relevant to the seventh century but not relevant today. The main purpose was to understand some of the background that existed in the world towards women before the arrival of Islam so that we can appreciate how Islam changed the views all together. The second basic point was to look at how women were treated in previous civilizations in the East, West and Middle East. We looked at examples from China, Japan, India, Greek, Roman and Arabian women and it appeared from the quotations that we referred to from authorities on the subject that women on the whole were treated as inferior to man and incapable of doing things on their own and in some cases they were seen as the embodiment of evil. However, we mentioned that there were exceptions to that rule especially among women in nobility or ruling families (but this was not the case for the average woman). We mentioned that in some cases in ancient civilizations, going back several thousand years before Christ the image of god was that of a god mother. We covered the myth of the god mother and the Sacred Sun and how they were united. There is evidence that the image of the female was that of a deity. On the whole however the view of women used to be negative.

7.12 Women in Judaeo-Christian and Muslim Scriptures I

Host: What are the areas of comparison which you consider to be essential to such an examination?

Jamal Badawi:

We are not going to extensively cover every point but there are some areas where we can find explicit instruction in both the Judaeo-Christian scripture as well as the Islamic scripture where comparison clarifies the different views. These points include the creation of Eve from Adam and what it means from both religious traditions, the issue of the first sin and whose responsibility it is, the view towards pregnancy and the pains of childbirth, how each of the traditions look at the feminine functions (treatment during monthly cycles), treatment of a woman who is raped and lastly marriage (dowery and divorce).

Host: What are the similarities and differences are there in the view towards the creation of Eve?

Jamal Badawi:

In both the Bible and the Quran it indicates that Adam was created first and then “from Adam, Eve was created.” The degree of explicitness of this description is what varies between both resources. In the book of Genesis 2:2-22 it describes how Eve was created and it simply says that God made Adam go into deep sleep then He took a rib out of Adam and He created Eve from it and then he gave her to Adam. The Quran does not mention anything about the rib of Adam. The closest description to this in the Quran is in (4:1) in which it says “O mankind! reverence your Guardian-Lord, who created you from a single person, created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women.” The word that is used for “of like kind” is *minha* which could mean of it or of the same kind. There however, is no reference at all that Eve was created from Adam’s rib. The word rib has been mentioned in some of the Prophetic traditions but not in the explicit way that it is mentioned in the Bible. It says that women were created from “a” rib. The context of this is to appeal to man to properly treat women and to take into account their nature and not to try to change that nature by force. In that context the interpretation is not that women were created from a rib (physically) but with the same nature of the rib. If we take this interpretation which seems to be more in line with the context of the Hadith, as there is no mention of Adam’s rib in particular, I think it is a more acceptable explanation. In that sense we can say that both Adam and Eve were created from the same nature which goes beyond the physical rib into physical, mental and spiritual similarities between both sexes.

Host: Who is responsible for the first sin (the eating of the apple), Adam or Eve?

Jamal Badawi:

The Judaeo-Christian and Muslim traditions have basic differences when it comes to this point. We will start with some of the similarities found in both religions. First, God commanded Adam and Eve not to eat from a particular tree (the Quran does not say what kind of tree whether it was apple or banana etc.) and that there was a violation of this command and that both Adam and Eve ate from the tree. The way that this happened is different. In the Bible in the Book of Genesis chapter 3 it is quite clear that the blame is put on Eve for the first sin: the serpent tempted Eve, who ate from the tree and then she tempted her husband to eat from it too. In the Quran there is absolutely no mention of the Serpent. The Quran indicates that it was the evil prompting of Satan rather than the Serpent that prompted this mistake. For example in (38:71-88) of the Quran it tells of God telling the Angels that He is creating a human from clay and that they should bow down to him. Then it talks about Satan refusing to bow down in the presence of the other Angels and that he was too haughty and jealous of the special status that God endowed on mankind. Similar references can be found in the Quran in (7:11+), (2:31+), (15:28), and (17:61+). There is no mention of a serpent at all in any of these verses.

The other point that I find to be a major difference is found in the Quran in (7:19-27) it talks about this mistake it describes both Adam and Eve as equally committing that mistake. In the span of eight verses reference to both of them was used fifteen times. This removes any notion of women being the blamed for eating from the forbidden tree. This could mean either that both were equally mistaken and according to some scholars that Adam alone was to blame. These scholars refer to verses like (7:19) and (20:115) which give the impression that Adam is to blame for this. In Bukhari and Muslim it describes the scene on the Day of Judgement when people are confused and they go to various prophets asking them to intercede with God so that accountability starts and it says there that when they go to Adam that he will say “God told me and I disobeyed him, look for a Prophet who did not make this kind of mistake.” In other words Adam alone is mentioned as the primary person responsible for the deed. It is reasonable however to say that the overwhelming proof in the Quran puts Adam and Eve on equal footing when it comes to responsibility for this mistake.

Another major difference is that according to the Quran, in (2:37) after Adam and Eve made this mistake they both repented to God and God accepted both their repentances and as such there is no original sin in Islam. This is emphasized in numerous verses of the Quran.

Host: Could you comment on the point of the Serpent and how it is unique to the Bible.

Jamal Badawi:

It used to be believed that it is unique to the Bible but it has been shown in further studies that nearly seven thousand years before the Hebrew Scriptures were written that there are images of the god mother with the Serpent coiling around the tree of life in the Garden of the World. This evidence shows that there was symbolism from the past attached to the Serpent as the embodiment of all evil. A reference on this is found in “The Dangerous Sex” by H.R. Hays.

Host: Can we look at the similarities and differences on the subject of pregnancy and childbirth?

Jamal Badawi:

This issue of pregnancy in the Bible is related to two things. In Genesis 3:16 it mentions pregnancy and suffering as a punishment to Eve because she ate from the forbidden tree. "I will greatly multiply thy sorrow and thy conception; in sorrow thou shalt bring forth children." So the pains are a sort of punishment because she ate from the forbidden tree. This notion is also confirmed when we see how a woman should be treated in the post natal period. The main reference is in Leviticus chapter 12 "If a woman have conceived seed, and borne a man child, then she shall be unclean seven days" and "And she shall then continue in the blood of her purifying three and thirty days." This give us a total of 40 days. In the same chapter it says "But if she bear a maid child, then she shall be unclean two weeks, as in her separation: and she shall continue in the blood of her purifying threescore and six days." This is a total of 80 days. Then it goes on in the same chapter (starting at verse 6) describing what to do to become purified after the bleeding stops. It says she has to take two pigeons or a lamb as an offering to the preist as an atonment and so that she may be clesed.

The Muslim point of view toward pregnancy as found in the Quran and Prophetic Tradition is not regarded as a punishment for Eve, as the whole notion of original sin does not exist. The Quran in (7:189) describes the beauty of pregnancy and it describes how a couple that expects a child pray to God (thankful for the child). The same attitude is seen in chapter 31 of the Quran. In (46:15) it asks for sympathy and kindness for women by saying that a person is commanded to be kind to his parents because "In pain did his mother bear him, and in pain did she give him birth." The term used for pain is kurhan which is the exact word used for Jihad (struggle), struggle in society or struggle against one's self as is described in chapter 2 of the Quran. This gives it a more beautiful meaning as it is a struggle for which a woman is rewarded. In addition, there are a number of prophetic sayings that if a woman dies in during pregnancy, childbirth or during the postnatal period she is regarded as a martyr, which is the highest position that any Muslim can asspire to. These sayings are refrenced in Tirmithi, Malik, Ahmad and in Al-Nasa'ai. One of the sayings says that if a mother dies in her postnatal period her infant will drag her to paradise.

A second area of comparison is the waiting period. In Leviticus the woman has to wait 40 days before she is cleansed after having a son and 80 days if she had a daughter. In Islam there is no such destinction. The waiting period before a woman can have marital relations with her husband or before she can pray or fast is the same in both cases in Islam. Islam does not require a minimum period. The 40 days in Islam is the maximum waiting period. If the bleeding stops (even if it is one day after childbirth) the woman is automatically cleansed and can go on doing her business as usual. Finally, there is no notion of this being a type of punishment or atonment but is simply a natural function.

Host: Is the treatment of women during their monthly cycle is the same in Judaism and Islam?

Jamal Badawi:

There are superficial similarities but once we go beyond the surface there are very important differences. The main reference in the Bible for the rules pertaining to this time is found in Leviticus in chapter 15:19. Basically what it says is that if a woman is going through her monthly cycle “shall be put apart seven days: and whosoever toucheth her shall be unclean until the even.” Also, anyone who touches her bed or a place where she sat will be unclean till the evening and have to bathe and wash their clothes. It goes on to say that if the bleeding goes on after the seven days the same kind of treatment continues. Finally, it says that after the cycle ends (verses 29 on) she is required to take two pigeon offerings to the priest (one is a burnt offering and one is for her sin) then “the priest shall make an atonement for her before the Lord for the issue of her uncleanness.”

Islamic law is different. First of all, during the monthly cycle there is absolutely no problem in touching the woman or sitting by her or where she was sitting. The only thing that is restricted is having intercourse during that period. Prophet Muhammad was asked explicitly what is a man’s relationship with his wife during this period. He replied everything except intercourse which as narrated in Muslim, Ahamad, Tirmithi, Al-Nasa’ai, Abu Dawood and Ibn Maja. One companion asked the Prophet as narrated in Al Tirmithi he said “Should I eat with my wife when she is on her cycle?” The Prophet replied “Eat with her.” In the behavior of Prophet Muhammad he showed that all of these practices are not a reflection of the Will of God but rather human biases. For example, Aisha, his wife, used to help him wash his hair when she was on her cycle. In some cases it was reported that he would sleep in the same bed as his wife during her cycle (but of course without having intimate relations). There is absolutely no problem with a husband staying, kissing or touching his wife during this period. The Quran describes the flow as *atha* which means pain or hurt, not that the woman herself is polluted but that the natural function hurts women or makes them uncomfortable. This is a sympathetic note rather than an accusation of being uncleanly or polluted. Finally, there is absolutely no notion of this being a kind of atonement or that the flow of blood in itself is a sin. There are no offerings or any type of atonement. The only thing that is required is that a woman takes a bath/shower and cleanses herself when the cycle is over.

In the case of flow beyond the normal number days of a (specific) woman’s menstrual cycle, it is not regarded as a cycle but rather as an illness she is allowed to practice all the normal functions without any deviations (other than making ablution before every prayer).

7.13 Social System of Islam- Women in Judaeo-Christian & Muslim Scriptures II

Summary of 7.12 "Women in Judaeo-Christian and Muslim Scriptures I"

First of all, we compared the attitude towards women as reflected in the Old Testament with the Quran. We compared three major areas. One, the creation of Adam and Eve and the responsibility for the first sin. According to the Bible the woman is blamed because she tempted Adam. In the Quran it is Satan who tempted both of them and thus both of them were equally responsible. The blame is not thrown on the woman's shoulder. The second area of comparison of the attitude towards childbirth and pregnancy. We compared Genesis 3 and Leviticus 12 in the Bible which shows that pregnancy and childbirth is a punishment for women for committing the first sin. We compared this with the Quran which has no such notion. Actually, in the Quran childbirth and pregnancy is regarded as Jihad, kurh, something heroic and praiseworthy. The third point, focused on the treatment of women during their natural monthly cycle and postnatal period. We found in Leviticus 12 and 15 in the Bible we find that women at this time should be kept away from and not touched. For example, if a person sits on a place she was sitting on the person must to take a bath and wash their clothes. In Islam there is no such notion. Prophet Muhammad (PBUH) said that one can have a normal relationship with women during this period except for matrimonial relations. Islam does not regard this natural function as spiritual pollution. The Prophet said "The believer can never be polluted" in the spiritual sense.

7.13 Women in Judaeo-Christian and Muslim Scriptures II

Host: In the incidence of rape how is the victim to be treated?

Jamal Badawi

First we will refer to the Bible and then we will refer to the Quran. In the book of Detronemy in chapter 22 it gives a detailed description as to what happened in two cases. In verses 23-24 it says "If a damsel that is a virgin be betrothed unto an husband, and a man find her in the city, and lie with her; Then ye shall bring them both out unto the gate of that city, and ye shall stone them with stones that they die; the damsel, because she cried not, being in the city; and the man, because he hath humbled his neighbor's wife: so thou shalt put away evil from among you." In the same chapter in verse 28-29 it says "If a man find a damsel that is a virgin, which is not betrothed, and lay hold on her, and lie with her, and they be found; Then the man that lay with her shall give unto the damsel's father fifty shekels of silver, and she shall be his wife; because he hath humbled her, he may not put her away all his days."

The position of Islamic Law on this issue is quite different. In Islam a woman who is raped is regarded as a victim and her failure to shout or cry does not constitute

grounds for stoning her to death. The woman in this case is regarded with compassion as a victim of the aggression of someone else. The punishment of a rapist in Islamic law is not a payment of silver to the girl's father, but the punishment is much greater and could be capital punishment. In Islam the man is not required to marry the girl because a rapist would not be fit enough to marry a chaste woman. It is kind of like a reward for the rapist if he can rape a woman and then she would be required to marry him, which is more of an award to him rather than a punishment. In the Quran in chapter 24 it indicates that a person should not marry an unchaste person (a rapist would be considered an unchaste person).

Host: What are the positions of the scriptures in the case of a husband accusing his wife of adultery?

Jamal Badawi:

In the Book of Numbers 5:12-28 it describes this case in detail. It says that if a husband is motivated by jealousy and entertains any suspicion about his wife then he should take her to the priest and it describes the detailed rituals. For example it says that the priest takes bitter water and recites a curse on it and threatens the woman that if she is going to lie that her thighs will rot and her belly will swell. The priest threatens her and if she does not confess he gives her the bitter water and offers certain sacrifices and if she is truthful nothing will happen to her and if she is lying her thighs will rot and her belly will swell. The attitude here is to assume guilt in the woman until she is proven innocent instead of innocent till proven guilty.

In the case of Islamic law is is found in the Quran in chapter 24 it says that if a husband accuses his wife of committing adultery all that he has to do is give a statement that he witnessed it and swear five times that he is truthful. The woman is assumed innocent till proven otherwise. The woman can make a rebuttal and swear five times that he is lying. Even if the judge suspects that she is lying the mere fact that she swears five times against her husband that she is innocent it makes her innocent. The only thing that can happen after this is to separate them because their relationship after that would probably be senseless. There is no punishment for her, as it is her word against his. This is only in the case where the husband actually saw his wife commit adultery or had clear evidence of it. This is only the case in marital relationships. It is totally forbidden for a person to make this kind of accusation against a woman that is not his wife, without producing three other witnesses (accepted in the society for their piety and fairness and not known to lie). If he fails to come up with these witnesses the person who made the accusation is punished (with a minimum of eighty lashes even if he was truthful). The idea behind this is to preserve the reputation of woman and to prevent this hap hazard type of accusation and to establish the principle is innocent until proven otherwise.

Host: How is marriage viewed?

Jamal Badawi:

In the Dictionary of the Bible it says that “The practically universal type of marriage was the Baal type, where the wife passed under the dominion of her lord. Genesis 3:16.” This verse says that after Eve committed the first sin God told her that she would suffer in childbirth and then that her husband will rule over her. In Encyclopedia Biblica edited by Cheyne it describes the nature of the marital contract and specifically the consent of the girl who is being married “The girl’s consent is unnecessary and the need for it is nowhere suggested in the law. Ordinary human affection would no doubt lead the parents, generally, to allow their daughters some voice in the matter.” Then he quotes Genesis 24:58 which talks about the marriage of Rebecca and how there was some consultation regarding the matter. Then he goes on “The arrangement of the marriage and especially about Mohair belongs to the province of the father or guardian.” He again refers to Genesis 24, 29 and 34. In other words it basically says that in Judaic law according to Encyclopedia Biblica it was not required that the girl agrees to marry her future husband. In the Encyclopedia Biblica it says about betrothal “To betroth a wife to oneself or eras meant simply to acquire possession of her by payment of purchase money. The betrothed is a girl for whom the purchase money has been paid.” It goes on later on the matter of divorce “The woman being man’s property, his right to divorce her follows as a matter of course.”

First of all a woman or wife in Islam is not regarded as a possession of the husband. Second, the consent of the girl for the marriage is regarded as a necessity and is one of the conditions for the validity of the marital contract! Third, the money that is given by the husband to be to the wife to be is regarded as a gift not purchase money. The Quran uses the term mihla which means gift in (4:4). The matter of divorce has nothing to do with property rights but is a matter of possible of incompatibility. A traditional Israelite prayer that is said in the morning by males “Thank you oh Lord for not creating me a woman.” There is no parallel to this attitude or prayer at all in Islam.

Host: Where does the New Testaments fall in with these comparisons?

Jamal Badawi:

I think it is useful to refer to the Old Testament because after all it is part of the Bible and part of the heritage of the New Testament. Many disciples and writers of the Gospel refer to the Old Testament at least in terms of the prophecies about the advent and life of Prophet Jesus (PBUH). Why is the Old Testament a good resource for that

point and not for other things? I realize of course that some people believe that the Judaic Law is no longer applicable. But even this matter is disputable because Jesus (PBUH) himself said in Matthew 5:17 “Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfill.” In any case it is a useful background that we can use in an academic approach and review of how women were treated in ancient civilization and previous religions so that we may compare it with the change and reform Islam suggested. We will find that these attitudes were carried over even after Jesus (PBUH) through Paul.

Host: What is the position and nature of women as perceived by Jesus and the New Testament?

Jamal Badawi:

There is a big difference between what Jesus himself taught and how things were interpreted after him (not only on matters of women but also in matters of belief). The position of Jesus (PBUH) himself was not negative at all towards women. In all honesty I am not familiar with any statement in the New Testament quoting Jesus to have expressed the type of attitude that predominated in the Old Testament. In more than one Gospel Jesus is quoted as rejecting the notion of eternal sin and as such women do not have to carry this responsibility. Indeed we find that he expressed views that are a little different from the Old Testament. For example in John 16 he talks about the woman being pregnant and giving birth to a child but he does not refer to it as atonement for original sin. He simply says that when labor pains start a woman feels anguished and sorry but as soon as she gives birth she feels happy again. There is nothing here that can be construed as negative feelings towards women. One should remember that among the followers of Jesus (PBUH) were women (none of them were of the twelve disciples but they were well known and accepted by him and some of them were witnesses to important events in his life). He definitely had an honorable position towards women.

Host: Did the disciples of Jesus uphold the same views as Jesus?

Jamal Badawi:

Not all of them upheld it but the predominant attitude was that of Paul who had the greatest influence on later Christianity. If we look at Peter 3, we see that even though Peter asks women to be submissive to men he also asks men to be compassionate towards women. This does not totally reflect a negative attitude towards women. Paul, however, had a drastically different attitude towards women. His views not only on the question of women but on matters of belief (divinity of Christ) had greater influence on historical Christianity than the words of Jesus (PBUH). If

we look at the New Testament which is composed of 27 books total and we find that more than half (14 books) are written by Paul. There are more of the words of Paul than those of Jesus in the Bible. This is why many consider Paul to be the second founder of Christianity. One of the interesting quotations from Paul in 1 Timothy 2:11-15 Paul says “Let the woman learn in silence with all subjection. But I suffer not a woman to teach, nor to usurp authority over the man, but to be in silence. For Adam was first formed, then Eve. And Adam was not deceived, but the woman being deceived was in the transgression. Notwithstanding she shall be saved in childbearing, if they continue in faith and charity and holiness with sobriety.” A second quotation that shows his attitude in 1 Corinthians 11:3 when he says “But I would have you know, that the head of every man is Christ; and the head of the woman is the man; and the head of Christ is God.” Later on in verse 7-8 he says “For a man indeed ought not to cover his head, forasmuch as he is the image and glory of God: but the woman is the glory of the man. For the man is not of the woman: but the woman of the man.” In other words he regards man as the image and glory of God and woman is not the glory of God but of man. The attitude that he held led him to practice celibacy and even to invite others to practice to do so and some historians say that he was never married. A similar attitude is found in 2 Corinthians 11:3 where he repeats the whole myth of the serpent beguiling Eve. It is quite interesting for a man like Paul, who was never married, to make so many pronouncements about women. His attitude was quite different from those of Jesus.

Host: How can one reconcile this attitude towards women with the veneration of Mary?

Jamal Badawi:

Mary (PBUH) was definitely an exception because in the view of some theologians she is regarded as the mother of God (this is not the Islamic view). This veneration went so far as to consider her to be above human level. Some of statues in some European cathedrals show Mary standing and holding the whole world in one hand and her son, Jesus, in the other hand. We discussed in the eleventh program of this series how the god mother existed in ancient civilizations. The case of Mary was definitely an exception just like the past when they worshiped goddesses but still the overall attitude towards women was not good.

Host: Is there any indication that the view of women that was put forth by Paul continued to influence the position of the church throughout history?

Jamal Badawi:

There are many indications of this. For example, we find that Lakey the historian who speaks of “These fierce incentives which form so conspicuous and so grotesque a portion of the writings of the Fathers.” Then he continues “Woman was represented as the door of hell, as the mother of all human ills that she should be ashamed at the very thought that she is a woman, he should live in continual penance on account of the curse she has brought upon the world. She should be ashamed of her dress for it is the memorial of her fall. She should be especially ashamed of her beauty for it is the most potent instrument of the devil.” St. Augustine talked about similar things and that man alone is the image of God, and that women alone can’t be an image of God. St. Chrysostom also said similar things. Perhaps one of the most scratching attacks on women was by St. Terterian who said “Do you know that you are each an Eve, the sentence of God on this sex of yours lives in this age, the guilt must of necessity live too, you are the devil’s gateway, you are the unseals of the forbidden tree. You are the first deserters of the divine law. You are she who persuaded him whom the devil was not valiant enough to attack. You destroyed so easily God’s image. Man on account of your desertion is death, even the son of God had to die.” The attitudes seem to have persisted, not towards the attitude of Jesus, towards the teachings of Paul which opposed the views of Jesus (PBUH) towards women.

7.14 Social System of Islam- Position of Women in Islam (Spiritual Aspect)

Summary of 7.13 "Women in Judaeo-Christian and Muslim Scriptures II"

We continued with the comparison of the Judaeo-Christian and Islamic views by looking at how each deals with women in the case of rape (reference from the book of Deuteronomy 22). We dealt with the case of a man accusing his wife of committing adultery (referenced in the book of Numbers 5). We also dealt with the subject of marriage, dowry, divorce and the consent of the girl in which we quoted the Dictionary of the Bible and Encyclopedia Biblica. We indicated that Islam is quite different from the views that automatically assumed the woman to be guilty. Towards the end of the program we moved to comparison of the New Testament and we indicated that before we look into the Ne Testament that we look into the heritage of the Old Testament and how things progressed throughout history. We said that Jesus (PBUH) did not make statements that were against women but the second founder of Christianity, Paul, repeated the Old Testament’s views towards women. We quoted 1 Timothy 2 and 1 Corinthian 11 which pronounced that women should keep in silence and shouldn’t teach etc. We saw that the views of Paul did not end with him but persisted for quite some time as we quoted negative sayings from various well known Fathers of the Church. Even up till the 20th century there were still traces of this attitude. For example in 1977 the Pope’s decision on the question of ordaining women “The Catholic Church does not consider herself authorized to admit women to priestly ordination. Priests must have natural resemblance to Christ, if a woman celebrated mass it would be difficult to see in the minister the image of Christ.” This

again reflects the male image of God. In Islam a Muslim does not have a male or female image of God; there is no material image of God in Islam at all.

7.14 Position of Women in Islam (Spiritual Aspect)

Host: Could you begin by sharing with us your basic thesis on the position of women in Islam?

Jamal Badawi:

There is no religion that I know of in philosophy or way of life in the past or the present that has dignified and restored to her, her humanity dignity and rights more than Islam did. If there are any deficiencies in the practice of these teachings of Islam on the part of men, women or both it has nothing to do with the teachings of Islam. This is something that can't be documented in the scriptures of Islam which is like saying if people do not abide by the rule then the rule is wrong. The opposite of this is true; the rule but if Muslims as groups or individuals at any time or any place do not apply the rules then it is not a problem with the rule. Islamic Law with what the Quran and the Prophet (PBUH) indicate about the woman can not be superseded by any superior view. This has important implications for Muslim women in the Muslim world today who are seeking to improve the corrupt and improper practices or treatment that might not be consistent with Islamic Law. Once these women understand the nature of Islamic Law, the foundation of their reform should would only be base on it and no other philosophy or way of life because Islamic Law provides the best solution to these problems.

Even none-Muslim women who might be confused in the conflicting shades of liberation might find the Islamic view to be interesting in the Islamic system which deals with women. This topic can be covered in a series the deals with the spiritual human aspect, the rights and position from an economic point of view or sociopolitical point of view. These are all various angels that can be explored to see if this thesis stands or not.

Host: Can we clarify the position of a woman in Islam from the spiritual point of view?

Jamal Badawi:

To start with, woman is not regarded as the one who is responsible for tempting Adam or the one to be blamed for the first sin. We will not repeat the view of Islam towards women when it comes to giving birth and their cycle.

Up till the later part of the sixth century some religious conferences were held including one in Rome. The major topic of discussion was:

1. Does the woman have a soul?
2. Should the woman be considered as part of human beings?

And this was a religious conference, which is not surprising in view of the attitude we discussed before about women in the Old Testament. But in the final resolution of the conference it says that after long and very heated discussion a small majority overtook in the decision to answer both questions positively: that women had a soul and were part of humanity. Today it might sound strange that anyone might question whether a woman has a soul or if she is a human. But what is interesting is that in the middle of these views (7th century) the Quran was revealed to Prophet Muhammad (PBUH) less than thirty years after this conference was held. In (4:1) in the Quran "O mankind! reverence your Guardian-Lord, who created you from a single person, created, of like nature, His mate, and from them twain scattered (like seeds) countless men and women;- reverence Allah, through whom ye demand your mutual (rights), and (reverence) the wombs (That bore you): for Allah ever watches over you." When it says that its mate was created of the same nature it ended to all questions and arguments that could be made about the spiritual nature of women. It is clear, that just as man is a creation of God she is also a creation of God. In (7:189) it repeats "It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love)." When the Quran says "from it" it does not mean from the physical rib of Adam. There are three verses in the Quran in (42:11), (16:72) and (30:21) that show that *minha* does not necessarily refer to a rib because it is used in the plural. The Quran also indicates in (32:9) and (15:29) that when God created the human "But He fashioned him in due proportion, and breathed into him something of His spirit." This shows that every human being is created by God and that God breathed into the human of Himself (not physically) as every human being has spirituality engrained in their pure innate nature. There is no distinction whatsoever between male and female.

Host: Is there any indication in the Quran that a believing and righteous woman is rewarded in the same way as a believing and righteous man?

Jamal Badawi:

There are three explicit among many other explicit statements that are found in the Quran about this. In (74:38) it establishes the basic rule that every soul (not every

man or woman) will be held accountable of for their deeds. This shows that in terms of responsibility before God there is no destination between man and woman. Second, in (3:195) describing the believer it says “And their Lord hath accepted of them, and answered them: “Never will I suffer to be lost the work of any of you, be he male or female: Ye are members, one of another.” This shows absolute equality and notice the beauty of the expression “one of another” which means a woman proceeds from man (seed) and a man proceeds from a woman (being in the womb). Every man and woman have to first go through the womb of a mother which shows the significance of the mother. The third quotation is even more explicit in (16:97) “Whoever works righteousness, man or woman, and has Faith, verily, to him will We give a new Life, a life that is good and pure and We will bestow on such their reward according to the best of their actions.” The Prophet (PBUH) said “Women are but sisters of men.”

Host: What about the spiritual manifestations of religious duties and are they the same for the male and female?

Jamal Badawi:

Yes, they are the same with some concessions given to women. For example, the Five Pillars of Faith (Testimony of Faith, Prayer, Fasting, Charity and Pilgrimage) has no basic distinction between males or females. I said basically because there are cases where women are exempt or given certain concessions which are not given to men out of consideration of their female nature.

For example, the five daily prayers is required of both male and female under normal circumstances. In the case when a woman is going through her monthly cycle or is recuperating from childbirth (postnatal) a woman should not perform these five prayers. Also, during the month of fasting every Muslim be it male or female who is able should fast from dawn till sunset (no food, drinks or matrimonial relations). In the case of a woman during her cycle, postnatal period or a suckling mother is exempt from fasting which she can make up at a different time (she doesn't have to make up the prayers, however). Jihad (in the broader sense this means struggle against evil in one's self, evil in society and evil in the world which may be battles in order to defend the country or remove tyranny) in the last case is a collective requirement which is compulsory for men but is not compulsory for women. A woman can not be drafted according to Islamic teaching.

Host: Do these concessions create a hierarchy and a lower status for women? Why cant women worship God because of natural bodily functions?

Jamal Badawi:

If a woman fasts (not taking any food or liquids between dawn and sunset)

while recuperating from childbirth is it putting her at a lower status or is it just a tender consideration of her pain and suffering? Again this is the same during the monthly cycle which effects the body physiologically and psychologically. If a woman is nursing a baby, medical doctors say she should consume a lot of liquids to help the milk flow, and she doesn't what kind of state would she be in and what about the welfare of the child and herself? When people say "Why cant she worship God?" Who said that she can't worship God? The word worship ibadah in Islam means that all actions in one's life can be regarded as continuous acts of worship so long as they are done correctly within the boundaries that God has set. There is nothing that forbids the woman from doing acts of charity like paying charity to the poor. These restrictions in terms of prayer or fasting are related to the requirement and specific nature of prayer and fasting. A woman in Islam is not prevented from prayer in the form of supplication. She is also not prevented from reciting Quran from memory. What confuses people perhaps is that prayer in Islam only refers to one specific type of prayer which is done five times a day with specific prerequisites and requires certain movements for both men and women. This specific ritual of prayer is the one where women is not supposed to practice while on her cycle or postpartum period. Men and women can't perform this prayer after intimate relations unless they take baths. This is really a concession rather than a restriction.

Host: How does Islam respond to the ordination of women?

Jamal Badawi:

In Islam there is no ordination of men also. In Islam there is no concept of church as the soul directive and as such there is no clergy. There are scholars of course, people who specialize in Islamic studies just as people specialize in chemistry or other areas who could be authorities in the field. Religious leaders in the Muslim world might be given different titles because of different cultures or places but essentially it is quite different from the common notion understood by the clergy.

Second, the question of ordination is irrelevant and has nothing to do with the view that was held for a long time (and is held by some) that a woman can't be ordained because she does not represent the image of God. For a Muslim there is no such thing as a male or female image of God. In the Judaeo-Christina context the function of a priest is to conduct rituals and offer services and religious education to the community. In regard to the rituals we find that in the Islamic framework they don't constitute a major part of Islamic teachings and that the format of these rituals (like the five prayers) are not appropriate for a woman to lead. As far as the second basic function of religious teaching or services to the community of believers. In Islam I know of no restriction on a woman engaging in Islamic education at any point in her life.

Host: Why can't women lead the prayer and why do they have to sit in the back of the Mosque? Does this not mean that they are second class?

Jamal Badawi:

In the Muslim prayer people don't just sit and supplicate but it has special moves which involves prostration to the ground which leave us with three possibilities: women are in front of men bowing and going up and down, women and men mixed within the same lines standing shoulder to shoulder and foot to foot or that women are behind the men. In a highly spiritual act which include many movements and close body contact it would be out of the question for women to stand next to men and still concentrate on their prayer, or stand in front of men and bow down which would be uncomfortable. I suspect women themselves would prefer not to bow down to the ground and prostrate while men are watching behind them. The only logical place for women to stand is behind men. This is simply the etiquette and proper modesty that should be observed by both Muslim males and Muslim females.

Host: Why were all of the prophets male? Does this suggest that religions were male oriented?

Jamal Badawi:

First of all, the Prophet did not select himself and was not selected by people. There is no question of male or female bias. The Prophet was selected by God who is neither male or female and has no interest in siding with either. Secondly, the Prophet is not just a person who has the gift of prophecy (nothing in Islam says that only men have the gift of prophecy) or God inspiring one to know what will happen in the future which God can give to both men and women. In the Islamic context the Prophet has very important responsibilities beyond prophecy and that is to strive against evil in a society, to always mix with people and to go in public and face all kind of mistreatment and opposition as we know from the history of all the prophets. A prophet is a leader of believers in the rituals that we described (should be lead by man because of the nature of the content), leads the believers in confrontation against their enemy (in the cases of Prophet Moses and Prophet Muhammad (PBUH) in a battle field. Given these duties of a prophet it wont be as easy for a woman to carry out this job. For example a woman who is pregnant tries to invite none-believers to the faith and gets stoned the Prophet Muhammad (PBUH) got stoned when he went to the City of Al-Taif and his feet were bleeding. Suppose that a pregnant prophetess who is subjected to this kind of abuse, torture and ill treatment. It is not that a woman is not qualified or does not have spiritual qualities as fine as man but it is simply the nature of the hurt and suffering that Prophets have to go through that requires a male to withstand it. Also, not every male can withstand

this kind of job as God selects special males who have the fortitude to resist this opposition.

7.15 Social System of Islam- Position of Women in Islam (Economic Aspect)

Summary of 7.14 "Position of Women in Islam-Spiritual Aspect"

Last week's program looked at the position of women in Islam, first from the human and spiritual perspective. Islam dispelled all the arguments that preceded the advent of Islam in the later part of the sixth century where they had religious conferences to decide whether a woman had a soul, whether she is human and whether she deserves the life hereafter or not. We quoted verses from the Quran which show that Islam recognizes a woman's full humanity and that she is created with the same nature and soul as man and that there is no difference. We also, indicated that Islam recognizes the same spiritual qualities for both woman and men. The religious duties and responsibilities are the same for men and women. In some cases women are given certain concessions regarding religious duties in consideration of their feminine or maternal functions. For example, a woman does not have to fast when she is nursing or pregnant in protection of her health and her babies health. Then we discussed the specifics of some of those concessions and why women pray behind the lines of men and why a woman does not lead the prayer and bow down in front of men. We also, discussed why there are no female prophets and that his has nothing to do with her status or position but rather the nature of Muslim prayers which involve certain movements and the nature of the role of the prophet and the suffering that he must endure. Otherwise women and men are on the same plane at a human and spiritual level.

7.15 Position of Women in Islam (Economic Aspect)

Host: Does Islam recognize a woman's right to own property independently (independent of her husband)?

Jamal Badawi:

According to Islamic Law a woman has complete unquestioned right to own property in her name independently. This right does not change in case of marriage and it does not transfer to her husband (as we have seen in some laws before Islam and in some

none-Muslim societies after Islam). A woman is eligible to dispose of this property in anyway she wishes (bequeath it, sell it, rent it, invest it or any other form of disposal of property) without any permission or interference from her husband or anybody else. Among Muslim women, even till today, a woman does not take the name of her husband upon marriage which is a symbol of maintaining her personality and legal identity. Some Muslims who migrate or live in the West find it difficult and uncomfortable to refer to a wife as Mrs. so and so. In Islam a woman maintains her maiden name. These are not recent interpretations of jurists but are all rights which were established and entrenched in Islamic Law from as early as the seventh century.

Host: Could you compare the situation of Islam with the legal approach of the Western civilization after the industrial revolution?

Jamal Badawi:

According to Encyclopedia Americana the international edition published in 1969 Volume 29, in page 108 it describes the approach of the English common law “All real property which a wife held at the time of a marriage became a possession of her husband. He was entitled to the rent from the land and to any profit which might be made from operating the estate during the joint life of the spouses. As time passed the English courts devised means to forbid a husband’s transferring real property without the consent of his wife. But he still retained the right to manage it and to receive the money which it produced. As to a wife’s personal property the husband’s power was complete, he had the right to spend it as he saw fit.” It appears that this kind of situation continued until the later part of the nineteenth century. To document this we refer to Encyclopedia Britannica the 1968 addition Volume 23, page 624 it says “By a series of acts starting with the Married Womens Property Act in 1870 amended in 1882 and 1887 married women achieved the right to own property and to enter contracts on a par with spinsters, widows and divorcees.” Indeed Britain was ahead of many European nations. It is known that in French Law the right of women to own property was only recognized in as late as 1938. Prior to that among the people who did not have the right to dispose of property were minors, those under guardianship (not stable mental condition) and women. This means that many of the rights that were recognized to women economically in as late as the nineteenth and twentieth century were already well entrenched and established in Islamic law as early as the seventh century which is almost a span of 1300 year difference.

A French writer by the name of Maurice Gaudet-Demombynes translated by John P. MacGregor wrote in a book with the title Muslim Institutions published in 1950 that Quranic Law gave the wife “a status which is in many respects more advantageous than that bestowed by modern European Laws.” Another writer also wrote that Islam was astonishingly ahead of its time and environment. This astonishment results from the fact that many of these writers look at these provisions in Islamic Law and they wonder how Prophet Muhammad could say these things in a

time when women were the object of inheritance. What they forget is that these laws are not written by Muhammad and the Quran was not written by him, but that it was divine revelation. God's laws are not subject to the limitations of the time, pressure or environment.

Host: Under Islamic Law is the woman entitled to inheritance?

Jamal Badawi:

It is interesting to note that before Islam in Arabia in some cases the woman herself was the object of inheritance, part of the estate left by the deceased. Depriving a woman from inheritance was not uncommon not only in pre-Islamic Arabia but also in other parts of the world. In some cases only males were entitled to inheritance and in some other cases (even in Europe) only the eldest son was entitled to it. The argument for this was that it preserves the wealth and aristocracy of the family rather than splitting it among so many children. The first and most important major reform that the Quran introduced was to establish the rights of both males and females, with no exclusions. In the Quran in (4:7) "From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large,-a determinate share." This share was not determined by anybody, not even Prophet Muhammad but was determined by God. No body has the right to change it or to deprive anyone from his or her legitimate inheritance. In Islamic Law even if the deceased made a will with the exclusion of any of the legitimate female heir that it would be void from the Islamic point of view. The reason of the revelation of this verse reflects that it was made to reflect the female rather than the male. It was said that the wife of a man by the name of Sa'ad went to the Prophet (PBUH) and said "My husband died and he left an estate which his brother took; I have two daughters and when they get married they will need these funds." So then this verse was revealed to Prophet Muhammad that both males and females are entitled to inheritance. A unique way of revealing revelations was related to cases in society which show us how to resolve these problems.

The share of any heir depends on the degree of relation to the deceased. According to what the Quran says the heirs are a male and female in most cases the male inherits twice as much as the female. This is the case because of the variant responsibilities of males compared to those of females under Islamic Law.

Host: How would you respond to people who see this as being unjust to the woman involved?

Jamal Badawi:

To start with as indicated before the inheritance is not put down by a male (no bias towards males) but these are divine laws that have great wisdom and reason behind them. If we look at one aspect of Islamic Law pertaining to religious privileges or responsibilities then one would probably come up with this conclusion of it being unjust and discriminatory. The error in this conclusion stems from the fact that one is taking one aspect of Islamic law out of context. Indeed if one looks at it further Islam favors the woman even though she inherits half as much as the male.

In the case of marriage the woman is more on the receiving end than the male. First, during the period of engagement she gets all kinds of gifts. Second, at the time of marriage a Muslim woman is entitled to a marriage gift or Mahr which is hers and not anyone else's (like her father's). Usually the Mahr is consistent with the financial situation of the fiancée. Third, if she had any property prior to marriage it remains hers and she has full freedom to dispose of it the way she likes. Fourthly, in Islamic Law, even if the wife is rich and has property she is not responsible to spend a single penny on the household. The full responsibility for her food, clothing, housing, medication, recreation and all her needs are entirely the husband's responsibility. Fifthly, if she earns any income during their marital life by way of rental, investment or income it is all entirely hers. In cases of divorce if there is any differed part of the dower, the marital gift, it becomes due immediately. She is entitled to complete maintenance during the waiting period and is entitled to child support if the child is in her custody.

If we put all these additional privileges that are given to women, and the fact that no matter how rich she is that she does not have to spend a penny we can see that she is not being degraded. In Islamic Law the man is responsible for all of the expenses in addition for his responsibility to care for his near relatives who are poor and needy. When things are put in perspective we can see the great financial privileges given to women in consideration for their need of protection and financial security.

Host: Is the woman entitled to seek a job and work in Islam and is she entitled to equal pay for equal work?

Jamal Badawi:

First, I know of no legal provision in the Quran or Prophetic Tradition that can be construed in any way to say that a woman is not entitled to seek a job or career. It should be added that in an ideal Islamic society some women must take certain jobs. For example within Islamic teachings it is much more desirable for a woman to be examined by a female doctor. This automatically means that Islam presumes that

there would be female doctors and nurses. In an Islamic society it is much more desirable to have a female teacher for females, which presumes females in a variety of disciplines. It is well known that females are much better with children in their early education. These are only examples that show that within the assumptions of Islamic Law there must be some women who have these type of skills. It should be emphasized however that a very important and major role for women in Islam is being a wife and a mother. These kinds of roles that relate to the upbringing of the new generation of humanity should take precedence over a career or job. Whenever there is conflict these basic roles should take precedence. The Prophet (PBUH) said “God loves it when one of you does something that he tries to perfect it.” If a woman has small, babies that she is caring for, that requires her presence and not taking a job for a period of time then she is certainly making the right decision. In the case of living in non-Islamic societies where such guaranties and financial securities are not available to women and a woman has to work to earn a living or in order to care for her children (so long as the type of work and atmosphere is not contradictory to Islamic Law) there are no provisions to prevent her from doing so.

In Islamic Law there is no reason why a woman should not receive equal pay for work of equal value. There is nothing in Islamic law that says that a woman should be paid less because she is a woman. This is as old as the revelations of the Quran, 1400 years ago. It is consistent with the rules of Islamic Law that if a person is doing work (male or female) that they get paid for their work.

Host: Is seeking a job for women not encouraged unless there is a specific need for it? Some people would argue that a woman who does not have a career is not productive or fulfilled individual and that she does not contribute to development.

Jamal Badawi:

I don't know of any function that is more noble, more important and crucial in social development than motherhood. How do we define social development? Are we defining it in terms of dollars and cents? Or are we talking about social, moral, spiritual as well as material development? Once we expand our view of social development; what role can replace the role of motherhood? Why is it that we consider a career outside of the home a career but motherhood is not? Is working outside the home the only determinant?

Why is it in a materialistic civilization like the present age if a woman cooks in a restaurant for strangers she is regarded as fulfilled but if she cooks for her beloved ones at home she is not fulfilled? Why is it if a woman is sewing clothing in a factory for others she is regarded as fulfilled but when she sews for her own family she is

not? Why is it that if a woman works as a secretary, organizing schedules for her boss she is regarded as fulfilled but when she looks after the engagements of the family she is regarded as inferior. Indeed the biggest problem in contemporary thinking is to look down at the role of a mother or a wife as if it is something traditional old and not relevant and not important in society. From a purely materialistic point of view, if we were to put a price tag on the services of a wife and mother and if the husband were to pay her for those services he would go bankrupt. A mother is sometimes on call 24 hours a day and especially when she has small babies. Even in a materialistic sense a wife and mother's job is not worthless. I should reiterate however, that this does not mean that Islam makes it unlawful for a woman to have a job but it simply means that there are priorities. What fulfillment could be greater than a warm home, a happy husband, healthy and well reared children and a cherished and loved wife?

If something is traditional it doesn't mean that it is bad and if something is modern it does not mean that it is good. What is the price that society is paying today for these modern values? The family is breaking down and because of this women seek employment to sustain themselves, which contributes to the problem of unemployment and that causes crime which discourages people from getting married. What price are we paying for these so called modern values verses the so called traditional values? What is wrong with this kind of warmth within the family circle that every man, woman and child publicly or secretly yearn for?

7.16 Social System of Islam- Position of Women in Islam (Social Aspect)

Summary of 7.15 "Position of Women in Islam-Economic Aspect"

The previous program dealt mainly with the economic rights of a Muslim woman in accordance with Islamic Law. In Islamic Law a woman has the full right to own property in her own name and to dispose of it in any way that she prefers regardless of her marital status. We said that it took the European Laws nearly 1200 years to catch up with the Islamic Law which established that right as early as the seventh century. We made reference to the Married Women Property Act in Britain in 1870 which was the beginning of independent ownership.

The second aspect was to allow women a share of inheritance at the time when they themselves were regarded as objects of inheritance. We discussed the variations of the share of inheritance that women and men get in view of the share of the financial responsibility each carries within Islamic Law.

We also discussed the issue of women working when needed. We said there is nothing in Islam that says that work is prohibited to a woman and in fact an Islamic society assumes that some women will work in some professions like medicine, nursing, teaching and other similar areas. We simply said that Islam emphasizes the important role of the woman as the mother and wife and that this is not something to be degraded or frowned upon, but is the most noble career for any woman to aspire to from an Islamic perspective.

7.16 Position of Women in Islam (Social Aspect)

Host: What was the position of Islam regarding the birth of girls and how did this vary from the common practice before Islam?

Jamal Badawi:

The practice of female infanticide was quite common before Islam. The Quran made it clear that this inhuman act was nothing but murder. In the Quran in (81:8-9) that on the Day of Judgement “When the female (infant), buried alive, is questioned-For what crime she was killed.” In this verse it uses the term murder to refer to the method of her death. Aside from uprooting this practice, which Islam eliminated within a few years, the bias of happiness when a son is born and sadness when a girl is born (which is still practiced today) is criticized in the Quran. This is found in (16:58) “When news is brought to one of them, of (the birth of) a female (child), his face darkens, and he is filled with inward grief! With shame does he hide himself from his people, because of the bad news he has had! Shall he retain it on (sufferance and) contempt, or bury it in the dust? Ah! what an evil (choice) they decide on?” The attitude of Islam was not only to stop inhumanity but also to criticize the attitude of feeling happier with the birth of a boy rather than a girl. To put it in simple terms Islam regards the birth of both boys and girls as equal blessings and a gift.

Host: Are there specific directives for people to be kind to females?

Jamal Badawi:

In one of the sayings of the Prophet (PBUH) as narrated in Ahmad he says “Whoever looks after two girls until they grow up, he and I will come on the Day of Judgement like this” and he pointed to his two fingers. This showed that that person would be as close as those two fingers to each other on the Day of Judgment. Indeed there are

certain text in the Prophetic Tradition which shows that the bias did exist and that it came to change this negativeness. In another saying narrated in Ahmad, Prophet Muhammad (PBUH) “Whoever has a daughter, he did not bury her alive and he did not insult her and he did not favor his son over her God will enter him into Paradise.” Prophet Muhammad gave in his own example and life the practical manifestation of these teachings. His extreme kindness in the treatment of his daughters to the point that he once said about his daughter Fatima “Fatima is a part of me, her happiness is of my happiness and her anger or hurt is my hurt.” The Prophet tried in words and deed his best under divine direction to move society away from these strange ideas or misogyny.

Host: Is the female entitled to an education in the same way as a male?

Jamal Badawi:

Perhaps we can make a cross reference here on the economic rights of a Muslim woman. We indicated that work is permissible unless there is a good reason why it is not permissible, but there is no text preventing women from seeking employment. In an Islamic society it is highly desirable to have females in medical, nursing and teaching professions (to name a few), then how can they do this unless they have an education.

The attitude of Islam towards learning is that is not simply a right but an obligation and responsibility. In Hadith narrated in Al Bihaki Prophet Muhammad (PBUH) said that “Seeking knowledge is mandatory on every Muslim (Muslim as a generic for both male and female). The Quran in numerous passages speaks about the higher status that God endows on those who are knowledgeable as is also mentioned in the sayings of the Prophet. None of these make a distinction between male or female as meeting this responsibility is concerned.

Host: Are there any specific fields which are permissible for girls while others are not?

Jamal Badawi:

I am not familiar with any provision anywhere that says that it is unlawful for women to engage in certain fields, which are only allowed to men. If there is any field of knowledge which is unlawful for women then it is also unlawful for men. An example of this would be learning sorcery or magic, which is unlawful in Islam whether the person learning is male or female.

Even though it is always desirable to seek knowledge there is a minimum degree of knowledge that a Muslim must learn. For example, learning about fundamental beliefs, devotional acts of worship, moral teachings etc. In this area of absolute mandatory requirements they are such for both male and female with no distinction.

It is safe to say that there are certain fields which are highly desirable for women to engage in which would help her perfect her role (to enhance the capabilities that God created her with that in roles that men can not perform as effectively). For example, various areas that deal with medicine and nursing, home management, health care (which would help her look out for her family and their development), psychology and areas that help a woman fulfill the most noble career of being a wife and mother. Other than this all other fields can be classified in Islamic terminology as permissible so long as they are beneficial and there is nothing in the pursuit of the knowledge that is against Islamic law. It is implied when we say we need women teachers that we need them in all fields (it is desirable to have separate schools for girls in an Islamic society).

Host: What about the situation of the woman as a wife?

Jamal Badawi:

The way Islam views marriage is basically that it is a partnership. When a person gets married they don't marry a slave nor a master. All human beings are servants of God, none of them are slaves or masters of anybody else. It is the basic, fundamental ideological fundamental of a Muslim that servitude belongs to God alone.

The Quran describes marriage very favorably and positively not as an inevitable evil. It is a blessing that God has endowed on humanity and a source of tranquility, peace, mutual love and affection and for these reasons we find that Islam requires the consent of both parties in order for a marriage to be valid. Some of these aspects we can touch on when touch on the area of family law in Islam and how it is regulated. In terms of treatment not only of wives but of women in general the Prophet (PBUH) was very clear as he echoed the Quranic teachings. As narrated in Ahmad he says "The most perfect believers are the best in conduct, and the best of you are those who are best to their wives." There are tremendous volumes of Quranic verses as well as Prophetic Traditions which all point to the basic notion of full respect, affection and compassion in the marital relationship.

Host: Are there any special privileges that Islamic Law provides to a woman?

Jamal Badawi:

Islam does not forget a woman when she gets old. In fact this practice of nursing homes to the Muslim sounds like a very cruel, inhuman and un-Islamic act. In fact the Quran ranks compassion and kindness to parents, especially when they are old second to the worship of God. An example of this is in (17:23) of the Quran where it says “Thy Lord hath decreed that ye worship none but Him, and that ye be kind to parents.” Even within the basic framework of kindness to parents which involves both mother and father the Quran makes a special emphasis on kindness to the mother. In (31:14) “And We have enjoined on man (to be good) to his parents: in travail upon travail did his mother bear him, and in years twain was his weaning: (hear the command), "Show gratitude to Me and to thy parents: to Me is (thy final) Goal.” The weakness is not regarded as divine punishment or anything of that sort but this is a struggle, sacrifice and qualifies her for an additional touch of compassion.

An incident took place in the time of the Prophet (PBUH) where a man came to him and said “Oh messenger of Allah, who among all people is the most worthy of my good company and kindness?” The Prophet answered “Your mother.” And the guy said who is next?” And the Prophet said “Your mother.” And for the third time he asked “Who is next?” And the Prophet said “Your mother.” And the man said “Yes but who is next?” He said “Your father.” I used to tell my audiences that Muslim males have good reason to be jealous because three quarters of a person’s kindness goes to the mother and one quarter goes to the father. Of course this does not mean for one to be unkind to the father but the over emphasis on the mother then the father shows the importance of the mother. A very interesting and concise saying of the Prophet which is widely quoted which was narrated in Ahmad, Nassai and Ibn Maja in which the Prophet says “Paradise is at the feet of mothers.” It is obvious did not only honor a woman in one particular category but honored her as a child, wife, mother, sister, and even if a woman is not related to an individual. Indeed in one of the sayings of Prophet Muhammad (PBUH) he says “It is the generous in character who is good to women and it is only the wicked who insults them.” In another saying he said which can be translated in one of two ways “Women are but sisters of men” or “Women are like the other halves of men.” Regardless of whether a woman is related or not to a person Islam considers compassion, kindness and respect as one aspect of good Islamic behavior.

Host: Why do Muslim men require women to dress in one particular style of dress (all covered) and at the same time they are not subjected to any restrictions at all?

Jamal Badawi:

This does reflect a number of misconceptions that predominate the West about certain stereo types on Islam and Muslim women. First, Islam does not require a particular style of dress but rather it establishes standards. It doesn't say a woman has to dress in this design that was used in this or that country. It has established basic standards of basic coverage and modesty so as to keep the moral fiber of society and the family in tact. Two, some people think that this type of dress is imposed on women by males who might have certain bias against females. In the case of Islam the compliance of a female or male to the standards of modesty in dress and behavior should not simply be imposed by society, social norms, by the force of law and not even by the Prophet (PBUH) because these are divine revelations with guidance that God has provided. When a male or female comply with these standards they simply feel that they are obeying God and are committed to Him which is the meaning of Islam.

A second miss conception is that some people think that Islam only legislates certain restrictions on women and has nothing to say against men. This is not correct either. In several programs that we covered under Moral Teachings in Islam we have seen that the question of dress and behavior is responsibility of both male and female. There might be a difference of the degree of modesty of the cover but the principle is there. It is not true that Islam allows men to wear anything that they like as there are certain restrictions on them.

Many viewers will be surprised to learn that in our age there are many incidents, not of men trying to make women cover but of them trying to make women who chose to cover themselves uncover. Just a few weeks ago we heard of orders issued in Turkey, Egypt and Syria that prevented women to some degree of complying with the Islamic dress. In a news piece that came from Syria it said that the government sponsored a militia group to stop women who cover properly in the streets and to rip off their cover. In this case it was heroic resistance on Muslim women's part who chose to comply with the Islamic dress.

Host: Some people depict the ideal Muslim woman as one who is confined to the home, is this the way it should be?

Jamal Badawi:

This is another one of those misconceptions. We have seen from previous points that we have made that it is totally illogical to think that Islam to stay at home, because she is required to learn and if she doesn't go out how can she do so. The misconceptions comes from a verse in the Quran that praised the wives of the Prophet as examples for other women and it uses the term "stay in your homes, and don't be so flashy outside like the days of ignorance." This must be taken in context of other Quranic texts and in regards to the Prophetic Tradition as it simply means that it is preferable that if one

does not have a good reason to go out that it is better to concentrate on creating a warm and happy household. This does not mean stay at home and never go out. Some people may say that in a society with so much corruption, rape and attacks it is better to keep women from going out as protection. But we could say the same thing applies to men, and if we want to go to that extreme both men and women should never go out. The idea here is to minimize the risk and to take precautions but not to prevent a woman from going out.

There is text that shows us that the idea of a woman being totally secluded at home has nothing to do with Islamic teachings. First the Prophet has indicated more than once that women should not be prevented from going to pray in the Mosque. Second, she is permitted to seek knowledge. Third, if she works which is permissible when there is a need for it and this requires her to go out. Even then in Bukhari the Prophet said "God has allowed you to go out for your needs" without defining any restrictions. This is the case so long as it is within the proper modesty of dress and behavior and within proper Islamic framework.

7.17 Social System of Islam- Position of Women in Islam (Political Aspect I)

Summary of 7.16 "Position of Women in Islam-Social Aspect"

The previous program addressed a woman's position in Islam from a social point of view. We looked at a woman's position as a daughter, wife and mother. We also indicated that Islam forbade female infanticide and strongly condemned the feeling of grief when a baby girl is born. In addition we quoted a variety of the Prophet (PBUH) sayings which indicated that it is the duty of the father to treat his daughters well and to give them a proper upbringing and not to favor sons over them. The other related issue to the woman as a child (daughter) was the fact that education and learning is not regarded as a right but a duty which is incumbent on both Muslim males and females as the sayings of the Prophet indicated. There is no specific field that a girl should be restricted to even though it is best for her to do something that is more suitable for her nature and talent.

As a wife it was indicated that Prophet Muhammad (PBUH) indicated that one basic evidence of good belief is how well a person treats his wife. As a mother we indicated that the Quran places kindness to parents and particularly to mothers next to the worship of Allah. Prophet Muhammad emphasized in one of his famous sayings is that Paradise is under the feet of mothers.

As a wife, child or mother any female should be treated well whether she is one's relative or not. We quoted the saying of the Prophet where he said that women are like sisters or the halves of men.

We also discussed the dress code in Islam which is not put forth by any male. God requires that both males and females observe a certain dress code in order to preserve the moral fiber in society, which has nothing to do with the value or position of male or female.

Finally, we covered the question of women not being allowed to go out and we said that there is no evidence in Islamic law that shows that the woman should never leave her house. A woman can leave the house for learning, prayer and other purposes. We do have evidence that the focus of the woman should be on home making (not house keeping) but this doesn't mean that she is restricted from going out.

7.17 Position of Women in Islam (Political Aspect I)

Host: Is it permissible for the women of the community to participate in the political life of the community or nation?

Jamal Badawi:

First of all, the term has to be clarified when we touch on the political aspect. In essence when we talk about the political aspect we are talking about the public affairs of the community and the general issues that concern everybody in society maybe with special reference to government and administration. When we talk about Islam we are talking about deen not a religion. The term religion is restricted as it is associated with certain rights and rituals but deen has a much wider rang and touches upon everything whether it is moral, social, political or economic.

It is quite obvious from the Quran that maintaing a cohesive society and building a good society is the responsibility of both males and females. The Quran always speaks about cooperation about everything that is good and righteous and doesn't specify gender. The Quran introduces a unique concept of willayah that believing men and woman are awliaya'a which could be translated as friends, supporters and protectors of each other. This appears in (10:71) "The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise." This shows clearly that it is not a matter of a marital or parental relationship but that of

believing men and women who are supposed to cooperate together to establish the way of life ordained by God.

In one of the early programs in this series when we discussed social responsibility in Islam we indicated that one of the duties of the Muslim, male or female, is to enjoin the good and ordain the evil. Again the verses that talk about this in the Quran do not make any exclusions of females of fulfilling this duty in society. The Prophet (PBUH) says that whoever doesn't care about the affairs of Muslims is not one of them (applies to males and females). In Muslim the Prophet said that "Aldeenul Nasiha" which means true way of life is sincerity in advise given to Muslims (whether they are in a public office or not). From all of these steps it appears that the duty of the muslim regardless of them being male or female is not to lock themselves out of what goes on in society but rather to participate in the affairs of society which also have to do with the political and public affairs.

Host: Is it permissible for a Muslim woman to express her views on social and legal issues?

Jamal Badawi:

The best models to refer to regarding this subject would be when Muslims were really true to their faith during the life time of Prophet Muhammad (PBUH) as well as the four rightly guided Caliphs that came after him. During the days of Prophet Muhammad (PBUH) there was a woman who came to the him arguing or pleading with Prophet Muhammad about some issues she had with her husband. In the Quran in (58:1) a verse was revealed saying "Allah has indeed heard (and accepted) the statement of the woman who pleads with thee concerning her husband and carries her complaint (in prayer) to Allah. and Allah (always) hears the arguments between both sides among you: for Allah hears and sees (all things)." The point is that she expressed her views and did not know what to do until the revelation was revealed to Prophet Muhammad (PBUH) to resolve the issue she was worried about.

During the rule of the four guided Caliphs we find that this basic participation and expression of opinion was practiced. For example during the Caliph Uthman's time (third after the Prophet) we find that Aisha had so many reservations about some of his decisions and she used to criticize him and he never said anything about her gender and why she interfered in the policy. He used to get angry in some cases but he did not say that she had no right to express her opinions.

Even during the Caliphate of Ali (fourth after the Prophet) it is well known that Aisha strongly objected to his selection and even some of the very close companions of the Prophet sided with her and accepted her opinion. Again no one said “Who are you to object to the selection of the Caliph.” It is however true that after that incident Aisha regretted the incident but she did not regret her right as a Muslim female to voice her opinion about public issues. She regretted her bad judgement in opposing his position as Caliph. As a devoted Muslim woman and a wife of the Prophet she would have never practiced this right had it been that a woman was not allowed the right to voice an opinion, as she would have been displeasing Allah and the Prophet after his death.

There were other incidents also that took place with other women. For example, once Uthman was sitting with Marwaan Ibnul Hakam and Marwaan was giving him political advice on important political decisions (he was an advisor of the Caliph). Uthman’s wife was also there and objected to the advice given by the high ranking fellow. So Marwaan told her to keep quiet and that it was not her business. The Caliph said “Let her speak her mind because she is more sincere in her advice to me than you.” This shows that he did not put her down but rather that he appreciated her advice and opinion. There are many other examples that are similar to this which show that Muslim women did participate in public affairs and practiced this right during the strongest period of Islam.

It is true that the primary interest of a woman in Islam is to be a home maker, but this does not mean she should be deprived from expressing her opinion.

Host: What is Islam’s position regarding voting rights for women?

Jamal Badawi:

Again we can go back to the early model which followed closely Islam’s precepts. We find that they did not follow the exact format of voting that we have today (which is not to say that Islam is against this format as it is not the only format). Fourteen hundred years ago they used a method called *bia’a* which means an oath of allegiance. People would give their oath of allegiance so long as the ruler followed the rule of God. This makes *bia’a* a political activity.

We find that there is evidence in both the Quran and behavior of Prophet Muhammad which make it clear that women did actually engage in *bia’a*. This evidence is found in the Quran in (60:12) “O Prophet! When believing women come to thee to take the oath of fealty to thee, that they will not associate in worship any other thing whatever with Allah, that they will not steal, that they will not commit adultery (or fornication),

that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and that they will not disobey thee in any just matter,- then do thou receive their fealty, and pray to Allah for the forgiveness (of their sins): for Allah is Oft-Forgiving, Most Merciful.” If bia’a is a political activity what could be more clear than the Quran mentioning it in respect to women. Second, it does not say that the Prophet has the choice to accept it from them but it is a command to the Prophet to accept their allegiance. In this sense we find that bia’a is the closest thing to our modern day elections.

In the Sunnah of the Prophet (PBUH) we find incidence where bia’a was taken from a joint group of men and women as in the bia’a of Aqaba. The bia’a that is found in the Quran in (60:12) was called the Oath of Allegiance of Women and at later times the Prophet accepted allegiance from men in the same way as the Oath of Allegiance of Women. If we compare this with the Suffrage of women to vote which was obtained in the West almost 1200 years after Islam established the right of women to participate. In Switzerland it was not till the 50s or 60s that women were given the right to vote.

Host: Some argue that this oath of allegiance was not related to a matter of politics but had more to do with the question of belief and moral behavior and that it was given by these women to the Prophet in his capacity as a prophet. How would this be addressed?

Jamal Badawi:

The allegiance was not only given to the Prophet as a prophet but it was also given to the head of the Muslim community who later became the head of an Islamic State. It is true that the verse in chapter 60 addresses issues of behavior and moral teachings. We have indicated that in the Muslim view moral, spiritual, social, political and economical are all inter related issues because Islam is not divided into compartments. When Islam deals with moral aspects with respect to property and sex it is related to a legal aspect which is related to criminal law in Islam. To make this separation is different from the overall approach of Islam towards life. An interesting point is that in the verse (60:1) in addition to it mentioning all the moral acts it says “and that they will not disobey thee in any just matter.” This is a catch all statement which means that any other command that you give as a leader of men and women they will accept you. This includes decisions of of political or military aspects.

Host: Can Muslim women be elected to offices of leadership or participate in the process of law making?

Jamal Badawi:

We have to go back to the format and the essence of this subject. It is true that the exact format of elections was different but this does not mean that the essence of selection and participation (which we call democracy, it is not exactly equivalent) is there. When we talk about the legal aspect we are talking about shurah which means mutual consultation. The way that mutual consultation was practiced was not like we have now with a formal building, parliament, where people are elected in a certain way with specific schedules etc. I am not saying this method is bad but it just did not suite the particular circumstances at the time. The essence of participation was there. The Caliph or ruler used to invite people to participate and give advise on issues. It was more of an informal process of consultation. We find that after the death of the Prophet (PBUH) a concept grew in the Muslim community which was known as ahlul hal walakd which means the people who have the right to tie and untie. This means to bring forth people who really have talent and ability to deal with political matters. In addition to this we find that during the life time of the companions of the Prophet many of the prominent women who had experience and knowledge were consulted (in their homes). We don't know of any resistance regarding the consultation of women.

The only restriction is that any participation of this nature should be within the proper Islamic framework and manners that Islam enjoins on males and females.

Host: Can you give us some specific examples of women providing input in legislation?

Jamal Badawi:

There is a very famous incident which took place during the reign of Omar (the second Caliph after the Prophet). He noted that some people were exaggerating the mahr (the marriage gift given by the husband to the wife). He went up to the mimbar (the place at the place of gathering where the leader gives speeches) and he said that the "I would like to forbid from paying any marriage gift that exceeds 400 dirhams and if anyone pays more than that I will take the rest and put it in the public treasury." Upon his saying this a woman stood up in the back of the mosque and said "You have no right to say that." He asked her "Why is that?" She said "Because if you go to the Quran it says (about the marriage gift) "if you give your wife to be a ton of gold then you can not take anything back from it" how can you then take it by way of oppression and injustice. If God permitted a rich husband to give his wife a ton of gold who are you to say something different from what Allah determined in His Book?"

If it is true like some think that a Muslim woman should not express or have a say in politics, they would have heard people throughout the mosque objecting to her. But

not a single person objected. The ruler himself stood up and said “The woman is right and Omar is wrong! (in humility he added) Everybody is more knowledgeable than you Omar.” It is known that Omar was a very strong, devoted Muslim who tried to implement Islam in its purity and who would not have approach any problem with any hesitation or non-sense and whatever was right he enforced it and forbade whatever was wrong. If it was wrong for a woman to speak up in a matter of “high government decision” he would have objected to her speaking up. This situation shows that it this situation was analogues to parliament nowadays.

7.18 Social System of Islam- Position of Women in Islam (Political Aspect II)

Summary of 7.17 "Position of Women in Islam-Political Aspect I"

First of all we addressed whether a Muslim woman according to Islamic Law is permitted to participate in political activities. We said that what we mean by political activities is things that pertain to public affairs and the overall affairs of society. We indicated that in the Quran in (9:71) a rule is established that Muslims (male and female) should be supporters and helpers of each other. The Quran also talks about the obligation of obeying the good and forbidding the evil as one of the characteristics of believers. In those texts women included along with men.

The second point was whether women have the right to express their views in political matters pertaining to government and administration. Again we indicated that in the best model of Islam during the early days Muslim women did participate and had input in many of the political decisions.

The third question pertained to the issue of voting and whether a Muslim woman can have input in the selection of people who are to be in public office. In the Quran we find refrence to bia'a an oath of allegiance to the Prophet (PBUH) and the mention in the Quran of bia'a in which both men and women participated. We also quoted a verse which addressed bia'a taken from women. We said that this is not simply allegiance in terms of worship but the Prophet was also given that this allegiance as head of state.

The last point was regarding women participating in discussions in parliament or other political meetings. We referred to a case that occurred during the reign of the second Caliph, Omar, when he suggested putting upper limits on the marriage gift, mahr, and a woman stood up in the mosque and argued with him and told him he could not do that and she quoted a verse from the Quran as a reference. He could not help but admit that he was wrong and that the woman was right. This situation

resembles parliament (or other political settings) today in which objections are raised towards administrative or governing decisions, and sometimes they are regarding constitutional grounds as it was in the above case.

7.18 Position of Women in Islam (Political Aspect II)

Host: On what basis are you using this analogy?

Jamal Badawi:

When Omar stood in the mosque and said that people are exaggerating and that he said that they should not exceed 400 dirhams it is likened to a government decision or a proposed bill. In those times the venue for these discussions was the mosque at the time. What is forgotten is that for a Muslim the mosque is not just a place of worship or prayer but is a place that has been traditionally used in the days of the Prophet and shortly afterward as a place for discussion of social issues, political issues, army gathered and sent off from here, major issues were discussed and emissaries from other countries were received. This is analogous in my understanding.

Third, the fact that Omar said that in public implies that anyone could express their opinion or objection to that decision or bill. What difference is that from the current parliament? Four, it was like an open parliament because anyone can express their opinion as in the example of the lady who objected and her basis for this objection is called today contradiction of the bill to the constitution. To a Muslim the Quran is the constitution and no word or decision of any human being supersedes the word of God. When the lady objected she said: “You are setting an upper limit but the Quran did not” and she quoted the verse. She was basically telling him that he was out of order which is just like an objection that is presented in Supreme Court or in front of parliament. Omar said this woman is right and I am wrong, which is just like a ruler withdrawing a bill or or revoking a decision.

The narrator said “a woman stood from the back” and it was common for narrators to mention the lady’s name if she was well-known but the fact that the narrator only said “a woman” implies that she was a common woman no even one of the prominent women of the time.

A second observation is that the mosque was full of worshipers and companions of the Prophet who learned Islam directly from him and were definitely well versed with Islamic Law and non-of them raised the objection that she was a woman and why was she interfering in politics. Omar, who was known to be very meticulous about the

implementation of Islamic Law did not object to her voicing her concern. In this sense we can make the analogy and the only difference is in terminology not in the essence of the situation. This in no means was the only incident in which Muslim women participated in political decisions. It was reported that after the martyrdom of Omar, the second Caliph, consultations were taking place in order to find someone to succeed him and finally Abu Rahman Ibn Oaf was given the mandate to ask people which of the two candidates (Uthman or Ali) they accept to be the next Caliph. It was reported (as mentioned in *Al Bidaya wa Al Nihaya* a book by Ibn Kathir a very famous Muslim historian) that among the people who were consulted were women. Again if we go back to the purity of Islam and the best model in which Islam was implemented we can not find any evidence of restrictions on women from participating in these type of affairs.

Host: Does Islamic Law object to women holding positions of leadership or public office in the community?

Jamal Badawi:

First we have to define leadership. Some people are used to leadership in a company or more formal setting. However, leadership connotes positions which are important, positions which carry responsibility and positions which involve supervising or guiding others. We have indicated (in previous programs) that in an ideal society it is not only permissible but desirable to have women serve in positions such as doctors, nurses and teachers (not just in the primary grades but in higher grades because it is preferable to have separate schools for girls). Are these not important positions? Are these not positions which carry a certain amount of responsibility? Are these not positions which involve directing and guiding people? If not what is?

On the other hand suppose a woman is not employed and might be busy with an infant. Who can say that the position of a mother at home does not involve leadership? She directs the upbringing of her children and has great responsibility. Anyone who is familiar with what mothers and wives go through knows that their responsibility is as grave as anyone who is employed in a mine, factory or office. What could be more important to society than leading the new generation to the right path. It is the lack of this kind of leadership that is causing society to suffer today. We find a beautiful saying Prophet Muhammad which was narrated in Bukhari and Muslim in which he says "Each one of you is a leader or shepherd (rai'i) who is responsible for their trust." Then he elaborated "The ruler is a shepherd (leader) responsible for the people he leads, the man is a shepherd (leader) who is responsible for his family, a woman is a shepherd (leader) and is responsible for her children and household, even a servant is a shepherd (leader) who is responsible for the trust put in him." In that sense indicates that every woman (even if she is not employed out of her home) has a leadership role.

If we are referring to leadership roles that have to do with public office, again there is no specific text in Sharia'a (words of Quran and Prophetic Tradition) which establish a rule that a woman should not serve in public office. Indeed there even justification of women carrying some senior responsibilities in society in a variety of institutions if there is genuine need for it and if the nature and environment of the job does not contradict other aspects of Islamic Law. As a rule it is permissible.

The only exceptions from that rule would have to have solid text. The only solid text that makes any restrictions on a woman being in public offices is one that deals with being head of state. Most jurists (not all) by analogy say that she should not be a judge or commander of an army by analogy. The text only mentions head of state.

Host: What is the text is used to substantiate this particular exception and what are the reasons for it?

Jamal Badawi:

First, there is an authentic text (no text in the Quran) which is narrated in Bukhari, Ahmad, Tirmithi and Nasai'i when Prophet Muhammad was told that Persians (before Persia became Muslim) selected the daughter of their diseased King to be their Queen he said "A people will not prosper if their leader (walow) is a woman." Jurists have interpreted the word walow that the Prophet used to refer specifically to the headship of state, he was not talking about a woman occupying any other position of responsibility.

This rule applies within the boundaries and framework of Islam not within an alien type of structure or society. In Islam the head of state is not just a figure head he is the thinking mind of the state with lots of responsibilities and duties. He is the spokes person of his people, he is required to lead the prayers (especially in big congregations, Friday and at festivals) and he leads the army on the battlefield whenever it is necessary to do so. We have seen in previous programs in terms of leading prayers there is bowing and it is not appropriate for a woman to stand in front of men while doing so. In terms of leading and army and war in our liberated society show me any significant examples where woman liked to serve as chief commander of the army. If women become just like men in terms of militarism and making decisions involving, bloodshed and wars life would loose the best part of it, which is the kindness and compassion of women. God created a certain balance in creation.

In addition, in Islam headship of a state is not a prize that people fight for. Indeed it is something that people who are cognizant of its responsibility should shy away from and escape from it. In Islamic rules a person is not supposed to seek public office unless people seek him or offer him the position because of his qualifications. This is a position that offers a great deal of sacrifice not one that would get all of one's relatives in positions and bribery. We can see throughout Islamic history that rulers lived very simple sacrificial lives which were much harder than their lives prior to accepting these kinds of responsibilities. The point here is that this is not a major issue, even women in the West would not be overly anxious to be presidents or heads of state. In the world now with four thousand million people how many men are in the position of headship of state? There are many reforms that could be focused on instead of worrying about this issue.

Host: What about the situation now where women serve as judges?

Jamal Badawi:

This is not an issue where there is unanimity among Muslim jurists. First, those who claim that by analogy that a woman should not serve as a judge consider being a judge as a form that has significance and similarity to role of the ruler. Second reason they give is that in Islam the man is supposed to be head of the family and they say that if the man is supposed to be the leader of the household then by analogy a woman should not serve as a judge which is more important than being head of a household. This is the position of the majority of Muslim jurists.

However the famous jurist Al Tabari differs with this when he says that there should be no restriction on a Muslim woman serving as a judge. He says that there is fault in making this type of analogy. He said that the Prophetic Tradition which objected to a woman being head of state only specified headship and this analogy should not be made to extend to other areas.

A third position took the middle ground of the famous jurist Abu Hanifa (famous leader of one of the major schools of Fiqh in the Sunni tradition) said that if the Quran indicated that a woman can be a witness in financial dealings then she should also be eligible to be a judge in the same matter. If we accept somebodies witness (a sense of responsibility) then a person is equipped and qualified to be a judge in these matters.

Host: Under Islamic Law one male witness requires two female witnesses does this imply that women are half as good are second class?

Jamal Badawi:

Absolutely not. This is like the law of inheritance where it appears so on the surface but turns out not to be the case. First, if she is considered second class Islam could have rejected her being a witness period, and in the in the 7th century it was too much for them to accept a woman as a witness (it was quite normal for people at the time to reject a woman as a woman). This question has nothing to do with status. If we go back to the verse in the Quran in (2:282) which specifies witnesses for financial dealings and contracts and it says “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.” Some translations use forget instead of err as a rough translation for tadil. It might be asked in this situation why do we worry about women forgetting and not men? Again the problem arises from the translation as the word tadil doesn't mean forget in terms of memory (some women have better memory than men) but from within Islamic framework a woman who is busy centering her life as a wife and mother would be so involved in this very important role that she may not necessarily be present at the time when financial contracts are negotiated. Also, if she is present she may not be as experienced on the whole because she was not involved as much or as perceptive of all the financial details. Thus, her witness may not be totally accurate even though she really intends to give a clear and correct witness. The purpose is not to lower her status but to make sure in financial matters (which are very sensitive matters for people) Islamic Law guaranties extra precautions. Until today most women are not involved int this and thus this precaution is taken. Of course we can not generalize as some women can be better brokers (there are always exceptions) but on the whole especially within the Islamic framework women would not be as involved as men in this matter.

7.19 Social System of Islam- Muslim Women in History I

Summary of 7.18 "Position of Women in Islam-Political Aspect II"

The first part was a continuation of Muslim women and public affairs or what we call today political life. We used the example during the days of Omar, the second Caliph after the Prophet, who was corrected by a woman in the Masjid. We made the analogy between that and political activities taking place today. Then we went on to discuss whether Islam sanctions a Muslim woman being in a position of leadership and responsibility. We quoted the saying of Prophet Muhammad (PBUH) that each of us is leader and it included women as leaders. We indicated that the role of a woman, who is not employed, as a mother and a wife is a role which carries importance, responsibility and direction which is what leadership is all about. If we mean by public office or leadership a position of sensitivity or prominence in a society we have indicated that as a basic rule there is no clear cut prohibition in Islamic Law and the only thing that was prohibited was the headship of state. This appears in the word of Prophet Muhammad (PBUH) and we discussed the possible reasons for this restriction under the totality of Islam and in regards to the nature of the role of a Muslim Caliph leading prayers (which is different from other frameworks). As far as anything beyond the headship of state we indicated that there is nothing conclusive

about restricting a Muslim from applying to any other position. We indicated that some jurists (majority) that serving as a judge is analogous to serving as head of state. We also indicated that a great scholar, Al Tabari, said this is analogy is not correct and is a matter of interpretation. Abu Hanifa took a middle ground between both opinions, but there is nothing conclusive about it. Finally, we touched on the question of the witness of a Muslim woman and why particularly in financial dealings, as indicated in the Quran in (2:282), which indicated that the witnesses should either be two men or one man and two women. We indicated that on the whole most women would not be as involved in the details of financial dealings and as the verse says if one woman forgets or was not paying attention to what was going on the other one can perhaps step in and correct her. Basically, we said that this has nothing to do with the status but rather with the approach of establishing justice and making sure, before any rulings can be made, that all kinds of precautions are taken to achieve accuracy.

7.19 Muslim Women in History I

Host: Is it acceptable for a woman to be a witness in matters other than financial dealings?

Jamal Badawi:

We find many scholars like Abu Hanifa and Ibn Alkime who hold the view that a woman's witness is accepted in all areas excluding criminal law. Some jurists try to explain that the sight of the crime which might involve blood shed may be to much of a shock for most women (who are emotional by nature) which might result in inaccurate perception of what went on which might effect the life or death of the accused. Even then this is not a universal view that is held by all Muslims jurists. We find that other famous jurists like Al Zurhri and Al Awzai as quoted in "Criminal Law in Islam" by Abdul Katir Oda, second volume page 215, in which he refers to these jurists as holding the view that the witness of a woman is to be accepted in any matter or any dispute including the issue of criminal law. There is a difference of opinion on this matter which has to do with interpretation as there is nothing conclusive in the Quran or words of the Prophet that restrict the Muslim woman from this particular activity.

Whether the rule that the witnesses are two men or two women and one man extends to matters past financial law is a matter of interpretation. There is nothing conclusive about it even though the majority of jurists extend it to apply to other areas. There are questions pertaining to the methodology of that analogy. In my humble opinion this analogy suffers from weaknesses on the basis of the Quran, Prophetic Tradition and on the basis of the overall spirit of Islamic Law. In the Quran we find at least seven

places where the witness (in dealings or disputes) and in only one of them has the requirement that the witnesses should be either two men or two women and one man found (2:282). This is the only case where the witnesses are given a specific gender. In another verse in (24:6-9) we find that the witness of a man is equated with that of a woman. This was in the case when a spouse accuses the other spouse of committing adultery. In the remaining five the Quran does not specify if the witnesses should be men, women or both. These verses are found in (4:15), (5:109), (24:04), (24:13) and (65:02) which all talk about witnesses in dispute and all of them do not have specifications of the gender of the witness. I also mentioned that the requirement of two women for one man seems in all other cases seems to contradict the Prophetic Tradition. For example, in several references of Prophetic sayings in Muslim, Abu Dawood, Al Nassa'ai and Tirmithi it was reported that Prophet Muhammad (PBUH) in a disputed decided on the outcome with one statement under oath and one witness without specifying the gender of that witness (which gives a fifty, fifty possibility). Furthermore, we find in numerous sayings of the Prophet particularly in Abu Dawood and Al Tirmithi that Prophet Muhammad rejected the witness of a person who was untrustworthy, a person who is jealous of the person (he is being a witness against) and a person who is subordinate to another (who might be doing so to please his boss). In all of these cases he mentioned male and female gender. Finally, in my humble understanding it seems to contradict the spirit of Islamic Law because according to the Quran to give a witness is not a right or privilege but a duty. For example in (2:282) in the Quran "The witnesses should not refuse when they are called on (For evidence)." In (2:283) it says that concealing truth or a witness is a sin. In (65:2) it says that one should come forth as a witness for the sake of God. All of these show that it is one's duty.

Suppose that that there was an incident and the only witnesses were one man and one woman or even two women would it be conceivable under the spirit of Islamic Law to stick to technicalities and say no we need a man or another woman which would then result in the loss of the rights of others and lack of justice? So if we look at it in terms of all of these references we find that the requirement of two women for one male in other than financial dealings (which is what the Quran specifies) does not seem to have a very solid ground even though majority of jurists agreed to it.

Host: Are there specific examples of prominent Muslim women in Islamic history in matters of faith?

Jamal Badawi:

One of the greatest tributes that Islam made to pious Muslim women is that the very first Muslim who embraced Islam after Prophet Muhammad was given the mission was a woman, his wife Khadija. According to Islamic history when he would contemplate in the cave of Hirra'a, before he received the command (he used to go for as long as one month to this cave just outside of Mecca to contemplate, meditate in

order to discover the truth) his wife did not object or stop him. Many times she would visit him and provide him with supplies. When the first revelation came to him he was alone and he was very scared when came down from the mountain. He did not know who the person who was claiming to be Angel Gabriel was and he thought it might be an evil spirit. He was trembling and he was in a very fearful state and ran to his home, instead of questioning or accusing him his wife Khadijah immediately comforted him. When he said could that have been an evil spirit that came to me in the cave she would say no. Some of her beautiful words went “By the name of God, God will never let you down after all you are kind to your relatives, you help those who are weak, you are charitable, you speak the truth, you are hospitable to your guest and you comfort those who suffer.” In other words she concluded from his character that what happened to him can never an evil spirit and that God would not let him down. When a person goes from this state of tension and finds these comforting words from his beloved one it helps one perseverance and carry their responsibility. The belief of Khadijah and the honor of being the very first person to accept Islam as completed through Prophet Muhammad (PBUH) was not just a matter of faith or belief in the heart; she shared with him in all his suffering, difficulties, and sacrifices in his struggle against evil, falsehood and the persecution of his own people and relatives. Whenever he faced all of these difficulties outside of his home, he came back home to find a kind hear, support, comforting words and encouragement from his wife Khadijah. Her role was crucial him helping carry out his responsibilities. Even when the going became very tough and the pagans put a siege the Muslims (boycotting them and not selling them any food) Khadijah (who was very rich and could have separated her self from it) but joined her husband and the other Muslims in their suffering, hunger, thirst and depravation. This shows that she was really living with her heart, mind and physically with the hardships and sacrifices of the Prophet.

Host: Was there any recognition of Khadijah’s strong faith?

Jamal Badawi:

The highest recognition came from God. It was narrated in Bukhari that one time Angel Gabriel came to Prophet Muhammad (PBUH) and he said to him “In a few minutes Khadijah will come to you with food in a pot, when she comes to you convey to her greetings of Peace from God and from me. Giver her the glad tidings that God has prepared a house for her in Paradise which is made of pearls, wherein there is neither noise nor fatigue.” This is an interesting description of her abode because as some scholars explain it is described as a house wherein there is no noise because Khadijah never raised her voice at her husband and she suffered from the noise made by the unbelievers. Second, this house did not have any suffering because she never caused any fatigue or suffering to the Prophet as she was a very sincere and comforting spouse to the Prophet (PBUH).

Host: Did Prophet Muhammad recognize her support?

Jamal Badawi:

First, during their marital life the amount of love and affection that Prophet Muhammad showed towards his wife, Khadijah was exemplary. It suffices to say that when they got married Prophet Muhammad was twenty-five years old and Khadijah was forty years old (15 years older). She was his only wife for 25 years, she was 65 and he was 50 when she died. This marriage despite the difference in age proved to be a very happy, successful and stable marriage. It was built upon mutual appreciation of human qualities rather than other things in their lives. In some of the Prophet's sayings about women who achieved perfection he mentioned Asia the wife of Pharaoh, Mary the mother of Jesus and Khadijah. In another version he also mentioned Fatima his daughter. It is quite interesting in the first version that he mentions three very perfect women (as is humanly possible) who played very significant rolls in the life of three major prophets and three major religions, Judaism, Christianity and Islam. Asia the wife of the Pharaoh acted as the foster mother for Moses. Mary the mother of Jesus played a crucial role in bringing up her child. Khadijah played a very important role in the life of her husband the last Prophet Muhammad (PBUH). In fact he repeated this appreciation so much that even after her death he was very faithful to her memory. He used to be generous to her relatives and friends and sometimes when he slaughtered an animal he would send part of it to a such and such lady because she was a friend of Khadijah. His praise was so continuous that one time his wife Aisha got jealous and she told him "you keep mentioning that old lady, didn't God replace that old lady with one that is better than her?" (referring to herself) and the Prophet got angry and said "No, God did not replace her with someone who is better than her. She accepted Islam when people disbelieved, she believed in me and was faithful when other people disbelieved and rejected me, she supported me with her property and put it under my disposal and the disposal of the faith when other people withheld their financial support and God gave me almost all my children through her" (only one of his children was born to a wife other than Khadijah, Ibrahim who was born to Mary). Other than that all his other kids were born to Khadijah. They had two boys and four girls: Alqasim, Abd Allah (Altabe and Atahir), Rukaya, Zaynab, Um Kalthom and the youngest Fatima (another very prominent woman in Islamic history).

Host: Are there examples of prominent women in Islamic History who's faith was independent of their spouse's faith?

Jamal Badawi:

Yes, there are cases of women who were independent of their husbands, fathers and brothers which shows their independent personalities in the matter of faith. We will look at three examples which appear in the books of Hadith and in *Tabakat Ibn Sa'ad* and *Al Isabah fi Tameez al Sahaba*. The Prophet's daughter, Zainab, became a believer but her husband Al Auss Ibul Rabi was not a believer. She did not care that

he was not a believer and was separated from him because it was not permissible for her to live with him. We find that Um Habiba (daughter of Abu Sufian) became Muslim while her father was not a believer and she believed that the bonds of faith were more important than the bonds of blood relationships. We find the example of Fatima the daughter of Al Khatab who was Omar Ibn Al Khatab's sister (later became a Muslim and the second Caliph). Before he became a believer he once went to his sister's house and found her reciting the Quran and he was very angry (was not a believer yet) and he beat her and when he saw the blood on her face he felt ashamed of himself and asked to read the Quran and his heart was touched and he became a believer. This shows that despite the toughness of her brother and his disbelief, at the time, that she was still a Muslim. There were even Muslim women who migrated (leaving behind their families), like Um Kulthum the daughter of Ukbah after the Hutibia treaty she migrated to Madina leaving behind her folks.

Host: Are there any records of Muslim women being subjected to torture and other kinds of suffering?

Jamal Badawi:

Khaidjah was the first to become a Muslim and the first person to sacrifice their life for the sake of Islam was also a woman. Sumayyah mother of Ammar Ibn Yasir one of the great and prominent companions of Prophet Muhammad (PBUH). When they became Muslims in the early period of Islam in Meccan when Muslims were persecuted, Sumayyah her husband her son were severely tortured by the pagans and especially by Abu Jahl. At one point he got so frustrated because of her perseverance and patience under all the different forms of torture that he stabbed her in her lower abdomen with his spear and she was the first martyr for the sake of her faith. There are other examples of women who were tortured and punished also by Abu Jahl and similarly ignorant people. One woman was tortured to the point that her sight was lost and she was taunted her by saying "Our idols were responsible for the loss of your eye sight." She responded that they are lying because the idols could do no good or harm. It was reported that God restored her sight to her.

But women who were not directly tortured saw their beloved ones: fathers, children, husbands and brothers get tortured but they never cracked and they persevered and provided comfort and encouragement for their faithful relatives. Some of them accepted some very dangerous assignments which put their lives in jeopardy.

Host: Can you give us a quick illustration of the exposure to danger?

Jamal Badawi:

When Prophet Muhammad and his companion Abu Bakr were migrating from Mecca to Madina the pagans were very angry and were demanding he be brought to them alive or dead. They had a generous reward for anyone who could kill him. Prophet Muhammad went to a cave called Thaur which was south of Mecca (to evade the pursuers). The pagans lead by Abu Jahl went to the house of Abu Bakr and his daughter, Asma'a, came out. They asked her where her father was and she said she did not know (she knew) so they slapped her to the point that her earring came out, but she still never cracked or told. In fact she carried the very dangerous responsibility of carrying food supplies secretly and the latest news to Abu Bakr and the Prophet while they were hiding in the cave. If she were caught she would have probably paid for it with her life.

Fatima the daughter of the Prophet used to defend him so much when he was attacked by others. It was narrated that one time he was making his prayers and someone brought intestines of a slaughtered camel and put it over his head, and Fatima rushed to him (despite the danger) to clean it off his back. There are numerous examples on the part of Muslim women being exposed to danger.

7.20 Social System of Islam- Muslim Women in History II

Summary of 7.19 "Muslim Women in History I"

In the very early part of the program we continued the discussion of the expectancy of the witness of a Muslim woman and we went into some final details in order to clarify the issue.

The focus of the program was focused on actual examples of prominent women in Islamic history and it was quite clear that they were very involved in many respects of belief and faith. We indicated that the very first person to become a Muslim was not a man but a woman, Khadijah, the wife of Prophet Muhammad (PBUH). She supported the Prophet by soothing him, by her kindness, and support with her property throughout her lifetime with him (they were together for 25 years that he was married to her, alone). Recognition was given to Khadijah in the words of God as communicated by God and also by the Prophet during her lifetime and extending after her death.

We gave examples of Muslim women believing irrespective of what their fathers, brothers or even their husbands believed or did. In some cases they separated from their families in pursuit to freely practice their faith. Finally, we touched briefly on women being subjected, like men, to all kinds of torture and suffering. Again we mentioned that women scored another first in the fact that the first martyr in Islam

was Sumayyah, the mother of Ammar Ibn Yasir, who was stabbed while being tortured. We have examples of women who participated in dangerous examples like Asma'a who was a teenager (daughter of Abu Bakr) who provided supplies and news to the Prophet despite the fact that people were seeking his head and the head of his companion.

7.20 Muslim Women in History II

Host: Are there any examples of women playing crucial roles in the propagation of the faith?

Jamal Badawi:

The obligation of a Muslim to communicate the message of Islam is not just a privilege or right but is a duty. There is no reference in the Quran or Prophetic Tradition that exclude women from this laudable act. Historically speaking we find that Urwah the daughter of Abd Al Muttalib used to support the Prophet even in the most critical of times. She was also quite outspoken in urging people to believe in him and to give him their support.

Another example is Umm Salim the mother of a very prominent companion of the Prophet who was young at the time, Anaas Ibn Malik. After the death of her husband a rich man came to Umm Salim by the name of Abu Talha to seek her hand in marriage and she told him "Abu Talha a man like you should not be turned down, however, I am sorry because you are an unbeliever and I am a believer and it is not permissible for me in Islam to get married to an unbeliever." Then she told him "Abu Talha do you realize that the god you worship has grown from the earth (he used to worship a statue that was made of wood)? He said "Yes." She said "Don't you feel ashamed of praying to something that comes out of the earth?" Then he started talking about the gold and silver trying to tempt her because he was rich. She said "I have no need for your gold or silver but if you turn to the truth and become a believer I will marry you. I don't even want a mahr (marital gift). Your belief will be my mahr." In fact he did become Muslim, and was a very good one too. This again showed how women propagated faith even on a personal level; when the future of a woman as a possible wife is at stake from very good individual. Faith was very important to her and so she spread it through these means.

Umm Sharik is another example, that even in the most critical time for Muslims when they were tortured and even killed she never hesitated to go around secretly visiting

other women and inviting them to the truth of Islam and asking them to give up all their pagan practices and she succeeded with many of them.

Host: Did women distinguish themselves in the area of knowledge and scholarship?

Jamal Badawi:

In various points of Islamic history this has been the case. One of the most prominent examples is Aisha the wife of Prophet Muhammad (PBUH) and she was regarded as a very important source of Prophetic Tradition. This also can relate back to the question we discussed in a previous program about women being witnesses. My wife brought this to my attention when we were discussing this topic and she mentioned that if a woman is accepted as a source of Prophetic Tradition which is the basis of Islamic Law how could her witness be rejected in other minor disputes. Aisha, Umm Salama and other women were sources of Prophetic Tradition.

Abu Musa Al Asha'ari one of the prominent scholars of Islam put it very humbly as narrated in Tabkat Ibn Sa'ad "Whenever we had any complex problem pertaining to Islamic law we used to go to Aisha and ask her and we always found that she had some knowledge of it." She used to give what we call today fatwah or verdicts according to Islamic teachings.

Another example is Asma'a Bint Yazeed an Ansari woman from Madina who made Bia'ah (oath of allegiance) to the Prophet and she learned a lot from him and proved to be a scholar in her own right. It was narrated that many future scholars learned through her; she like a professor an educator to many other important jurists. There are so many bright examples like this. And as far as Islam is concerned there are no barriers.

Host: What about women's involvement in social service and charitable activities?

Jamal Badawi:

Charitable activities from an Islamic perspective is perhaps one of the most suitable areas where women can excel more than men even because of the nature of compassion, kindness, concern and self sacrifice they can do a much better job with

this. In fact if we go back to the early (near perfect) era of Islamic practice we will find very touching examples.

After the death of Prophet Muhammad (PBUH) when Islam spread to different lands and wealth increased Abd Allah Ibn Zubire who was a relative of Aisha (wife of Prophet Muhammad (PBUH)) brought her a hundred thousand dirhams, and she immediately distributed the entire amount to the poor and needy. That day Aisha was fasting (and one can only break their fast after sunset) and when it was time to break her fast she discovered that she did not have any food at home to break her fast on. From this we can see the amount of self sacrifice; when earlier that day she had a massive amount of wealth which she distributed.

Another interesting example took place during the lifetime of Prophet Muhammad (PBUH) and the heroine was Fatima (the Prophet's daughter) who was so close to her father that they used to call her "her daddy's daughter" and he used to love her so much. She was married to his cousin Ali, who was a poor person. One time Ali told Fatima that "the situation of Muslims improved and your father is the Prophet why don't you go to him and ask him to assign a servant to help us as I keep carrying water on my back and it is aching." She replied "Me too, I keep grinding the grains until my hands are full of blisters." He said "Why don't you go and ask the Prophet to help us with a servant?" She went first to the Prophet on her own but she felt shy to make this request so she went back home to her husband and told him that they should go together. They both went and explained to the Prophet that they need a servant. The Prophet replied "I can not provide you with this service while there are so many Muslims whose tummies are aching from hunger." Compare this to many rulers today who spend and squander millions of dollars just on a wedding of their son or daughter. Here is the Prophet who has command over all that wealth refusing to assign a servant to his own beloved daughter, despite the fact that they needed it. Then the Prophet continued "Instead of a servant, could I teach you something?" Then he told them that after prayer they should make supplication and when they go to bed they should make supplication (special types of supplications and prayers to God) and both Fatima and Ali reported that they never left this practice. This shows that this spiritual elation and worship was better in the mind of the Prophet, Fatima and Ali than having a more comfortable and more luxurious life.

Not only were women participating in charity by just helping the poor but some of them even participated in consumer protection. One of the ladies was known as Um Alshifa'a, the daughter of Abd Allah, who was so wise and liked that Umar used to give her opinion a lot of weight. One time it was reported that he appointed her in the market place in order to supervise and make sure one was cheating.

Host: How were Muslim women involved in war efforts?

Jamal Badawi:

It is quite evident historically, from a variety of sources, that Muslim women did volunteer in many of the battles that Muslims had to fight in order to defend themselves and their faith. They participated in logistical services such as providing food, drink, nursing those who are wounded and carrying back to the city. They helped by providing whatever help they could to support the fighting men. It is interesting to notice that in the most authentic collection of Prophetic Tradition in Bukhari there is a chapter about women's' participation in the warfare.

In Bukhari and Ahmad it was reported that a lady by the name of Al Rabi Bint Maouth said "We used to go into the battle field with Prophet Muhammad (PBUH) providing drinks, serving them and taking the injured and the dead back to Madina." In another narration in Ahmad, Muslim and Ibn Majja another lady by the name of Um Atiya, an Ansari woman, said "I went to seven battles with Prophet Muhammad (PBUH)" and she described similar duties that they used to perform like getting them supplies, making food for them and looking after those who were injured. Even Aisha, the wife of the Prophet (PBUH), was reported to have carried water in a water bag along with another woman Um Aiman to give drinks to people in the front lines. Another woman, Ummaiah Bint Quise Alghafaria, made her oath of allegiance to the Prophet (PBUH) when she was very young (at the age of 14) and once she came along with other women and she told the Prophet "We would like to go out with you on the battle field in order to take care of the injured and provide you with what you need." The Prophet simply said "Come, with the blessings of Allah." He did not object to their participation.

If we look at history we find names like Nasseb Um Salim, Naseeba Bint Kab, Umm Salam Al Aslamiah, Lilah Algafariah, Um Aldahat, Safia Bint Abd Al Mutalib, and Hamma Bint Jahsh. There are literally dozens of them and these are only the women who took the lead in leading other women to support the fighting men. This does not cover the multitudes of Muslim women to provide the best help they could to support the men on the battle field.

Host: Are there case of Muslim women who were actually involved and participated in the battle field and actually carried arms?

Jamal Badawi:

Yes, there were examples of that also. We mentioned earlier the name of a prominent woman Umm Salim who was married to Abu Talha in the battle of Hunine when

Muslims were in great danger she did not depend on men to protect her and wore a dagger on her waist and she mentioned to her husband that if someone gets close to me or tries violate me I will not hesitate to use the dagger in defense. When the Prophet heard of this he simply said “Allah has already protected us from the danger” but he did not object that she was careful and tried to defend herself.

In the battle of Uhud when Muslims were in great danger, and the tide was against the Muslims and the Pagans started all attacking with the aim of reaching the Prophet (PBUH) and killing him and getting rid of Islam. At that moment, a very trying and critical moment, one of the ladies by the name of Nasibah Bint Ka’b while providing logistical support she felt that there was a great deal of danger on the life of Prophet Muhammad (PBUH). So she threw everything and she took a sword and started defending the Prophet; she put herself in the face of the pagans in order to protect the life of Prophet Muhammad (PBUH). The Prophet recognized her courage and he said “Whenever I turn my face to the right or left there was this lady, Nasibah Bint Ka’b, defending me along with other believers.” In fact it was reported that she received twelve injuries while defending the Prophet. I don’t know of very women who have that kind of courage and perseverance.

Earlier we mentioned Asma’a Bint Yazeed an Ansari woman who was not only a scholar in her own right but was a very courageous woman who participated in battles. Many historians refer to her participation in the battle of Yarmouk initially to nurse the injured and give them water. But at one point when the Roman army was attacking the Muslims she took the pole of her tent and it was reported that she succeeded in killing nine of the enemy who tried to attack the Muslims.

Similarly we find that Safia Bin Abd Al Mutalib was left in the battle of AlKhandak (The Trench) and Hassan Ibn Thabit was with them trying to guard them. At one point she was in danger and she immediately got rid of the soldier who was near her. So there are several examples of women being in the position of having to fight or participate in the battle field.

Host: Many argue that these examples are not applicable today because they occurred in the very early days of Islam and when they were in grave danger under exceptional circumstances. How do we respond to this view?

Jamal Badawi:

To use this argument to bar a Muslim woman from the battle field, even if she wanted to volunteer does not have any definite and solid support. The Prophet (PBUH) consented to this. In case one wants to raise the issue of the danger to which muslims were exposed to in the early days then the same argument would be applicable to any

other time after the Prophet where similar danger may arise. Muslims are being persecuted in a variety of places around the world, with internal oppressive regimes and external occupying forces. Till this day we hear about the heroic struggle of Muslim women in Egypt, Syria, Afghanistan and Iran. If the argument is based on danger, danger does not know any specific time or place. To be fair however we must say that women are not obliged to participate in the front lines of the battle field. In other words a woman can not be drafted in the Muslim army. The primary responsibility falls on men when it comes to this point. To say that God relieved her from the possibility of being drafted because of many reasons (has small children at home). This is one thing and saying that women are prohibited from participating in war efforts if need be is another. Some people refer to a saying of Prophet Muhammad (PBUH) when people asked him if they are obliged to engage in jihad (struggle in the path of God, which is also used for battles) and his answer that their jihad is a good pilgrimage. Again this does not mean that they can't participate but simply that if one is not able to participate in the battle field that God will give her as much reward as he gives men when they do jihad when a woman does other types of worship like pilgrimage. This was a compensation factor rather than prohibition. In any case one has to indicate that Islam does not have to leave her children at home simply to participate in the battle field. Those who are able to should be allowed to participate if they wish to do so (especially with logistical support).

I should mention one text that people might use to say that women should not participate about a lady known as Umm Kabsha, which is narrated in Ahmad, Abu Dawood and Al Nassai, went to the Prophet to take his permission to participate in the battle of Hunayn and the Prophet said "I am afraid that if I allow you that it will become an established practice." This text does not mean that women should be forbidden but it could mean that he was afraid that Muslims would interpret it as a regular pattern and that Muslim women would be forced to participate in the battle fields against their wishes. If we take this argument did allow it and did not have any clear cut prohibitions and the fact that these things happened with the approval of the prophet shows that even in the issue of participating in the battle field that women were not barred from this.

7.21 Social System of Islam- Muslim Women in History III



Summary of 7.20 "Muslim Women in History II"

We looked into the Woman's role in matters of propagating the faith and how women participated in various ways of spreading the truth. We also discussed their participation in educational functions and we showed that many muslim women were scholars and taught other men who learned a great deal from them. We covered women who had a great accomplishments in social services and who participated in the battle field both as logistical support as well as involvement in combat. We

indicated that these were not only limited cases or conditioned by special circumstances but we said that if there are any similar circumstances to those then the same kind of involvement would be permissible because they were consented to by Prophet Muhammad (PBUH).

7.21 Muslim Women in History III

Host: In the last few programs you seemed to focus on the early period of Islam, was there a reason for that?

Jamal Badawi:

First, the early days of Islam perhaps represented the most perfect model of the correct implementation of Islam. In the early days people used to stick more closely to the precepts of their faith and especially during the days of Prophet Muhammad (PBUH) because he was guiding them.

Second, it is interesting to refer to the early days because it shows that the teachings of Islam restored the dignity, rights and independent personality of the a Muslim woman. This something completely different from the spirit of the time and it was not a result of calls for liberation or a result of political groups. This proves that the source of Islam is divine.

Host: What do we know of the situation of Muslim women of a later time?

Jamal Badawi:

It would be misleading imply that women t were treated

It is wrong and inaccurate to imply that because Islam, in terms of its teachings in the Quran and Prophetic Tradition, that the practice of Muslims throughout the 1400 years was perfect. But we can say that beyond this early stage when the model for the treatment of women was implemented quite closely and that the status of Muslim women in the following centuries has gone up and down (sometimes it was close to the model and sometimes it was not). At times Muslim women were subjected to oppression and disregard of her rights according to Islamic Law. These variation were not a constant trend, as it varied from time to time and place to place. Today Muslims constitute the majority in nearly 57 countries which are all widespread from Asia, Africa, Middle East and some Western countries like Albania or Turkey which have a majority of Muslims. It is very difficult to assume that the local cultures and

traditions in this variety doesn't influence the behavior of Muslims. After all Muslims are humans and are not perfect in the way they adhere to their faith. I can say in general that the status and treatment of Muslim seems to go up and down along the same line of progress or decline of Islamic Civilization.

Host: What in your opinion are the reasons for this taking place?

Jamal Badawi:

Decline happens when there is a decline in the commitment to faith by Muslims. When faith becomes a form of lip service or a formalistic aspect of life then decline takes place. Islam has to start from the heart and as the Quran says "God will not change the lot of a people until they change themselves." When Muslims followed the teachings of Islam they change for the good and when they did not they deviated from Islam which starts in the heart.

The decline in the lack of sincere commitment to faith obviously results in the decline of the Muslim civilization which in turn results in ignorance or lack of proper information and knowledge about the nature of Islam and its true teachings. Even though the question of ignorance in the declining Islamic civilizations effected both males and females, but usually the oppression which effects both usually effects females to a greater extent and ignorance effected them to a greater degree. In a way the result of this was that Muslim men did not give Muslim women their equitable rights in given to them in Islamic Law and Tradition. One should also say that women carry part of the blame because they have the foundation of Islamic Law on their side and they should have resisted any attempt to deprive them or lessen the rights that God has given them in accordance with Islamic Law.

Host: Could you give us specific examples where Muslim women were deprived of their rights as guaranteed by Islamic Law? Why are these points contrary to Islamic teachings?

Jamal Badawi:

The list is quite extensive but I will refer to four examples. First, the restriction or prevention of women from going to the Mosque which might remain in some areas of the Muslim world. Second, is the practice of giving daughters in marriage without their consent, which is against Islamic Law. Third, was the purdah or seclusion of women so they are not seen regardless of the circumstances. In some cases people say that it is unlawful for a Muslim man to hear the voice of a female.

To take the question of women going to the Mosque: we find in the Bukhari collection of Prophetic Tradition there are several indications that the Prophet (PBUH) said very clearly “Do not prevent the servants of Allah from going to the Mosques of Allah.” During the Prophet’s lifetime there are lots of narrations of women saying that they used to go to the Masjid (even for the Dawn prayer which was at night). In the series on the Pillars of Islam when we dealt with prayer we go into detail about this, women are allowed to go to the Mosque and no one has the right to restrict them. A second aspect was the question of marriage which we will cover in the discussion about family in Islam. In Islamic Law marriage requires the consent of both the bride and groom or it won't be a legitimate marriage and is actually void.

The other aspect of purdah: it is important to note that many writers about Islam associate purdah with Islam. The fact is that Purdah (looked up in the Webster Dictionary) is a practice of Hindus not Muslims. It says it's a practice of the seclusion of women which is part of Hindu practice. In the Quran or Prophetic Tradition the word purdah does not even appear. In fact etymologically the word purdah is a Hindu and Persian term which is not even an Arabic term (which is the language that the Quran was revealed in). Some historians say that this was not only common among Hindus but also among the Zoroastrian Persians and among the wealthy people in the Byzantine empire. This practice was practiced before Islam and has no connotation or sanction in Islamic teachings. This is quite different from Hijab which simply means modesty in dress and behavior and restriction of loose mixing between the sexes for the purpose of protecting public morality from molestation and injury. This is quite different from purdah as it does not imply locking women up and preventing them from going out.

Another related word is harem. This comes from the word haraam which refers to exclusive quarters for the ladies of the house and foreign men were not permitted into these quarters, to preserve the privacy of women. Historians report that harem was not a prison but very nice quarters with fountains, vegetation, plantations. These were quarters that women left for parties (in the Islamic way), celebrations or other functions. But a harem as expressed in many of romantic novels as it referred to the corrupt practices that crept into the houses of some of the Muslim rulers throughout history where they had women and concubines is something that has nothing to do with Islam. In fact it is totally contrary to the teachings of Islam. The whole notion of purdah or harem has no foundation in Islamic teachings.

We find positive evidence from Islamic teachings that mixing between men and women within the boundaries of Islamic Law (certain restrictions of modesty) has taken place in a variety of forms: worship, pilgrimage, education and even in the battle field.

Host: Are there any citations in the Quran or Prophetic Tradition which would support this point?

Jamal Badawi:

The whole notion of women being totally secluded and locked in is contrary to what the Quran teaches. For example in (33:59) it talks about the command to Muslim women to draw their cloaks on their person when they go out in order to protect themselves from being molested by attacks from perverts. The very fact that it says that a woman should use this cloak means that they are allowed to go out. After the verse was revealed in the Quran which with additional restrictions on the household of the Prophet because his wives were regarded as the mothers of the believers and their reputation should have been kept beyond reproach. Also, the household of the Prophet was a place where many people came whether they were good or bad.

It was narrated in Bukhari that Omar, the second Caliph after the Prophet, once saw Sawda'a (the wife of the Prophet) going out and he objected because she was out and he could recognize her. She went back to Prophet Muhammad and she complained that Omar objected to her going out. At that time the Prophet received revelation and he simply replied saying "God has allowed you to go out for your legitimate needs." In the collection of Muslim we find that Prophet Muhammad (PBUH) said to his people "Don't loiter except if you perform your duties and fulfill the requirements of sitting." He asked what they were and she replied "To lower your gaze (not to stare at women that are coming and going with passion), to avoid any hurt to other people, to respond to greetings of peace with similar greetings, to ordain all that is good and forbid and to forbid all that is evil."

The first condition is interesting because it says one can sit around provided that they don't stare at women that are going and coming which implies that they are allowed to go out or else there would be no sense of mentioning this at all. In addition we find that even family visits which involve both females and males (within the boundaries of Islam in terms of dress and behavior) took place with the consent of Prophet Muhammad and during his lifetime. In both the collection of Bukhari and Muslim it was narrated that the Prophet (PBUH) once went to a wedding and in the house of the bride and she herself poured the pot for the prophet to drink from which means they were in the same place as the other people.

In another incident narrated in the collection of Muslim the Prophet was visiting a woman (not alone as that would have been contradictory to Islam and others were present) by the name of Khoulah Bint Qise and she said that she was eating from the same platter as Prophet Muhammad. This means that they were all sitting and eating together while still observing Islamic modesty and respect.

In Abu Dawood, Al Tirmithi, and Ibn Maja it was said that the Prophet once visited a lady by the name of Al Rabi Bint Maouth, whom we mentioned previously as one of

the most knowledgeable Muslim scholars, and her husband and it was reported that he asked her to bring him water for ablution before prayer, which again means they were all sitting in the same place.

In numerous other sayings it is mentioned that the Prophet visited with other people and prominent Muslim ladies were there or they were eating together. There is nothing that says that there should be some partition and that ladies should never be present.

There is one interesting case which was narrated in Bukhari, Muslim as well as Abu Dawood that one time a woman came to Prophet Muhammad (PBUH) and she wanted to ask him a private question, not in the presence of others, and he simply told her find any street in Madina and ill meet you there and talk to you privately. The idea here is that a street is an open place where there is no total and absolute privacy which is not allowed in Islam. But again she had sufficient amount of privacy to ask him whatever questions she had in mind. It is obvious from this that the notion that a Muslim woman should never be seen does not have support in the Quran or Prophetic Tradition.

Host: Earlier you mentioned that it was incorrect for some to claim that a woman's voice is unlawful for the male to hear, how do you support this?

Jamal Badawi:

This can be supported from both the Quran and the Prophetic Tradition. For example if we refer to the Quran in (33:32) it addresses the wives of Prophet Muhammad (PBUH) in terms of their treatment of others which reveals that it is not forbidden for others to hear the voices. It says "O Consorts of the Prophet! Ye are not like any of the (other) women: if ye do fear ((Allah)), be not too complacent of speech, lest one in whose heart is a disease should be moved with desire: but speak ye a speech (that is) just." In other words it did not say do not speak because a male can not hear the voice of a female but it simply says that when you speak do so with the normal tone and not to softly.

In the Quran in (58:1) is about a woman who came to the Prophet to argue and complain about her husband, again how could the Prophet allow himself to hear a woman if the voice of a woman is unlawful and he is our example. In the Prophetic Tradition we find multitudes of Prophetic sayings mentioning a woman coming to ask him about such and such or to suggest such and such which again shows that the voice of a woman in itself can not be regarded as unlawful. We have mentioned before that

many of the companions of Prophet Muhammad, later on, learned a great deal about Islam from women like Aisha (wife of the Prophet). How could that have happened if a woman's voice is forbidden.

When I used to address this at seminars for Muslim women they would complain that some of their Muslim brothers feel uncomfortable and uneasy when they pass by them; as if it is a sin to talk to them or to greet them. If we refer to authentic traditions of the Prophet in Abu Dawood, Asma'a the daughter of Abu Bakr, reported that she was sitting with some women and the Prophet passed by and she said "he greeted us with Salam." This shows that there is nothing wrong with this and that they can reply to it. In Bukhari many of the companions reported that after the congregational prayer on Friday they used to go to an old woman who used to make soup and gave it to them after the prayer and they used to feel very happy with this. So long as these interactions between males and females are within Islamic boundaries there is no text that opposite genders should not interact with each other.

Host: What are the arguments and basis for the unduly strict implementations of this?

Jamal Badawi:

It is important to note that in the case of Islamic teaching the text that are conclusive and clear are the book of Allah, Quran, or the authentic Prophetic Tradition which no one has the right to change. In Islam a conference of jurists can not come together and supersede the word of God. This fortunately made some of the fundamental rights of women as sanctioned in those references unchangeable.

In some other more detailed issues there have been differences between Muslim jurists (with due respect to their knowledge) are after all human beings and some have been influenced by their environment and customs that are prominent in their time. Some jurists spoke against the oppressive practices and some tend to have a more strict interpretation. Some of the foundation for this is the exaggeration of the purity of the immediate generation that was living in the time of Prophet Muhammad and they say that those people were so pure but now we aren't thus we can't allow the same interactions to take place. We forget as found in the Quran in (24:60) it speaks of the existence of people who deviated during the time of the Prophet.

Another aspect is the over generalization of some of the texts in the Quran that deal with the special restrictions on the wives of the Prophet because of their status and reputation as mothers of the believers which is not for everyone else. Some of these

do include everyone but some were specifically for the Prophet's wives. Finally, some used the rule in Islamic law that says that one can restrict permissible things if there is fear of temptation, problems or molestation. Some people say that today things are not secure (also in that time things were not very secure). How far does one go with this precaution? If we really want to be cautious then men, also, should not go out. There has to be limits; we have to look at Islamic Law in terms of protection as well as benefits from interactions that are done under Islamic Law. In other words it all comes back to moderation of the application of Islamic Law.

7.22 Social System of Islam- Muslim Women in Recent History

Summary of 7.21 "Muslim Women in History III"

We continued our discussion of women in history and we indicated that our emphasis on the early days of Islam was simply because this represented the perfect model (closest) to what Islam teaches. Second, we stated that the position and status of a Muslim woman afterward had gone through various ups and downs depending on the variations and influences of different places, times and cultures. Because of these variations one can not expect perfect compliance with the letter and spirit of Islam. There have been abortions, deviations and there have been cases where a Muslim woman was deprived of her due rights as determined in Islam. Some examples of this would be discouraging women from going to the Mosque contrary to the instructions of the Prophet, like the concept of purdah (total seclusion of women from society) which has nothing to do with Islam and in fact predated Islam. We have indicated that there is a difference in Islam between the emphasis on preserving the morality of the individual and society. The issue of chastity, modesty and behavior are different from the notion of total seclusion of women from society. We have seen in the previous programs how Muslim women with the approval and consent of the Prophet were heavily involved and actively participated in a variety of affairs in the Muslim community within the boundaries of Islam.

7.22 Muslim Women in Recent History

Host: Can you shed some light on Muslim women in recent history?

Jamal Badawi:

I would categorize this into three basic trends: one, was total westernization, second, was to uphold the status quo and not to try to change the present and third, is the approach of Islamic revivalists.

The trend towards westernization took place during the late 19th century and early 20th century and it came at a really low point of the Muslim civilization in Muslim history. It came at a point of decadence and backwardness when virtually all of the Muslim world was under some form of colonialism: Russia, British, French, Italians or Dutch. This period seemed to coincide with the rising power of the Western nations. As a result, the colonial powers that occupied the Muslim world tried very hard to convince Muslims, with the help of missionaries and Orientalists, that the main reason for their backwardness or the reason they suffered from moral or social decay was their religion. They tried to convince Muslims that the only way out of that dilemma was to reject Islam and to adopt Western manners in a whole sale fashion. These efforts definitely had results. We find that some Muslims responded (especially those who were not very familiar with their faith) favorably to this call. However, we find that many of the people who supported this kind of movement like Qasim Ameen and Huda Sha'rawi had a history of collaboration either with the occupying army to establish its colonial power or people who were collaborators with the corrupt court of the monarchy in Egypt which ended with King Farouq (who was dismissed in 1952). However, we find decades of practical experience showed that total uncriticized westernization is not the solution to this dilemma.

Host: Why was this approach unsuccessful?

Jamal Badawi:

Even though there was a feeling that reform and improvement it was not successful because these changes must be based on religion, beliefs and the values of the people. This way the movements of reform can gain wider support and sponsorship on the part of the population. Second, the principle of adopting, in a wholesale fashion, other cultures and other practices without any rational process of selecting what to take and what not to take depending on one's needs is in itself evidence of ignorance and decadence. Only a nation which is in a state of decay can adopt without being critical and just imitating others blindly. Third, as far as Islam is concerned there is nothing wrong with adopting reformist ideas as long as a Muslim is always in a state where he can critically choose to establish the process of change, improvement and reform within the boundaries of the faith. There is no reason whatsoever why reformation and liberation should be done against God when they can be done from within the faith.

On the other hand it is important to clarify that the solution to all of these dilemmas and problems faced by Muslims and particularly the case of Muslim women were problems whose solutions do exist within the boundaries of Islam. So instead of importing ideas why not apply what we have. Islam, does protect within its legal framework the rights and dignity of women. If there is a deficiency on the part of

Muslims not implementing those teachings the logical thing is to get them to apply it rather than to support something different.

Host: What is the view point of the second major trend you described relating to those who believe that the status quo should be maintained?

Jamal Badawi:

This particular trend seems to have emerged as a reaction to the attempt to impose alien and foreign values and ways of thinking and beliefs on a population which was largely a Muslim population. So many people felt that the reforms were not steaming from the faith but rather something that is imposed which was different from their heritage and their beliefs. Second, some people had justifiable worries because along with the wholesale adaptation of western ways, not only were the ideas of adaptation and fairness adopted but also many other practices which were contrary to Muslim beliefs and behavior. Being too lax on moral issues, proper cover, and free mixing with no restrictions are a few examples which caused many people to feel a great. They felt threats to the moral values of the Muslim society, to the cohesiveness and integrity of the family (which is breaking down as a basic unit in society). They did not fear reforms but they feared the approach of reform which mixed good ideas with counterproductive practices. It is fair however to say that some of those who were leery about reforms did so partly because of their lack of appreciation of the vitality of Islam and its ability to face all kinds of challenges in different places and times without deviating from its framework. In some cases some had misgivings and probably even misinterpretation of some of the sayings of Prophet Muhammad (PBUH) that they interpreted as putting women in less of a position than that of man.

Host: Could you comment on the Hadith by Prophet that says that if a woman prays, fasts, is chaste, and obeys her husband then she will enter Paradise?

Jamal Badawi:

It is true that there is a Hadith narrated by Anas and it is found in a book called Al Hilya by Abu Na'im in which the Prophet says that if a woman observes her five prayers, fasts during the month of Ramadan, maintains her chastity and honor and obeys her husband she will be told to enter from any door of Paradise. Some people miss interpret this to mean that this is all that a Muslim woman is required to do and that this is an exclusive list of what the involvement and obligations of the Muslim woman should be. There are two reasons why I would say that this is not a correct interoperation.

First, everybody knows that there are five basic pillars of Islam that include belief and things that are not mentioned in the above Hadith, such as charity and pilgrimage. No body differs that these are absolute requirements of both males and females. These items were not mentioned in that Hadith so does it mean that a woman does not have to pay charity, make the pilgrimage, have faith in God or perform other religious duties? The point to remember here is that the text of the Hadith is not meant to be exclusive to those points alone but is rather an example of some of the more significant behavior on the part of the Muslim woman.

Second, we have seen in several programs in this series (Social System in Islam) how Muslim women during the lifetime of the Prophet (PBUH) were heavily involved in a variety of economic, social and political activities. Again one needs to look at this from within the total concepts of Islamic teachings.

Host: Is it true that Prophet Muhammad (PBUH) expressed his fears that men would be tempted by women after him? What are the implications of this saying?

Jamal Badawi:

In both Bukhari and Muslim there is mention of the fear of the Prophet that women might be a source of temptation for men. In the original it uses the word fitnah in Arabic is sometimes translated into temptation but this term also means test or trial. I can give two sources in the Quran where fitnah means trial not temptation in (8:28) and (64:15). In both of these it says “Your riches and your children may be but a trial (fitnah).” Fitnah here doesn’t mean temptation but it could mean a test. These things which are called fitnah are not necessarily negative whether they are wealth, women or children. We find that the Quran in many places speaks of having spouses, children and wealth as one of the blessings of God and there is no where in the Quran or Prophetic Tradition that say that these things are forbidden or negative in themselves. Fitnah, temptation or trial here in a sense that when God blesses us with women, children or wealth they should not keep us from the remembrance of Allah; He above all gave us these things and we should not forget Him.

This also reminds us that in our pursuit of wealth, in our pursuit of satisfying our instinctive needs (the need for woman on the part of man and for man on the part of a woman) and in our pursuit of having children or families we should try to do so within the boundaries of what is permissible rather than doing it in a forbidden way. There is no negative connotation with the use of the term fitnah because everything in our life can be regarded as a test.

Host: There is a quote by Prophet Muhammad that says that women are at a disadvantage than men in matters of religion and mind, could you explain the context of this saying and what it means?

Jamal Badawi:

There have been many misunderstandings regarding this specific Hadith. The context of that Prophetic Tradition is in the area of exhortation of women to do good deeds. When we talk about exhortation many times allegories are used which should not be interpreted in a restrictive and literal sense but rather as encouragement and to be spiritually appealing. Second, this text does not speak of the inferiority or superiority of either men or women but it addresses the natural differences of men and women. Natural differences created by God can never be regarded as a source of inferiority or superiority of either of the two sexes. Third, this Prophetic Tradition explains what is meant and shows that the meaning is very restrictive rather than how people try to over generalize out of it. For example women asked the Prophet “At what point would women be at a disadvantage from a religious practice point of view?” And his answer was simple that during the monthly cycle a Muslim woman doesn’t pray (in the specific form of the five daily prayers). The point here is that in Islamic Law a Muslim woman is not permitted to pray (there are certain requirements of tahara, minimum degree of cleanliness before prayer, if a man or woman is bleeding it is regarded as a reason why they can’t perform prayers) until cleansed. If we interpret this Prophetic Tradition as saying that Muslim women are less religious we would contradict the Quran. If we say that she is deficient because she doesn’t pray during her cycle, how can we blame her for this when Islamic Law doesn’t allow her to do so? This is totally contradictory to the overall spirit of Islam. We need to go back to the context of the Prophetic Tradition and that he was appealing to women to make up for their missed prayers, which they are not required to do, are highly encouraged to engage in acts of charity.

The other aspect that people say that women are deficient in aql. There is a great misunderstanding of this because the very Hadith does not speak in the context of one sex or the other being more intelligent nor does it speak about the power of reasoning which God has endowed to both men and women but it specifically addresses one issue which the Prophet explains when he was asked what is this disadvantage in aql. He said in matters of financial dealings the requirement is to have two males or one male and two females. This is a matter that we have explained in several programs in great detail so we can differ to that. The point here is that it has nothing to do with the integrity of the woman, her intelligence or reasoning, but the relative extent of exposure to the business world within the Islamic context and the comparative experience that an average woman may have in financial dealings which may require this additional precaution in order to make sure things are not misinterpreted. Aql doesn’t mean, that a person doesn’t have a mind it means the degree of understanding or depth of experience in certain areas of life. I should emphasize this was mentioned specifically under the context of goodness and being

charitable. It should not be taken in a literal sense which would contradict both the Quran and the Prophetic Tradition.

Host: Could you explain the Prophetic Tradition that says a woman is like a bent rib?

Jamal Badawi:

First of all this particular tradition has different versions. In one of them it might appear that the woman was created from a rib but it doesn't mean physically from a rib as we explained in previous programs, because in other versions of the same tradition it says a woman is like a rib. This doesn't mean that she is a physically created from a rib, but she has some characteristics which are similar to the bent rib. What does bent mean? If we look at a rib we find that it is curved which means it has inclination, tendency or curvature. In the context of this saying the Prophet says if one tries to make the rib straight one will break it. In that sense he is not talking about a deficiency on the part of a woman. It says that women have a particular nature and if a man becomes so intolerant to the peculiarities of women and try to force them against their own nature by making the rib straight then you will break it. In the explanation of some jurists they say that breaking of the rib is divorce which again is again an appeal to the Muslim male to be tolerant toward his female companions whether they are wives, mothers, sisters, daughters or so on. This is meant so that women are not forced against their nature which is physiological, mental and psychological and not to expect everybody to be regimented and behave in the same way.

The biggest evidence of the validity of this meaning is that in the very saying of the Prophet's saying of a woman being curved or bent like a rib, begins and ends with *istowso bi alnis'a* which means "I commend you to be kind and considerate to women because they are created like a curved rib and if you try to force it you will break it. So I commend you to be kind and considerate to women." In this context we are really talking about consideration for women rather than regarding them as crooked or bent.

It is just like other Prophetic Traditions where the Prophet likens a woman to a prisoner. It doesn't mean that she is a prisoner or that she should be a prisoner but it means that one should have sympathy to women who are tied to you, your family and your children as if they are captives and that one should reciprocate by showing respect and appreciation.

Host: How do we know that the interpretations that you have given are valid within the framework of Islam?

Jamal Badawi:

This is a methodological question. To start with in discussing or trying to understand any aspect of Islam or Islamic Law everybody agrees that the primary sources are first the Quran, word of God, and the Prophetic Tradition, sayings of the Prophet (PBUH). Within this framework the Quran is regarded as the direct word of God as dictated to Prophet Muhammad with the Prophetic Tradition as elaboration and explanation. Secondly, if one goes through the entire Quran one can not find any verse that implies in any way that Muslim women are inferior to men or that men are superior. If there is anything like that in translations then they are mistranslation of the original wording of the Quran. Third, as a basic methodology of the interpretation of Islam no text of Prophetic Tradition can be interpreted in a way which contradicts the word of God in the Quran or contradicts other Prophetic Traditions. So one has to put all the texts together with the primary importance to the word of God in the Quran then collect all the sayings of the Prophet in a given topic then try to understand them in that context rather taking pieces from here and there. We have already seen that the Quran emphasizes that whomever does good deeds (men or women) that God will give them their full reward. We have also seen the Muslim woman was dignified in many respects in a variety of activities. In (33:35) "For Muslim men and women,- for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in Allah.s praise,- for them has Allah prepared forgiveness and great reward." it shows the complete spiritual equality between men and women in Islam.

7.23 Social System of Islam- Muslim Women in Contemporary History

Summary of 7.22 "Muslim Women in Recent History"

The last program focused more on the trends pertaining to the position and involvement of Muslim women particularly in recent history (late 19th century and early 20th century). I said that in my understanding there seemed to have been three basic trends. The first trend was that of wholesale westernization, not just adopting good ideas and technology but rather a wholesale expectancy of values and way of life that came from the West. The West was (and still is) superior technologically and

some felt that during the period of decay of the Muslims that this was the solution (just to adopt everything). We indicated that this was not a successful solution because the uncritical imitation and adoption of values is quite different from adopting technology. This did not work because it did not fit the kind of heritage and belief of the people themselves.

The second trend was to try to uphold the status quo with its positive and negative aspects and trying to stick to what is there rather than trying to improve. We discussed some of the reasons this was upheld and we said that one reason was that some people were afraid that the reform and improvement in the way a woman was treated and the way she should relate to the rest of society threatened moral values in society and may result in changes similar to those that took place elsewhere which resulted in the disintegration of the family.

Some Muslims might have misinterpreted certain texts of the Prophetic sayings which contradict the word of God in the Quran and sometimes in ways which are contradictory to other sayings of Prophet Muhammad (PBUH). We addressed some of those specific issues while trying to alleviate the misunderstanding. The third approach, Islamic Revivalist movement, was one which we did not elaborate on in the last program.

7.23 Muslim Women in Contemporary History

Host: In what way does the third approach differ from the previous two approaches and what does it call for?

Jamal Badawi:

First, it calls for awareness. Early Muslim women in the past were quite involved in the affairs of Islamic society and during the period of decline this was not the case. As such it calls first of all for the restoration of this active involvement and role of Muslim women in Muslim society within the limits of Islam. Second, any reform or improvement of the status quo must emanate from the word of God and teachings of Islam and the Prophetic Traditions and the exemplary behavior of Prophet Muhammad (PBUH) in his treatment of women. Reform or improvement does not take place on the basis of rejection of faith or uncritical imitation of others. In fact, a Muslim should be a leader not a lagger, a Muslim should be an initiator not an imitator because one of a Muslim's function being here on earth is to guide humanity unto the path of God rather than just to imitate various fads and fashions which come and go. The aspiration of Muslim women and their pursuit of happiness, respect and dignity are all ingrained in the very teachings of Islam if they are properly understood. Third, the main problem that Muslims faced were not problems that

emerged from the inadequacy of Islamic Law itself or injustice which were inherent in the law (there is nothing like this) but the main problem lies with the application of the law. If Muslims go back to the original pristine teachings then all of these problems could be resolved without any need to adopt. So the deficiency is in Muslims not in Islam itself.

Host: Is there a broad program that can help in accomplishing the objectives that you have just indicated?

Jamal Badawi:

For any reformist movement, which is religiously based, to succeed it has to first start with faith in God. This is the very basic foundation for any improvement. By this we mean specifically the preparedness on the part of the Muslim male and female alike to receive the guidance of God, to accept His divine plan in organizing, guiding and enriching the lives of human beings on the individual and collective level.

The intellectual part involves the proper understanding of true Islam through its pristine, authentic sources with an attempt to try to avoid extremes and excesses. One should not try to twist Islamic teachings to make it fit with the various pressures of time, place or culture. One should not be apologetic about Islam or try to appear modern, aristocratic or try to fall under any other title that people might use. One has to take the values provided by God not by humans as their basic distinction between what is right and what is wrong. In the mean time true understanding of Islam requires also that Muslims should not rigidly adhere to the status quo and try to justify it on an Islamic basis even though it contradicts the letter and spirit of Islamic teaching.

Beside the spiritual and intellectual part of the program there is also the practical element which tries to implement Islam in its purity in letter and spirit without being enslaved by local cultures or practices which may not be consistent with Islam and its teachings.

Host: How would you respond to some people who argue that custom is an acceptable source of Islamic Law?

Jamal Badawi:

Customs is a source but it is not an unconditional source. In fact the basic condition for accepting local customs as part of the process of Islamic Law is that they should

not contradict the teachings of Islam. The relationship between the customs in a given place and the teachings of Islam as ingrained in the Quran and the Prophetic Tradition can be either positive, neutral or negative. It can be positive if the local customs are based on the teachings of Islam and are influenced by the teachings of Islam.

For example, if one goes to virtually any Muslim country they would find that among committed Muslims there is an attitude of generosity and hospitality. This is based on Islam and is encouraged by Islam and thus we can say the correlation between custom and Islam is positive. There are some customs which have no correlation with Islam. In different countries different people like different types of food depending on where they are from (Indonesia, Morocco, Sudan, Nigeria etc.). This relates in neither a positive nor a negative way to Islamic teachings as there is nothing that says one must eat a specific type of food or not so long as it is permissible. So there is no relationship there and it is neutral. There are also some local customs that are found amongst Muslims in Muslim countries which are thought to be related to Islam but in reality they are contrary to the teachings of Islam. An example is the case where the father or mother do not get the approval of their daughter when they give her away in marriage. Some people may think that this is consistent or related with the teachings of Islam but it has no relation whatsoever and is actually contrary. So here the correlation between relation local customs and Islam is negative. One has to identify what kind of correlation there is between culture and religion: if it is positive it is fine, if it is neutral one can do it or not do it but if the local custom among Muslims in Muslim country (or any other country) which are thought to be related to Islam but in reality they are contrary to the teachings of Islam. One example that we gave in the previous program was the case where a mother or father doesn't get the approval of their daughter when they give her in marriage. They don't even give her a chance to see or approve of her fiancé. Some people may think this is consistent or even related with the teachings of Islam when it has no relation whatsoever and is actually contrary to it. If the local custom, no matter how widely practiced they are, contradict with Islamic teachings then they can not be used or applied. Customs can be followed if they do not contradict with Islamic teachings.

Host: What is the role of the contemporary Muslim woman? How can she contribute to her position in society?

Jamal Badawi:

To start with any change or social development would have to start on an individual level with the awareness of the individual and the Muslim woman. More specifically a Muslim woman (who is no less than any male) should understand and be totally aware that she is also the trustee of God on earth and that she carries a grave responsibility for carrying it out. She needs to be aware that her life is important (no less than any male), meaningful and that she has a specific mission to fulfill while she

is here on earth. Women need to ultimately understand that they can't escape responsibility before God just like any male because on the Day of Judgment she will have to give account as to how productive a Muslim woman she was, how she conducted her life and how she contributed to the overall good of the Muslim Ummah and community. In order for her to fulfill this responsibility successfully she has got to start from self purification (applies to males as well). She should have firm unshakable faith and certitude in the validity and wisdom of the teachings of God as ingrained in the word of God, Quran, and Prophetic Traditions. This requires that a Muslim not place her personal preferences (liking, disliking, or inclinations which might be bias resulting from a social environment) above the will of God and the clear and explicit directions that God provided. This is basically the meaning of Islam which applies to both males and females; submit to the will of God consciously, willingly and lovingly.

A Muslim woman should approach Islam as a complete and total way of life, not just by believing and having certitude but through her own behavior and trying to deepen her own commitment to Islam and God; she should try to avoid the things that God has forbidden in dress, behavior, manners and all aspects of human life; she should try and follow God's directives and demands and to inculcate and strengthen her personal individual relationship with God through various acts of worship (prayers, fasting, charity, recitation, remembrance of God and above all in her day to day activity in whatever she does). This also requires a Muslim woman to try and equip herself with all the skills, abilities and knowledge that would enable her to have a more active and involved role within the boundaries of Islamic Law.

A woman should not only acquire Islamic knowledge but she should obtain other knowledge that would help make her an effective mother, wife and an effective and useful member in society at large. She should also try to work with perseverance and patience without the spirit of contention and conflict to convince other Muslims (males and females) that they should accept the legitimacy of her involvement, role within the boundaries of Islam and that they should not be enslaved to the local customs if they are contrary to the teachings of Islam. I think that if a Muslim woman starts from this basic individual level with this understanding and motivation it could pave the way for development and improvement both on the individual and collective levels.

Host: How can the Muslim woman contribute to social development through family involvement?

Jamal Badawi:

This is perhaps the most potential (I don't mean exclusive) area of contribution of a Muslim woman. If a Muslim woman as a youth, an unmarried daughter, and the way she relates to her mother, father, brothers, sisters and relatives could contribute a great

deal to create an atmosphere which is very close to the teachings of Islam where people can find comfort and warmth. This cannot be achieved by undue militancy or conflict but rather through perseverance and good example.

If she is married she can also contribute by being carrying her responsibility and demanding her rights, encouraging and aiding her husband to perform his activities and contribute to the good of the family and society at large and not to stand as an obstacle or barrier. If she begets children, this could be one of the most noble function that she can perform by being an ideal Muslim mother. She should realize that her duty is not simply to feed or change her child but that she is the first school for her child. She should inculcate values of spirituality in the child. This is a very important and noble function that is a full time job which makes the home a school from which heroes of the future graduate before they even begin regular school. These areas require a lot more analysis, but I hope that in the upcoming segments when we touch on family life in Islam that we can specify more clearly what expectations Islam has for a Muslim woman being a wife or mother.

Host: What is the role of a Muslim woman in the broader social context?

Jamal Badawi:

Beyond the individual and family level the Muslim woman should always regard her role as a sister to other Muslims (both males and females). She has a duty to remind them to do good, to correct them when they make errors and to encourage them not to do evil indecent things. This is not only a duty that is limited to either males or females. Indeed one beautiful verse in the Quran in (9:71) "The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practice regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise." Social concern and the duty to forbid evil and enjoin the good are duties which are not limited or restricted to male or female and every Muslim has this duty.

A Muslim woman should try to bring Islam to the lives of Muslims by participating in the spiritual awakening of other women (or men) who because of the period of decay and decline have accepted to act only on the fringes of society without being totally involved in the affairs of Islamic society. She should remind them that they do have the potential to serve God as men do and to inculcate in their heart and mind trust in God and trust and confidence in their own abilities to contribute and improve the total social environment.

There are lots of educated Muslim women who carry an additional responsibility as many live in areas with illiteracy, ignorance and disease are paramount. These sisters

have a responsibility to be active and not only follow but to initiate activities in the area of education. Here in North America there have been many activities in recent years where Muslim women have their own study circle or organize seminars. A woman should be active in the area of health, in order to help other take care of their children and to know basic health rules for their family.

The area of charity and social services is also important. There are endless ways in which a Muslim woman can contribute within the boundaries and framework of Islam. Above all the best contribution is for her to be a good example in her behavior and activities which would inspire other women and men also.

Host: Is there any role that men have in assisting the development and growth of the sisters?

Jamal Badawi:

As I indicated in the answers of the previous questions many responsibilities are shared. On the individual level the duties of a Muslim male are identical to those of a Muslim female. The question of self purification is where one should start from and the acceptance of the rule of Islam rather than the rule of any particular subculture.

A man's role at a family level involves a number of things. Basically, they are required to treat the Muslim woman as Islam required that she be treated as a sister, mother, wife or daughter which we will cover in future topics. A Muslim should accept a Muslim woman as an independent person with her independent personality who is responsible before God for her own identity and as such would inculcate in her self confidence in her ability to do things on her own within the boundaries of Islam. Many Muslim males may behave in a way which would make them an obstacle in the way of their wives in the Islamic world. I think they should revise this attitude and they should not only condone them but encourage them to be involved in the ways that Islam requires. They need to understand that their role extends beyond the role of the family. A Muslim woman is not only supposed to be a good wife and mother but she is supposed to be a good Muslim, member of society and a good human being. Thus he should not only encourage religious learning but also more administrative and organizational learning that would help her be more effective in that role. Above all they should remember the constant reminders of Prophet Muhammad (PBUH) that women should be treated kindly and in a compassionate way.

We should remember two things. First a Muslim woman should be a daiah, actively involved in calling other people unto the path of truth even if they are not Muslim. Second, both men and women should remember a verse which appears in (33:35) “For Muslim men and women,- for believing men and women, for devout men and women, for true men and women, for men and women who are patient and constant, for men and women who humble themselves, for men and women who give in Charity, for men and women who fast (and deny themselves), for men and women who guard their chastity, and for men and women who engage much in Allah.s praise,- for them has Allah prepared forgiveness and great reward.”

7.24 Social System of Islam- Islam's View of Sex

Summary of 7.23 "Muslim Women in Contemporary History"

The title of the whole series is the Social System of Islam and the premiss after covering some broad issues, like human brotherhood, we said that the corner stone of society is the family and the corner stone of the family is the woman because of her crucial role in establishing and keeping the integrity of the family. This is why the last fourteen programs were devoted to the position of the woman in Islam. We have not really touched on the family life in Islam: engagement, marriage and marital life. As we get closer to this interesting area of the family structure in Islam I think that talking about Islam’s attitude towards sex would be a befitting topic. We will try to explain Islam’s view of sex within the general framework of Islam.

7.24 Islam’s View of Sex

Host: What is the general framework of sex in Islam?

Jamal Badawi:

First of all sex relates to human behavior. Behavior in Islam is not diverged from belief, understanding and the basic frame of mind that the person has. A person who believes in God, who understands why he/she was created on earth, what mission they have to fulfill, that his/her life will end on earth and he/she will die and will be resurrected on the Day of Judgement and will be accountable for his or her life definitely will behave in a way that is different from someone who does not believe. In each cases a one’s behavior is tied to his/her ultimately belief and destiny.

Second, when we address improvement or reform of behavior (sex is a behavior) in society the first logical step is to correct the belief, the understanding or frame of mind from which such behaviors emanates. The first step would be to explain to the individual about God, the universe, life and about human nature. A human being is composed of spiritual element, intellectual element and a physical (earthly) element. A human being has aspirations to satisfy all the needs pertaining to these three basic components. For example, Islam provides the satisfaction of the spiritual need through the remembrance and love of God and through various acts of worship. It satisfies the intellectual needs by encouraging the human to understand the universe, to ponder creation and to try to understand the Law of God in nature and human life. Islam also provides for the satisfaction of physical needs. Some of these crucial needs in the human are food and sex. This is regarded as a natural part of the totality of human existence on earth. As such the satisfaction of material needs whether they are related to food or sex are regarded to the Muslim as part of their life on earth. It is not contradictory to spirituality or faith.

The main point is that Islam insists that the satisfaction of these needs are within the basic guidelines set in the teachings of God which are set in order to ascertain that these needs are satisfied in a pure wholesome manner without falling into extremes.

Host: Can you give us a few examples from the Quran and the Prophet Traditions which would help us appreciate the basis for this framework?

Jamal Badawi:

First, the Quran indicates in dozens of verses, I will use one example (18:107), that whenever the Quran speaks about faith and belief it speaks about faith and good deeds. This proves that there is no distinction between behavior, belief and understanding out of which behavior emanates. On the question of behavior and the three basic components the Quran in numerous places indicates that God breathed into creation and human kind of His Spirit. We find this in (15:29), (32) and (38). In terms of the intellectual component we find reference to that in (2:31) and (16:78) where again it indicates that God not only created our senses but also our intellect.

Equally the Quran speaks of the human being as a material existence. For example in (6:2) and (38:71) which deal with the fact that the human is created from clay. They all also deal with the fact that a human is created from clay which is a symbol of the same elements found in clay and a symbol of the same carnal desires whether it is food or sex. On the issue that Islam is not against the legitimate and wholesome satisfaction of human needs. We find that there is an interesting, key verse in (3:14) "Fair in the eyes of men is the love of things they covet: Women and sons; Heaped-up hoards of gold and silver; horses branded (for blood and excellence); and (wealth of)

cattle and well-tilled land.” The first part of the verse speaks about things that humans are created to love such as sex, food, property, wealth and so on. It goes on without condemning it as it says that “Such are the possessions of this world’s life; but in nearness to Allah is the best of the goals (To return to).” Then in the following verse (3:15) “Say: Shall I give you glad tidings of things Far better than those? For the righteous are Gardens in nearness to their Lord, with rivers flowing beneath; therein is their eternal home; with companions pure (and holy); and the good pleasure of Allah. For in Allah’s sight are (all) His servants.”

While the Quran acknowledges the human need or desire for all of these things, it does not condemn any of them (sex or food) but it simply says that one should not be over occupied with these things because they are going to vanish. So while encouraging the individual to inculcate his or her personal relationship with God it does not condemn human needs nor does it regard it as impure. There are numerous verses in the Quran that are similar to that as found for example in chapter 6 where it talks about eating and drinking but without excess. In (28:77) it says “nor forget thy portion in this world” So one should keep the hereafter in his sight they should not deny themselves the legitimate satisfactions of the earthly life. Islam does not see anything wrong with human instincts as nothing is unclean in itself. The error is the immoral pursuit of the satisfaction of those needs.

Host: What does Islam view as being beyond limits in matters of sex?

Jamal Badawi:

When we look into history we will find two basic extremes with different combinations in between. There is one extreme that regards sex as unclean, contrary to goodness, faith or spirituality and that it should be suppressed and resisted in order for the person to be purified. We find implications in monasticism, celibacy or when people get married but consider sex as being an inevitable evil rather than a blessing from God as Islam explains. The other extreme, which is more predominant in human history, is looseness and the pursuit of pleasure (sexual or otherwise) regardless of the morality of it which may cause harm in the long or short term to society and to the individual.

In fact, both of these trends have manifested themselves clearly in history. We find literature by Saints about demonological beliefs where the Saints themselves had dreams of male or female demons (depending on the sex of the Saint) having sexual relationships with them in their sleep and they regarded that as demoniacal. This approach towards sex only results a sort of psychological attitude of inner struggle about their needs and the pressure to satisfy those needs (they feel that they are bad in themselves).

The other extreme is looseness in human history with widespread adultery, fornication, preoccupation with sex and even sex trade (using sex as a multi billion dollar business). Both of these extremes overlook and ignore certain aspects of human nature, the nature that does have desire and the need for it to be satisfied but in moderation and within the moral framework that religion provides. On the other hand people neglect that the success of the individual, the integrity of family and society can never be achieved if the individual possesses unrestricted freedom (especially in matters of sex). Wild sex can be subject to sublimated into different expressions which is still very potent. Indeed some people have recently been saying (even non Muslims) that the danger of sexual energy is just as devastating as the dangerous of nuclear energy. Unless both are harnessed in ways that are beneficial to humankind they can be quit devastating. Using the same military terminology; when one goes to any city they are constantly under sexual shelling and bombardment in all surroundings. This constant stimulation and encouragement to satisfy this need regardless of the morality or channel that is taken to do so can lead to very serious consequences in society.

Host: Could you give us some examples of such consequences?

Jamal Badawi:

Even from the point of view of non-Muslim social reformers who look into the situation as it exists in our generation indicate that there are excesses in matters of sex. This results in harm to the health and character and his ability to be patient and persevere particularly people who may be involved in struggles or on the battle field. A person who is so involved in sex would not be a good defender of his faith or country. In fact, many scholars relate the over occupation with sex as one of the main reasons for military defeat (there are many examples of this in history). Another harm that is even more devastating is that it destroys the moral character of the individual. When sex is satisfied regardless of the mode or channel it leads to an attitude of selfishness, opportunism, lack of responsibility of family or results of such actions, the attitude of lying and deception (when one seeks extra marital relations). All of this may lead to inner conflict, drug addiction, theft, rape and murder.

Not only does this effect the individual but society itself if sex is left loose. The stability and integrity of the family would suffer a great deal, families would break down, leading to lots of problems that effect the family and society at large. In society we have seen crimes and excesses in society in the case of loose moral standards regarding sex and of people who elicit sex as a profession (in direct or indirect ways). This is after all a degrading area for human beings to be involved

in. This is just an outline; there are books written about sexual morality in any given society.

Host: How does Islam attempt to solve the problems of sex while avoiding the danger that you mentioned?

Jamal Badawi:

Islam attacks the problems on many different levels which include the individual, family and society at large. It is important that an individual is raised with God conscious or taqwa. This God consciousness in an individual allows them to persevere in the face of any possible temptation especially when it comes to errors regarding sexual needs. They also need to be brought up with the proper intellect and understanding. This can be achieved by understanding the teaching of Islam in that respect, by taking Islam and using it as the criterion to judge between what is right and what is wrong. Thus people would not get confused especially when things are presented in a different light. Sometimes vice is presented as a good thing and many times virtue is being represented as something that is not good or rigid. The intellectual understanding is essential for the person not to get confused.

Islam prohibits the satisfaction of sexual urges in any form outside of the marital relationship. Only through marriage is sex regarded as a wholesome, acceptable, sanctioned and encouraged type of satisfaction. Islam does not only prohibit adultery and fornication but it also prohibits anything that would likely lead to these consequences. Islam stands very clearly against homosexuality and any other perversion and regards this as something that not only justifies the anger and displeasure of God but also the application of penal law in this life. In other words all these things that are regarded as natural, today, are severely condemned in Islamic teachings: premarital relations, extramarital relations, and postmarital relations are regarded as abortions which are absolutely unacceptable from the Islamic stand point. In return for this strictness in terms of the morality of satisfying the sexual urge we find that Islam also establishes a very healthy attitude towards sex.

An example from the sayings of Prophet Muhammad is that one time a group of people met and they started talking about how to develop their spirituality. Some of them said how can we be more like the Prophet, after all God promised to forgive all of his sins and he is going to Paradise but we should work harder. So one of them said he would pray all night and never sleep, the second person said I will fast everyday and never miss any days of fasting, and the third person said I will sacrifice all my sexual needs and I will not get married at all. The Prophet knew of their discussion and he came to them and said “Are you the people who said so and so?” They said: yes. He replied “I am the most pious of you, the most fearful of God

of you and I always remember God however I pray then I sleep, I fast sometimes but also I break my fast, and I do get married and whoever deviates of my way is not of me.” This Hadith was narrated in Bukhari.

In another saying narrated in Al Tabarani he said “If a person is able, and has sufficient finances to get married and he refuses or delays his marriage he is not of me.” In a saying narrated in Al Bihaki “Whoever gets married has completed half of his faith, let him be God conscious in the remaining half.” In another Hadith narrated in Al Tirmithi he said “There are three types of people who deserve the help of God: The one who struggles in the path of God, a person who seeks his freedom and a person who wants to get married to maintain and protect his chastity.”

In some cases he raised the satisfaction of the sexual instinct (in a wholesome) as a matter that deserves reward from God. One time he said that “If one of you goes to his wife (to have intimate relations) he will be rewarded for that.” They asked how they could enjoy it and get reward. He said “If a person doesn’t get the enjoyment through wholesome Halal marriage wouldn’t he do it in the Haram way?” They said yes and he continued “You get punished if you do it wrong way and you get reward if you do it right.”

In addition to this we find that the method of approaching this satisfaction should not be just a selfish or physical act but it should be something that is surrounded with tenderness, understanding and mutual concern for the feeling and regard of the other party. There are several Ahadith, sayings of the Prophet (PBUH), about this. One is narrated in Al Bilami Al Muslim Al Firdouse he says “One of you should not go to his wife like an animal goes to another. There must be a messenger between you.” They asked what kind of messenger oh Prophet of God. He replied “The tender kiss, pleasurable talk and entertainment.” In addition to this Islam requires maintenance of secrecy and privacy of intimate relations. There are several in Muslim, Abu Dawood and Ahmad that strongly prohibit people from revealing private things that go on between husband and wife. Finally, for young people as reported by Abd Allah Ibn Omar and narrated in Bukhari and Muslim “If any of you (youth) is able to support a family and get married, let him get married for those who are not able they should practice fasting which is a protection for them.” This means that fasting teaches the person to have self control.

7.25 Social System of Islam- Selection of Spouse & Engagement

Summary of 7.24 "Islam's View of Sex"

We started a new segment in this series which deals with the family life in Islam. We started by introducing Islam's attitude and view towards the matter of sex. We tried to indicate that Islam does not see sex in-itself as something which is negative or evil. However, evil may occur in the way a person seeks to satisfy this basic instinctive human need. We said that Islam regards marriage as the only legitimate for the satisfaction of this need.

It was also indicated that Islam does not only sanction legitimate satisfaction of this need but it even considers marriage as a commendable act and something that a person is spiritually rewarded for. In addition we find several sayings of Prophet Muhammad (PBUH) and his teachings which indicate that sex is not only a matter of physical activity as it has to be done within the context of mutual love and affection. We sighted explicit words of the Prophet in which he recommends that a person should be considerate and loving to the needs and situation of their spouse.

7.25 Selection of Spouse and Engagement

Host: Can you explain the basic significance of marriage in Islam and Islamic philosophy?

Jamal Badawi:

Marriage in Islam is related to the overall human solidarity and social cohesiveness. It also relates to the broader family structure just as much as it relates to the intimate circle of husband and wife and their relationship.

On the broader level we find in (25:54) in the Quran it says "It is He Who has created mankind from water: then has He established relationships of lineage and marriage: for thy Lord has power (over all things)." We notice here that it does not only talk about husband and wife but it talks about the human being in general who was created from a basic substance then He spread them into networks of relationships.

On the second level regarding marriage as the basic part of the broader family structure in society we find in (16:72) "And Allah has made for you mates (and companions) of your own nature, and made for you, out of them, sons and daughters and grandchildren, and provided for you sustenance of the best: will they then believe in vain things, and be ungrateful for Allah's favors?" The emphasis here is on the role of marriage in expanding family relationships and having children and grandchildren and as such keeping the continuity of the human race. There is a hint of procreation being a function of marriage.

In addition to this, marriage as an intimate relation between husband and wife is a soothing state that provides humans with comfort and tranquility. A key verse from the Quran regarding this is (30:21) “And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect.”

First of all, the verse starts by indicating that marriage is one of the signs of God. It is a sign of his love, compassion, interest in our needs, human nature and our basic welfare. We find that this attitude stands in sharp contrast to the views that marriage is just symbolic or is a reminder of the fall of mankind from Paradise and relates to the sinful nature of human being.

Second it uses the term *azwajan* in Arabic which can be used for both male and female which shows that it is a mutual matter. Ofcourse the term *zawjat* is the term for females only. This broader term is used to indicate that this is a mutual matter. In fact in the Quran in (66:3-5) it refers to the plurality of females using the term *azwajan*. This is a significant point as the matter is mutual.

The other point is that it says “He created for you mates from among yourselves” which puts the basic foundation for human and spiritual between men and women. One verse says that one proceeds from the other.

Another significant is when it says that God created them so that “ye may dwell in tranquillity with them.” The original Arabic says *litaskono illiha* which comes from *sakan* and could mean a number of things. It could refer to tranquility from an emotional sense, to find psychological gratification, legitimately through marriage. This does not exclude the emotional physical tranquility by reduction of tension and satisfaction of the basic human instincts. It could also mean another type of *sakan*, tranquility, of faith or joining together in something that has a spiritual sanction. This is a very beautiful word that reflects on different shades of meaning.

One can clearly see from this verse that Islam regards the mutual attraction of males and females as something healthy and natural. The verse does not condemn that God has ordained between you love and mercy. The attraction between husband and wife is not condemned at all so long as it is channelled through the appropriate way of satisfaction through marriage. We contrast this with the example that marriage or pregnancy is something that is related to the fall of mankind from Paradise and that

woman gets pregnant by way of punishment for eating from the forbidden tree. There is no such notion as we have described in greater detail in the twelfth program in this series. In fact the Quran describes pregnancy, in itself, as something which is looked at and anticipated with a great deal of excitement. For example in chapter (7:189) it says “It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love). When they are united, she bears a light burden and carries it about (unnoticed). When she grows heavy, they both pray to Allah their Lord, (saying): If Thou givest us a goodly child, we vow we shall (ever) be grateful.” This is presented as a gift from God rather than something connected with original sin.

Finally, it is important to emphasize that Islam does not encourage or permit celibacy or monasticism. In fact in (5:87) of the Quran God forbids a believer from making unlawful the things that God made lawful which includes marriage and legitimate satisfaction of human needs.

Host: What is the criteria that one should follow in the selection of a spouse?

Jamal Badawi:

In one saying narrated in Bukhari and Muslim he says that a woman is sought for marriage for four reasons : for her wealth, the nobility of her family, her beauty and for her religiosity. Then he adds “Blessed and fortunate is he who wins a religious woman.” This shows that even though people look for wealth nobility of family or beauty that the best the most important criteria is that of character.

In a similar saying he says “Do not marry women simply because of their beauty, because that beauty could be a cause of their fall, nor should you marry a woman simply because their wealth, because they can exceed the limits and become arrogant, but you should marry them because of their religiosity, a slave woman who has good character than anyone who might be flashy before your eyes.”

He even warned as narrated in Ibn Habban and he said “Whoever marries a woman simply because of her property or wealth God will increase him in poverty and whoever seeks to marry a woman simply because of the nobility of her family Allah will increase him in lowliness but whoever seeks marriage to a woman in order to help himself lower his gaze and to protect his chastity or to be kind to his relatives then God will bless him for her and her for him.” Of course this doesn’t say that beauty is not something to consider, its just a matter of priority and one should not be misled by one aspect in the character of the individual while forgetting what is more

essential. We have to remember that beauty is not just physical appearance there is inner beauty, and there is radiation that comes from the individual regardless of what he or she looks like which reflects a different type of beauty which more lasting.

To indicate that there is nothing with beauty in itself Prophet Muhammad (PBUH) as narrated in Nassa' ai and other sources has been quoted as saying that "The best thing that a person can get after obedience and faith in God is a good woman: when he looks at her she pleases him (because of her beauty, character and cheerfulness), if he asks her to do something she obeys (of course this obedience is fare and reasonable as there is no arrogance or rebelliousness but understanding), third if he has an oath from her she would fulfill it and fourth if he is absent she guards him (protects her chastity and looks after his property)." Also, in another saying he says that "God is beautiful and He loves the beautiful." Again beauty is not something that is pushed aside. In addition to this the Prophet (PBUH) recommended that one marries one that is loved, lovable and fertile. There is a Hadith that says marry "The one who is fertile, gives birth to children and a woman who is loving and lovable.

Host: This is guidance that is given to men but what about guidance for the woman in her choice of a partner?

Jamal Badawi:

There is not much difference because even though the points that the Prophet mentioned were in the context of a man looking for an appropriate woman to marry (it is customary for the man to seek the hand of a woman) the same basic criteria are applicable to both male and female. There are sayings of the Prophet which address the woman's choice in a mate. Some of the Ahadith are directed to her directly and some are directed to her father or guardian (who is usually approached to seek the hand of the girl).

One saying narrated in Ibn Hibban he says "Do not give your girls in marriage to someone who is wicked, fasiq, because whoever does that destroys their future family connections" In one instance the grandson of Prophet Muhammad (PBUH), Al Hassan, was asked by one man: "I have a daughter, I don't know who to give her to in marriage?" He said "Give her in marriage to someone who is God conscious because if he loves her he would be every generous with her and if he doesn't like her or if he hates her he will not commit injustice to her." In addition to this the Prophet (PBUH) says in one narrated by Al Tirmithy, Al Hakim and Ibn Maja "If a person comes to you to seek the hands of your daughters sisters: give him if you are comfortable and assured of his religiosity and character. If you don't do that there will be a lot commotion and corruption on earth." This is a lesson that people should not just give their daughters in marriage to someone because they are rich or have

social status but that the individual should have piety and character regardless of his financial state.

In the Quran in (24:32) it says “Marry those among you who are single, or the virtuous ones among yourselves, male or female: if they are in poverty, Allah will give them means out of His grace: for Allah encompasseth all, and he knoweth all things.” Poverty should not be an obstacle for a successful marriage. As I mentioned earlier generally speaking whatever applies to the man in terms of his choice of a wife also applies to the woman’s choice in a husband. She should choose a person based on his character and religiosity.

Host: Is it possible under Islamic Law for the woman to take the initiative and propose marriage to the man?

Jamal Badawi:

I don’t know of any text that prohibits this and in fact there may be some text that shows that it is permissible. Before Prophet Muhammad was given the mission the proposal for marriage to his wife Khadijah (his first wife of 25 years) the proposal came from her. She did it in a decent way: she sent one of her lady friends to talk to the prophet. Her friend asked him why don’t you get married he replied that he doesn’t have enough. She told him how about if you are invited to marry one who has the wealth, nobility and character and she mentioned to him the name of Khadijah. It was done in an indirect suggestive way. There is no problem if it is done in a decent way like that.

Even after Islam there is a case where a woman offered herself in marriage to the Prophet. He did not accept but he did not condemn her for offering herself in marriage and he tried to find her another person who would be interested. There is nothing wrong with this but in most cultures and in consideration of the nature of the woman (some women might be shy and feel more dignified if someone seeks their hand) but this doesn’t mean that a woman is forbidden from sending a feeler or making proposal for marriage.

Host: How can a spouse be selected since dating and courting is not permissible in Islam?

Jamal Badawi:

First of all, as has been indicated in the series on Moral Teachings in Islam that Islam does not except dating as is practiced in the West (people living together or going out alone). This is not permissible in Islam and is unlawful. When people talk of dating and courting as something that is necessary in order to make a choice when deciding on a mate they make a subtle assumption that having this loose relationship before any commitment contributes to the future stability of the family. This is hardly understandable in view of the very high rate of divorce in societies which have this free unrestricted dating. Divorce rates are around 40-50% in these places. This shows that all these trials (dating) do not necessarily contribute to stability in the family. We always hear about people who get married and after a few months their baby is born.

Marriage is not like buying things from the store; where one has to try things on before they can be sure if they made a good choice. Marriage is more noble and more humane than that. Indeed not only is premarital sexual relations forbidden and the doors before it (freely dating) are closed but it may also contribute to the lack of confidence and comfort in the future. A male or female who knows that his/her spouse allowed themselves to have intimate relationship before commitment and marriage would not have much trust that extramarital relations would not continue after marriage.

I think this question is related to another extreme that is found in the practice of some people which is practiced by some Muslims. This extreme is preventing people who are engaged to each other to at least see each other or talk to each other. This practice is contrary to Islam. In Ahamad, Ibn Maja and Al Tirmithi it was narrated that one of the companions of the Prophet, Al Mughira Ibn Shuba, came to the prophet and he told him that he was getting married. The Prophet told him "Look at her because this might generate a feeling of closeness and compassion and a relationship between you and her." In Bukhari and Muslim it was said that a man came to the Prophet and told him that he had a marriage contract with a woman from Al Ansar and the Prophet said "Did you look at her?" He said no. The Prophet said "Go look at her because there is something special in the eyes of people of Al Ansar." Again he encouraged having this experience before getting married. Of course when the prophet talks about 'seeing' he doesn't mean what happens today with people dating or seeing each privately. Islamic Law provides that he has the right to talk to her and see her but not alone, it should be in the presence of some of her relatives who are not lawful for her to marry (like her mother, he sister, her brother or father) provided that the girl is wearing Islamic dress.

There are some Islamic jurists like Yousif Alkaradawi and Albahi Al Khuli who relate this Hadith of the Prophet as narrated in Abu Dawwood as meaning that they have the right to talk and to go out in the presence of other to find out more about each other.

7.26 Social System of Islam- 7.26 Engagement Continued

Summary of 3.28 "Selection of Spouse and Engagement"

We covered five basic points. One was to clarify some of the basic aims and objectives of marriage. We indicated that marriage is not regarded in Islam as an inevitable evil nor is it connected with original sin because there is no such thing in Islam. We quoted from chapter 30 in the Quran that marriage is a blessing and bounty from God.

The second major point was the discussion of the criteria for the selection one's future spouse. We quoted the sayings and advise of Prophet Muhammad (PBUH) that one should not seek a spouse simply for wealth, beauty or for the nobility of the family but rather on the basis of religiosity and the character of the individual. In the case of selecting a future wife they should chose one that is fertile, loving and lovable.

Third the same criteria apply also to a woman selecting her future husband. We quoted that she should marry a person with good character so that if he loves her he would be generous to her and if he doesn't he would not be unjust. Fourth, a woman is permitted to seek marriage with a man, even though it is usually done the other way around. Finally, there is no objection in Islam that people who are engaged see and talk with each other provided of course that there are certain requirements of behavior and modesty and that they do not have total privacy.

7.26 Engagement Continued

Host: Are there any particular reason behind the precautions that you just referred too?

Jamal Badawi:

To start with an engagement is the first step in the process of marriage but it is not marriage. It is only a promise. There is a possibility that things may not go through and marriage may not necessarily materialize as a result of this relationship. If the couple are allowed total privacy then there may be question of either or both sides because things may have happened during this time. This might jeopardize the

opportunity for marriage to other people especially in a community or society where chastity is essential.

This is more of a protection for the female. It is quite possible that some people who might be unscrupulous may exploit the dreams of a girl to get married by hiding behind the engagement and promise of marriage till they achieve their needs and then abandon the girl. Of course this might be quite harmful to her reputation and she may even get pregnant.

We should remember two things. In general in Islam, as we indicated under Moral Teachings, even in cases where there is no engagement the couple are not supposed to be left alone in total privacy. This is a matter of moral teachings and protection. The Prophet (PBUH) said as indicated in Ahmad “Let no man be in total privacy with a woman (who is not lawful unto him) because if they do Satan will be their third.” This is just a type of safeguard. We should also be emphasized that these precautions do not mean that they should never meet. They should meet and talk of their future plans but someone should be present and they should not be alone.

Host: Is it permissible for one to see their fiance without their knowledge?

Jamal Badawi:

If there is clear necessity for that there is nothing wrong with it. One of the companions of the Prophet, Jabira Ibn Abd Allah narrated after he got married that he used to hide and watch his future wife. Some times there is necessity to try to discover the character of the individual. The same thing would apply to a woman.

Host: In the case of engagement, are there formal procedures that are to be followed or that are recommended?

Jamal Badawi:

In Islam there are no particular formalities that must be followed. It is an informal procedure. It is mainly a promise for marriage which is a preliminary approach.

What is most customary the guy would go to the girl's father or legal guardian (whomever he or she may be) and he would seek the hand of the girl. Some people prefer to have a little party which serves as an announcement. Or a gift is offered to symbolize the attachment with the family. None of these are a must as it could even be an indirect approach towards the individual.

Host: What if a person gives a gift to announce the engagement but then the engagement is broken: would the gift be returned?

Jamal Badawi:

In Islam the equivalent of a gift is called hiba which has certain rules in Shari'a. There are two kinds of gifts. There are gifts which are given with no expectation of it being returned. This is just like giving something to a poor person which is just like a donation or gift. The rule for this type of gift is that one should not go back on it. There are sayings of the Prophet (PBUH) that one should not go back on this type of gift. The second type is given in expectation of something in return. A gift given by a fiance is understood to be conditional to the fulfillment of marriage. Here we have two situations: either that the engagement is broken on the behalf of the female or the male. If the engagement is broken by the woman's side (usually receives the gift) then the jurists agree that he is entitled to have the gifts returned. If the thing he gave is still available then he gets it back. If the thing is used up or sold (a gift should not be sold) then he is entitled to a compensation equivalent to the price of the gift. If however the male breaks the engagement there are two opinions. The Maliki jurists say that he is not entitled to anything whether it is the actual gift or the value of the gift. The Hanafi jurists feel that he is entitled to get back his gift if it is present; but he is not entitled to it if has been used up or consumed.

Host: Is the same true if the woman gave a gift to the fiance and the engagement is broken?

Jamal Badawi:

The same thing applies to the female. The only reason I focused on the male giving the gift is simply because this is usually the customary practice. It is the customary practice among other cultures also.

Host: Other than a gift are there other financial liabilities attached one becoming engaged?

Jamal Badawi:

The basic rule in Islamic jurisprudence is that there is no additional compensation. The reason being is that an engagement is simply a promise to get married. The obligation is really a moral type of obligation and the person should not go back on it unless something is discovered that is quite essential.

There are some contemporary problems that might arise today that did not in the past. For example, in cases where a fiance asks his wife to be that he wants her to resign from her job so that she can give her full attention to her household and children and she agrees. Then she resigns from her job and then he breaks the engagement. This is the case that was not addressed by early jurists but within the boundaries of Islamic Law and using the same principles some contemporary jurists address it. For example, if after he breaks off the engagement she tries to get her job back and can't Dr. Sabooni feels that she is entitled to compensation. He suggested that this should be equivalent to half of the marriage gift. This is a gift given at the time of the nuptial contract whether it is the amount they agreed upon or what is customary. The general rule is no but if there is harm then we follow the general rule in Shari'ah that says one should not harm himself or others.

Host: Are there any other basic rules to observe during engagement?

Jamal Badawi:

Prophet Muhammad (PBUH) said as quoted in Muslim and Ahmad "One should not engage a woman who is already engaged to someone else." First, it's a social courtesy if a man has already engaged a woman no other person should intervene at a time when they are still discussing and there are some preliminary agreements between them. It is a matter that will help to prevent disputes or bad feelings between individuals or between families that are involved. I would say that the same thing applies to the woman even the Hadith speaks about the man but in every respect there is no reason that this would not apply to the woman. If a woman is initiating engagement she should not engage a man who is engaged to another woman. In addition to this a Muslim man should not engage a woman who is going through a waiting period. By this we mean a woman who is divorced a revocable divorce. This woman would have to wait for three months, which we will get into when we talk about divorce. During the three months following divorce a Muslim woman is not supposed to get married. This also could block the way for reconciliation. In Islam, during the three month waiting period there is an ample opportunity for reconciliation.

A similar situation is the case of a woman whose husband recently died, a widow. According to the Quran she should wait for 130 days before she can get married. A person should not openly engage such a woman. However, in this case as well as the case of a woman who is divorced irrevocably, after the third time, jurists

agree that they can get engaged but not openly. This is called ta'reed which is giving a hint of some interest but waiting till the waiting period finishes. The man can tell the widow that he hoping to get married soon or that he is praying to God to give him a pious wife like herself which is a permissible hint.

There are other things that one should keep in mind during an engagement. One is to observe for the basic need for compatibility. Second, one should not engage a woman who is illegitimate unto him.

Host: What is the importance of compatibility and its effects on selection of a spouse?

Jamal Badawi:

One of the sayings of the Prophet (PBUH) says that a woman should only be married to a person who is compatible to her. In interpreting what compatibility means there have been different opinions. Some jurists went into greater detail just by using their own judgement to include in the conditions for compatibility things like: similarity in financial status, social status, some even mention similarity in profession or type of education. These are their opinions of course and it does not come from a specific text from the Prophetic tradition.

A better interpretation given by many jurists is that compatibility simply means that one tries to make sure that there is a reasonable chance of success in marriage between the two individuals involved. As one knows success in marriage is not contingent on financial status, social status or any other factor. These may be contributing factors, but they are not conditions for the success of marriage. They say that any Muslim believer is compatible with any other Muslim. This in itself is what is meant by compatibility.

In chapter (49:10) "The Believers are but a single Brotherhood." In (49:13) it says "Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you." This removes any barrier aside from the distinction of piety.

The other evidence is found in the saying of Prophet Muhammad (PBUH) narrated in Al Tirmithi "If a person comes to you to seek the hands of your daughters sisters: give him if you are comfortable and assured of his religiosity and character. If you don't do that there will be a lot commotion and corruption on earth." He did not mention anything about social or financial status just a person who is good in character. The

Quran supports this in (2:221) “A slave woman who believes is better than an unbelieving woman, even though she allures you.” This again emphasizes on faith.

In the behavior of Prophet Muhammad he consented to marriages of a free person to a person in bondage or slavery. He also consented to a person who was a former slave and a noble woman of Qurish like in the case of Zaid and Zainab (who was a relative of the Prophet). Looking at all these points it would appear that the main compatibility feature is piety. However we should add for the interest of balance even if this is taken as the fundamental basis for assessing the individual for marriage it does not mean that one should totally ignore things that may threaten the stability of marriage (that is not wealth or social standing). If a man who is seventy years old is married to a twenty year old girl there is a problem of compatibility. Islam does not say that age must be within so many years, but if there is a big gap like that it may not be a very successful marriage. In some cases if there is a big gap in the educational level which would prevent communication. If in this particular case there is a risk that marriage will not succeed then we must look into this as an additional factor.

Host: Who are women that one can not become engaged to or marry?

Jamal Badawi:

Whatever remark I make on this issue applies equally to male and female. I am going to assume that the male in this case is seeking marriage, even though the same rules apply to both. Basically there are two major categories of prohibitions. One is the category of people who are prohibited from marriage to the individual on a permanent basis and two those who are prohibited on a temporary basis (if certain conditions change it may become lawful).

Among the permanent prohibitions or mahram there are three subcategories. First, there are those whom the individual is prohibited from marrying because of lineage (includes four categories). One can not marry his mother or grandmother. Second one can not marry his descendants such as his daughter or granddaughter. Third one can not marry to the branches of his parents like his sister (whether she is his full or half sister). Fourthly one can not marry the branches of his grandparents (aunt from mother's or father's side).

Second, there are those who are those who are unlawful because of marital relationship. From example a person can not marry his mother in law, his step daughter or a woman who was married to his father (widow or divorcee). Nor can he marry a widow or divorcee of his son.

Third, prohibition is in the case of suckling. In some societies it is customary to give her child to another woman to suckle. Even though the baby is not her own is regarded as a mother to the child. So when he grows up he may not marry her or any girl who suckled from her. The Prophet says that anything that is prohibited because of lineage is prohibited because of suckling. A boy can not marry a sister that suckled from the same mother or her aunt.

As far as the temporary prohibition it includes categories such as a woman who does not believe in any reviled religion until she becomes a believer, a woman who is in the waiting period (because of a divorce or because she was widowed).

7.27 Social System of Islam- Marriage Laws in Islam I (Forbidden Categories)

Summary of 7.26 "Engagement Continued"

We continued the discussion of the rules of engagement in Islam. We indicated that Islam allowed people who were planning to get married to see each other and to talk to one another without being in total privacy or adopting the western style of dating and courting. We explained that there are reasons behind these precautions particularly because Islam prohibits any premarital sex or any situation that may likely to that. Also it has these precautions to protect the reputation of both parties in case the marriage does not go through. We also discussed what happens when an engagement is broken and when gifts are given the basic rule is that they are returned (we discussed it in detail). We also discussed the possible compensation of a woman who might be financially hurt because of breaking the engagement under certain circumstances.

We also discussed the compatibility in marriage and what it means, and that it is not about class or aristocracy but rather something that may ascertain the success of marriage. In addition to this we discussed briefly some of the other rules of engagement: one should not engage a woman who is already engaged in order to prevent disputes: one should not engage a woman who is in the waiting period of a revocable divorce or after the death of her husband. Obviously one can not engage a woman who is prohibited for marriage to the person. We mentioned three categories of people who are prohibited: some are prohibited because of lineage, marital relationship and suckling.

7.27 Marriage Laws in Islam I (Forbidden Categories)

Host: Could you explain the reasons for the last three prohibitions that you mentioned?

Jamal Badawi:

There are fifteen basic prohibited categories which can be found in three verses of the Quran (4:22-24).

“And marry not women whom your fathers married,- except what is past: It was shameful and odious,- an abominable custom indeed.

Prohibited to you (For marriage) are:- Your mothers, daughters, sisters; father's sisters, Mother's sisters; brother's daughters, sister's daughters; foster-mothers (Who gave you suck), foster-sisters; your wives' mothers; your step-daughters under your guardianship, born of your wives to whom ye have gone in,- no prohibition if ye have not gone in;- (Those who have been) wives of your sons proceeding from your loins; and two sisters in wedlock at one and the same time, except for what is past; for Allah is Oft-forgiving, Most Merciful;-

Also (prohibited are) women already married, except those whom your right hands possess: Thus hath Allah ordained (Prohibitions) against you: Except for these, all others are lawful, provided ye seek (them in marriage) with gifts from your property,- desiring chastity, not lust, seeing that ye derive benefit from them, give them their dowers (at least) as prescribed; but if, after a dower is prescribed, agree Mutually (to vary it), there is no blame on you, and Allah is All-knowing, All-wise.”

As I mentioned last time the prohibition applies to both males and females. When we say a man may not marry his sister it also means that the woman may not marry her brother. One category is not to marry a woman who is a divorcee or a widow of one's father (a step mother). This prohibition came in response to some of the practices proceeding Islam, that when the man dies his wife is inherited by her stepson. Of course Islam prohibited this practice and indicated that a woman is not a subject of inheritance as she herself should be entitled to inherit something of her husband's estate. In addition a woman widowed or divorced is regarded in the position of that of a mother.

Other categories include a mother, daughter and sister. This is not unique to Islam, this is the case in almost all cultures of revealed religion. The kind of love that one has for his mother is mixed with respect and adoration, fatherly love and sisterly love are noble and human emotions that should not be mixed with any love that is connoted in any way with sexual desire.

There are other categories that are prohibited in Islam which include the aunt from the mother's or father's side. Again because the aunts are in a position equivalent to that of a mother or father. Nieces are also prohibited in Islam because one's niece is in the same status as one's daughter. These eight categories that I mentioned are called maharim which means: people who are prohibited from marriage to the person under any and all circumstances.

In addition, there are other reasons why maharim can't marry one another. Apart from the instinctive nature of not having sexual feelings for them (we are talking about normal creation of God) these people are relatives and Islam encourages people (when they get married) to expand their circle of relationships beyond close relatives. This gives a better more cohesive society. Also, marrying very close relatives may hurt offsprings. This is why we find many Muslim jurists, including Al Ghazali, feel that this is one reason marriage to cousins, even though it is permitted in Islam, is not encouraged.

In addition to these categories the verses deal with those who are prohibited because of suckling relationships. This is a practice which is not too common in these days (except during emergencies when the mother is sick). Some women used to practice this by sending their baby to another healthy woman to suckle the baby. The woman who suckles the baby is regarded as a mother to the child (provided that the child has suckled enough from her). The acceptable opinion is that the baby suckled at least five times from the other woman, because she becomes to him/her like a mother. Any other girl who suckled from the suckling mother would also be prohibited to the boy because she is regarded as a sister. Relatives that are linked to one through suckling are also prohibited. For example the aunt of the suckling mother would be prohibited. This is not a very common practice these days.

In addition, a person may not get married to the widow or divorcee of his son, because she is his daughter in law who is in the same status of his daughter. Likewise Islam prohibits a person to marry two sisters at the same time. Again because of the close relationship between two sisters and in the case of marriage it becomes a big problem having both married at the same time to the same person. If one of them is divorced or dies one may marry her sister. Finally, a woman who is already married would obviously not be eligible to marry another person.

Host: Are there any other restrictions that are applicable?

Jamal Badawi:

There are restrictions that relate to chastity and others that refer to differences in religion. In the Quran in (24:3) it says that a person who committed adultery or fornication can't marry a person who has not. In other words those people can only marry among themselves. This is also confirmed in other verses from the Quran such as (5:6), (4:25) and (24:26) which all clearly indicate that a person should not marry an unchaste woman or man. There are good reasons behind this. First, it is an expression and manifestation of the moral values in Islam which prohibit adultery, fornication premarital or extramarital sex. By providing this restriction Islam abstains from rewarding this kind of illicit relationship and chastity is rewarded. This makes sin unattractive because of the consequences which result from it.

A second reason is that the purpose of marriage in Islam is to have tranquility and fellowship. How can love and tranquility grow between one who is chaste and God fearing and someone who is not and who is careless about God's commands with respect to basic moral injunctions? This does not provide the family with stability. In addition to that is the fear of venereal diseases which are usually communicated through illicit relationships but not through normal relationships. As we know today these diseases can be passed on to the children and affect their future.

Host: What happens in a case of an adulterer or adulteress who has made repentance?

Jamal Badawi:

Yes there are, but if it is repentance from an Islamic perspective. First if someone is doing something wrong they should immediately stop it. Second, he or she should feel sorry for what they had done, which is an expression of humility and acceptance of God's values and moral injunctions. Third, the determination never to fall again in the same sin. If this kind of repentance takes place then yes they get a second chance. Some Muslim jurists refer to the verse I sighted earlier (24:3) which prohibited the marriage of a non-adulterer (non-adulteress) with an adulterer (adulteress) differ as to whether "wahu'rima thalika alla al mu'minin" (prohibited to believers) is mentioned as an absolute irrevocable prohibition, or something that is detestable and condemned. According to Ibn Rushed they differ whether the mention of hurim (this is prohibited or unlawful) is in reference to marriage with the adulterers or the act of adultery. In any case Muslim jurists argue that even greater sins like associating others with God, if the person repents, can be forgiven. Of course by implication they say that if a person committed adultery or fornication and really had strong and sincere repentance then it should be accepted. They refer to the Quran (25:68-71) which talks about repentance. In cases like that, even if all these cases are present many jurists require that a person should wait (between one and three months) to make sure the woman is not pregnant from her previous illicit relationship. Some

say that if she is pregnant that she should wait until she delivers her baby before marrying. Others say that one could contract a marriage but not consummate it until she delivers her baby. These are various angles of the problem, but yes sincere repentance may qualify.

Host: In a marital relationship where there is an accusation of adultery does it invalidate the marital relationship?

Jamal Badawi:

This is known in Islamic jurisprudence as mula'ana. We mentioned this in program 13 of this series with the procedure that Islam takes in case a husband accuses his wife of adultery. Even though it is indicated in that program that there is no punishment if the wife swears that he is lying or that she did not commit any such illicit act. But despite that maintaining marriage does not make any sense.

How could a man live with a wife that he accused of committing adultery. In Islamic Shari'a there is no given punishment for either of them but they should be separated, because in this case there is no possibility of harmony in their future relationship as she becomes irrevocably prohibited.

Host: What are the restrictions related to the question of religion?

Jamal Badawi:

In Islamic Law a Muslim male or female is not supposed to get married to a person who associates others with God, which is called a mushrik in Arabic. There are evidences in the Quran to that effect in (2:221) "Do not marry unbelieving women (idolaters), until they believe." Then it goes on "Nor marry (your girls) to unbelievers until they believe" which describes the opposite case. It is confirmed in (60:10) that a believer is not supposed to hold onto an unbelieving woman. The same thing applies by implication to an atheists, apostate or a hardcore communist which is an atheistic way of thinking. Also, they can not marry a person who believes in any prophet after Prophet Muhammad (PBUH). This is rejection of his message as the last and seal of all Prophets.

Host: What about the situation of marriage between a Muslim and People of the Book?

Jamal Badawi:

This is permissible because the Quran makes a distinction between people who are none Muslims. There are those who are atheists, idolators and the People of the Book which interpreted mainly to refer to Jews and Christians. In fact there is direct evidence of this in the Quran in (5:5) “Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book, revealed before your time.”

This is regarded by many Muslim jurists as a good gesture between Muslims towards Christians and Jews (in particular) as a way to remove barriers and as an expression of tolerance. This does not mean that this is the ideal situation. This is only meant to give them special status and position because they are closest to Islam in terms of belief in God, the hereafter, Prophets, basic moral teachings and the fact that their prophets originally received Holy Books from God just as Prophet Muhammad received the Quran. There are some jurists who say that People of the Book may not be restricted to Jews and Christians but may include other groups who meet the same criteria. This criteria includes belief in the oneness of God, prophethood, their prophets received a Holy Book which include Serbians.

Host: How do we respond when people say that Christians associate others with God and therefor a marriage with them is not lawful?

Jamal Badawi:

To start with there are people who have opinions to that effect including the famous Muslim Abd Allah Ibn Omar who was a contemporary of Prophet Muhammad (PBUH). The same opinion is held in the Ja'fari School of Fiqh or Imami School. The appropriate position is that it is still permissible. There are a number of reasons for this. First, the verse in Quran in (5:5) says clearly “Lawful unto you in marriage) are (not only) chaste women who are believers, but chaste women among the People of the Book.” To say that Christians associate others with God in His divine attributes by believing in the sonship of Prophet Jesus (PBUH) or believing that Jesus was god incarnate is not regarded as correct as in Islam. However, these kinds of beliefs existed at the time of Prophet Muhammad (PBUH) and still the Quran made a special distinction of Jews, Christians and People of the Book. They are considered to be different from atheists, polytheists or idolators. If we look at the Quran (22:17) and (98:01) we find that even though the Quran considered anyone who rejects the Prophethood of the last Prophet Muhammad (PBUH) as an unbeliever we still find that among the unbelievers there are two distinct categories as the people of the book were in a separate category. Even those who refer to the saying of Abd Allah Ibn Omar say that it could be understood as discouragement of marrying a Jew or Christian but not that it is unlawful. In fact they may have some good reason, at least in that one should take precaution before engaging in this type of interfaith marriage.

Host: What are those precautions?

Jamal Badawi:

There is a good summary of those precautions in a recent book called “Contemporary Verdicts” by Yusuf Al Qaradawi one of the most competent jurists in our time. I will just give a summary of his book. First, a woman should be truly from the People of the Book: a believing Jew or Christian. In other words one can not say that it is ok to marry an American or Canadian woman because they are from Christian countries, because we know that in Muslim countries or Christian countries there may be people who have Christian names but who are not really believers. Second, she should be a chaste woman. This condition is quite clear in (5:5) which we sighted earlier. It says *walmuhsanat* which means the chaste women of the People of the Book. This is an important condition which means that she should be a virgin (if she was not married before) and as such the person has to make sure that the culture that she was raised in considers virginity and chastity a very important moral and social value. And they have to make sure that it is a culture that does not condone premarital sex or free dating and courting. One needs to make sure that these conditions are applicable when one has these kinds of plans.

The third condition is that she should not be a woman from a people who are engaged in hostility and aggression against Muslims. We find that this is mentioned in (66:8-9) and (58:22). If there are groups of people who are engaged in warfare or aggression against Muslims it is not permissible to marry their women. There should be no negative consequence which affects the Muslim society as an effect of this marriage. This is based on a rule which is also a saying of Prophet Muhammad (PBUH), *la darrarah wala derar*, one should not harm himself or harm others. In some cases if a Muslim gets married to a non-Muslim, even if they are a Jew or Christian, they may cause harm makes this marriage unlawful. First it is not lawful, if it hurts other Muslim women, because a Muslim woman is only entitled to marry a Muslim man and she can not marry a Jew or Christian. If Muslim males only marry non-Muslim women there may not be enough husbands for Muslim women (who are only allowed to marry Muslim men). This would be harm by depriving Muslim women from marriage or even pushing them into a situation where they may commit sin, or marry a non-Muslim which is unlawful in Islam. There is a big harm that can be inflicted on Muslim women in some situations.

Also, it assumes that when an interfaith marriage is permitted that the Muslim man, as the head of the family, is taking charge and leading his family and leading his children to the right path. If this is not the situation and if there is a possibility that the influence on the part of the non-Muslim mother would be greater than one is likely to lose the future of his children. This might restrict this type of marriage. It is also

assumed that this marriage takes place where there is a predominant Islamic culture where the influence of the mother, which is not Islamic, could be balanced by the overall Islamic atmosphere in society. When Islam allowed it by way of tolerance but not at the expense of harming the individual, society or the future of his children. This is why some jurists say that under the present circumstances Muslim minorities in places like America, Europe or Canada should not resort to this even though it is not definitely unlawful.

7.28 Social System of Islam- Marriage Laws in Islam II (Validity of Marriage)

Summary of 7.27 "Marriage Laws in Islam I (Forbidden Categories)"

We continued investigating marriage laws in Islam and the main points that were discussed pertained to the prohibited or restricted categories to which the person may not get married because of close blood relations. We also indicated that in terms to interfaith marriages first a Muslim male or female may not marry someone who is an atheist, polytheist, or idol worshiper. However, we said that a Muslim male may marry a woman from the People of the Book which is used mainly to refer to Jews and Christians. A Muslim woman must only marry a Muslim man. We indicated that even though Islamic Law allowed inter-religious marriage in the case of a Muslim man which was intended as a gesture of good will and tolerance but is not intended to be the general rule. It qualifies with a number of conditions including not causing harm to one's self, his children or to other Muslim women who are only entitled to marry Muslim men.

7.28 Marriage Laws in Islam II (Validity of marriage)

Host: Is there any evidence from the Quran to support that a woman can only marry a Muslim man?

Jamal Badawi:

In (60:10) of the Quran it deals with the situation when in the early days of Quran some women migrated (left their husbands and relatives) from Mecca and went to Madinah to join the Prophet because they could not practice their faith freely in Mecca. In that particular chapter Prophet Muhammad (PBUH) and the Muslim community were instructed to test those women in their faith "When there come to you believing women refugees, examine (and test) them: Allah knows best as to their Faith: if ye ascertain that they are Believers, then send them not back to the Unbelievers. They are not lawful (wives) for the Unbelievers, nor are the

(Unbelievers) lawful (husbands) for them.” The term used in that verse was kufar which applies to both categories: those who Muslims are totally forbidden from marrying like idolators and those who reject the Prophethood Muhammad(PBUH).

The second evidence which is even more obvious appears in (5:5) where permission is given to Muslims to exchange and eat the food of the people of the book or give their food to the people of the book so long as it is not prohibited for another reason (if it is pork). Then it says “Lawful unto you in marriage) are (not only) chaste women who are believers, but (almuhsanat) chaste women among the People of the Book, revealed before your time.” The verse specifies only chaste women from the People of the Book. The Quran is very precise and delicate in its expressions and if it meant both it would have said both almuhsanat wa’al muhsanoon, the chaste men and women, but it specified the female gender only.

Host: Why is a Muslim female prevented from getting married to a person from among People of the Book?

Jamal Badawi

First, it is important to realize that this injunction is not man made or woman made it is a divine injunction. God revealed it and directed Muslims to follow it, so there must be some wisdom behind it because God has no reason to be bias towards males or females. The main issue here pertains to the role of the husband as a leader of his family; not only in the framework of Islam but in many other cultures the husband still has a leadership role to play in his family. The main issue that might be at stake would be the religious freedom of the woman, whether she is from the People of the Book or a Muslim.

First, in the case of a Muslim man marrying a believing Christian woman the husband believes that her religion in its original form is a divinely inspired religion. Second, the Muslim husband believes in the Prophet, Jesus (PBUH), of his wife. A Muslim can not be a Muslim without believing in all prophets which include Moses and Jesus and many others. Third, according to his religious scriptures the husband believes that the original revelation or Holy Book given to the prophet of that religion came from God. Fourth, Islam teaches the Muslim husband to respect the religious freedom of his wife and to allow her to practice her faith freely and some jurists say he is obligated to take her to her Church. In that sense a Christian or Jew who is married to a Muslim husband has complete freedom to practice her faith without pressure or intimidation.

Let us assume that a Muslim woman is married to a Christian or a Jew. This husband who leads and controls the family does not believe in the divine origin of Islam as

revealed from God. Two, he does not believe in Prophet Muhammad as a Prophet. He does not accept the Quran as the word of God or His revelation revealed to Prophet Muhammad. Given these circumstances, even though it may vary from one to another, precaution and protection of the religious freedom of the wife is important when there is question of her being given the freedom to practice her faith. Islam is not just a matter of belief, it is a complete way of life which effects her behavior in her social and family live. There is a question and risk that her freedom might be at stake. If we add to that the fact that a woman by nature (which is not a deficiency but could be a privilege) is more on the emotional side which might threaten her religious freedom but might even gradually effect the extent of her adherence and commitment to her faith.

Host: Many people argue that there is a similar risk in the reverse case as it is possible to have a non-Muslim mother and her influence on the children could make things difficult, how would you respond to this?

Jamal Badawi:

If there is real danger or risk of harm or negative influence and that the children will not grow up as true Muslims or even if there is an impact on the husband it becomes unlawful. Within the basic rules of Islamic Sharia'a there are two things to remember. First, the purpose of marriage is also fellowship and partnership which not only involves the physical but also involves intellectual as well as spiritual elements. The basic rule is that a Muslim should get married to a Muslim who shares the same belief in God, the same belief in the acceptance of all Prophets and revelation of God. When Islam allowed intermarriage it was a gesture of good will and tolerance which is not an open ended permission but has qualifications. If these qualifications are not there or if something that is permissible could become harmful or contradict Islamic Law then it could become prohibited. If there is danger of it affecting the Islamic identity of the children or having a negative impact on the husband then it becomes unlawful.

Host: What happens in the situation where a woman who is married and later embraces Islam and her husband remains a non-Muslim? or in the reverse where the male embraces Islam and the wife is a non-Muslim?

Jamal Badawi:

It is permissible for a man who embraced Islam to stay with his wife who remains a Jew or Christian. Neither a man or woman can marry to an atheist, agnostic or idol worshippers. The difficulty arises in the reverse case: if the wife becomes Muslim while her husband is still a Jew or Christian which the Quran indicates to not be permissible. This does not mean that divorce must take place instantaneously. According to some jurists she must have her waiting period which is

three months. During this period a chance is given to the husband to freely consider whether he wishes to embrace Islam. Of course during this period they can not have matrimonial husband and wife relations. If he is convinced during that period that what his wife decided is the right thing and he wishes to join her then there is not need to have another marriage contract or marriage gift and their relationship may resume as husband and wife with no difficulties whatsoever. If he insists to remain as he is then ultimately they would have to be separated.

This is definitely not a theoretical problem but this type of situation does happen and the courage and commitment to God by many women is really admirable. They face more problems and they remind us of the courage and sacrifice made by many of the early Muslims. When the early Muslims were given a choice between choosing between God and a person they chose God. This situation involves complications aseptically when children are involved. The ideal situation would be to allow sufficient time to explain through affection and persuasion to discuss the matter with the husband. Also, it would allow it to be clarified that he does not have to reject his previous faith or his belief in his Prophet because after all by becoming a Muslim he augments rather than decreasing his beliefs. He would believe in addition to believing in Jesus, Moses or all the Israelite Prophets in the last Prophet, Muhammad (PBUH). This would guaranty the religious freedom of both.

Host: Is the marriage contract a civil contract or a sacred contract?

Jamal Badawi:

It depends on what we mean by sacred contract. Some sociologist define sacrament in marital relationships or the marriage contract they are really referring to a contract that must be officiated by a priest, it is a contract that must invoke some kind of benediction or invocation of blessings and is a sort of right. They view it as a right which in itself removes the taboo pertaining to sex and it makes sexual relations permissible and wholesome. This may carry an overtone that sex and marriage are a sort of inevitable evil and celibacy is the preferable type of state.

Sacrament in that sense has no relevance in Islam. To start with Islam does not make this sharp distinction between sacred and mundane or between civil and religious. Every aspect of Islam that is sacred has some sort of mundane or civil implications and if it is civil it has some sacred origins. Islam doesn't make this distinction between the various aspects of human life.

In Islam there is no relevance to viewing sex as an inevitable evil or something that is bad in itself. The Quran presents this as a divine gift, a divine blessing so long as it is satisfied in the wholesome and lawful manner.

Third in Islamic Law there is no absolute necessity of the presence of a priest (no priesthood in Islam) to officiate the marriage. People may have somebody supervise the contract and make sure the conditions are met, but it is not a requirement for the validity of nuptial relationships. As far of benediction or evocation of blessing; it is desirable but in itself would not validate marriage. If sacred contract is meant to be something which is based on divine directives, a contract in which God is a party (in terms of providing guidance and outline of the relationship) then the marriage in Islam is a sacred contract. The Quran refers to it as solemn covenant. Hence we find that the Islamic contract of marriage has elements of what people find as sacred and civil. It is a sacred civil contract.

Host: What are the main conditions for the validity of the marriage contract?

Jamal Badawi:

Muslim Jurists divide the conditions into four types of conditions. Basically there are conditions that are absolutely necessary for marriage to take place. They call it arkan or foundations of marriage. This foundation is the acceptance and agreement of both parties (husband and wife to be) to the contract. In fact this might take the form of a proposal and an acceptance in the same setting through both parties or whomever represents them. What is said can be said in any wording, in any language so long as it is expressed in a direct explicit and unequivocal terms, so long as there are no doubts and no ifs and butts. For example one can not say they will marry a person if they get a job or I will marry you next year. It must be decisive, precise and unequivocal.

An example of what the father acting on behalf of his daughter (after taking her permission) would say to the groom would be: I give you my daughter (her name) in accordance with the Book of Allah, Quran, the path of Prophet Muhammad (PBUH) and in accordance with the marriage gift agreed to between us and God is my witness. The bride-groom would say: I accept marriage to your daughter (her name) in accordance with the Quran, Sunnah and the marriage gift agreed to between us and God is my witness.

In addition, in order for the contract to be valid there must two competent witnesses. In fact the witnesses in the case of the marriage between to Muslims must be Muslim. If a Muslim male is getting married to a Jew or Christian some jurists like Abu Hanifah and his student Abu Yusuf are of the view that the witness of the people of the book may be accepted in inter religious marriages like this.

Another condition for the validity of marriage is the wife or husband to be should not be from among the restricted categories. These are the basic minimum conditions for the validity of the marriage contract. There are additional conditions that are implied and some that jurists have different opinions about (whether they are absolutely necessary to validate a marriage).

Host: Can you explain these extra conditions?

Jamal Badawi:

For example, in the case of the marriage of a minor (underage or not an adult), which is usually not the case as most jurisdictions prevent marriage of a minor, the consent of the guardian is required. If there is no guardian then the consent of a judge is required.

Another condition that is implied is that there should be no deception. If a marriage contract is negotiated and signed on the basis of mistaken information, deception or concealment of information by one side or the other it could result in the request to void the marriage. In a case that a woman marries herself without the consent of her guardian, and her guardian feels that this marriage is not in her best interest, the guardian may go to the judge and request annulment of the marriage to protect the interest and future of his daughter.

Host: This seems to imply that it is possible for a Muslim woman to get married without the permission of her guardian?

Jamal Badawi:

According to the Hanafi School of Jurisprudence this is permissible. The majority of Muslim jurists however say that a woman can not get married without the consent of her guardian. There is difference of opinion as to whether the consent of the guardian is absolutely required or not.

Host: What evidence is used to support both sides of these arguments?

Jamal Badawi:

The jurists who say that a woman must have the consent of a guardian use three pieces of evidence. First, they refer to some verses in the Quran that deal with marriage and they interpret that tone of the verse addresses males rather than females. For example in (34:32) and (2:224 & 232). Second, they say that there are more than one saying of Prophet Muhammad (PBUH) which seems to indicate that the consent of the guardian is required. One says that there is no valid marriage without a wali or guardian which was narrated in Ahmad, Abu Dawood, Tirmithi, Hakim, Ibn Hibban and several other references. In another Prophetic Tradition narrated also in Ahmad, Abu Dawood, Ibn Maja and Al-Tirmithi the Prophet says that if a woman marries herself without the consent of her guardian, that her marriage is void. Some added that a woman may be under the influence of emotions and that she needs some council before proceeding with marriage.

Those who took the opposite view said that there are verses in the Quran (2:230-232) which talks about marriage while addressing women which shows that marriage is in the hands of women. They also said that in Islamic Law a woman is entitled to negotiate financial contracts and what is the difference between that and a marriage contract.

7.29 Social System of Islam- Marriage Laws in Islam III (Marriage Contract)

Summary of 7.28 "Marriage Laws in Islam II (Validity of marriage)"

We covered the issues last time. First, there was some discussion of inter religious marriage in Islam with a special focus on why a Muslim woman must marry a Muslim and that there are concessions for Muslim men and the reasons behind them. Second, we covered the definition of the marital contract in Islam and whether it is a sacrament or a civil contract. We ended up saying it has elements of both and we called it sacred civil contract. The third issue was the fundamental foundation for the validity of the marriage contract. We said that the main things that validate a marriage are: the approval of both parties to the marriage, both parties should be legitimate unto each other (not from the prohibited categories) and there must be two competent witnesses to the marriage.

In addition, we discussed requirements which are understood or ones that are not unanimous among jurists. One of these was the availability of the guardian for the woman and his consent to the marriage. Basically, there are two point of views as to whether guardianship in the case of marriage is a must for an adult woman or not.

7.29 Marriage Laws in Islam III (Marriage Contract)

Host: Can you develop the point regarding guardianship?

Jamal Badawi:

First, we said that the jurists who say that the consent of a guardian is a must for marriage refer to three basic evidences. One, they say that some verses in the Quran seem to address men which shows that they are in charge of supervising the marriage. Second, they refer to some of the sayings of Prophet Muhammad (BUH) in which the apparent meaning of the sayings is that the woman can not marry herself without the involvement of her guardian (usually her father). Third, they said that it is only a protection of the long term interest of the woman and that she would just be getting the council of a person who loves and cares about her before she plunges into a marital relationship, especially if she is relatively young and inexperienced.

On the other hand we said there are other jurists (especially Hanafi jurists) who say that it is not required for a woman to have a guardian for the validity of her marriage. First of all, they said that there are verses in the Quran in (2:230-232) that addresses women when discussing marriage and thus implies that the authority to go ahead with the arrangement of marriage is in the hand of women. Secondly, they said that in Islamic Law a woman is entitled to negotiate any civil contract and they say what is the difference between a financial contract and a marital contract in terms of basic capabilities of negotiating either. They say they are the same by analogy. In addition they interpreted the sayings of the Prophet Muhammad (PBUH) requiring a guardian to be present or to give consent in marriage as applicable to minors (underage girls being married).

Despite the difference of opinion one should clarify that in the majority of cases when an Islamic marriage is conducted women themselves actually prefer not to put themselves in the middle of men who usually go through the contract with witnesses and all of that. They are usually present at the time of marriage but they are usually sitting with other women in a section. Usually a woman asks her father to act on her behalf after giving him permission to accept the marriage.

Host: Isn't there a minimum age for marriage in Islamic Law?

Jamal Badawi:

If we go to the Quran and Prophetic tradition we don't find a specific minimum age for marriage, nor is there a maximum age for marriage. Islam as the last revelation of God for different places, different times and cultures it must have some flexibility so as to meet the needs of people in different places. If there is a particular age limit it may not necessarily be suitable for a particular time or a particular place. There is no strait jacket in terms of minimum age. We should also make a distinction between child marriage and consummation of the marriage which are not necessarily the same thing. Sociologically speaking as a great author like Wester Mark says that too long in many cultures before and after Islam there was quite a bit of child marriages. This does not mean that the contract is immediately followed by husband and wife relations but is more of a commitment. Sociologists give a number of reasons for this. In some societies where family relations are very important, to have a contractual marriage early may contribute to faster social integration, contact and solidarity between families with the marriage being consummated at a later time. I should clarify that Islam did not except the situation as it was but there were major reforms introduced into this type of marriage. At least three conditions were required. First, this marriage had to have the consent of the guardian (usually the father of the girl). Second, marriage would not be consummated till the girl becomes an adult. Third, when the girl reaches maturity she is given the option of agreeing to or rejecting the marriage. This is called in Islamic jurisprudence the option of majority. As soon as she reaches majority, becomes an adult, she may revoke that marriage. All of these precautions are all in line with a cardinal principle in Islam and that is the necessity to give the woman the freedom and choice to accept or reject with whom she is going to live.

Host: What does Islam teach about the woman's right to choose or accept a man as a future husband? How does this compare with the practice of Muslims in some instances?

Jamal Badawi:

It is essential to make a clear distinction between the authentic teachings of Islam and the practices of some Muslims in a given culture, place or time. True Islam is what is found in the Quran, Prophetic Tradition and authentic Islamic Law. How far people measure up to this in a given place or time varies depending on the degree of implementation. What we are addressing is what the Quran which will allow us to judge each situation accordingly.

The Quran in (30:21) describes marriage as a partnership and something that should be shrouded with compassion and love. How can that be achieved if there is a forced marriage without the consent of either or both parties involved? We also find that the sayings of Prophet Muhammad (PBUH) are very explicit on this topic. First, of all there was a case of a woman who was previously married without her permission and she went to Prophet Muhammad (PBUH) and she complained that her father married

her without her approval. The Prophet voided her marriage. This was narrated in Bukhari, Ahmad, Abu Dawood and Al Nassai. In Muslim, Ahmad, Abu Dawood and Al Nasai the Prophet (PBUH) was reported to have said that a woman who has previously married is more entitled (more than her guardian) that she should be married with her approval more than the virgin. And it says that even the virgin should be consulted and asked for permission in order to be married. Then he added her permission is her silence. Of course she can say yes or no but in consideration that in many cultures a woman might be a little shy when it comes to matters like this when she is asked for permission and she simply blushes and doesn't say anything but does not reject then it is regarded as an approval. I read once that in some cultural practices that a woman would be behind a curtain and her father would come to her to seek her permission and if she agrees she would stay silent and if she protests she starts shaking the curtain. There are all types of means depending on the culture all the way from saying yes to silence or giving a subtle sign that the person is acceptable.

In Ahmad, Ibn Dawood and Ibn Maja there was a case of a woman who came to the Prophet and said that she was a virgin and her father married her without her approval and the Prophet simply said you have the choice. Ibn Maja mentioned in the case of a virgin girl who came to the Prophet and said that he married her without her approval and the Prophet said it is up to her if she want to void the marriage that he would void it. She said no I agreed with what my father did but I came here to let women know that their father has no right to force husbands on them (to force them to marry people that they don't want). This woman was a revolutionary; even though she accepted the marriage she wanted to educate other muslim women and to establish the principle in the presence of the Prophet that the whole notion of forced marriage without consultation is totally against the teachings of Islam.

Host: Is the marriage gift the same as the dowry?

Jamal Badawi:

There are two reasons I did not use the term dowry one is historic and the other is semantic. The historical reason is that in the past the term dower, dowry and mohar has been associated historically with the purchase price or bride price. We addressed some of those angels in the thirteenth program. Some sociologists try to explain why in some cultures prior to Islam this purchase price was thought of? They say that a woman was regarded as an economic asset to her family so when she got married there are more hands working in favor of the husband's family and her father would be loosing her contribution and would be giving more strength by way of progeny to the husband's family. In some cases the price was paid to the husband, because the sex ratio was low and there were fewer men available and the father was actually buying a husband for his daughter. Historically, I find the word dowry not to be representative of the Islamic view of the marriage gift.

The second reason is linguistic. If we look into the Webster Dictionary the term dowry can be used for both cases which is paid by the wife to be or husband to be. The main reason this is not quite consistent with the Islamic concept of dower or dowry is first that the marriage gift in Islam is not to be paid by the wife to be but it is always paid by the bridegroom. The second reason is that the Quran presents the marriage gift as something that has nothing to do with the purchase price. For example let's refer to the Quran in (4:4) "And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer." To start with it says when the marriage gift is given, *sadokat*, it also uses the term *nihlah* which means a free gift. It is something that symbolizes commitment, affection and the hopes of the future of building a life together as husband and wife. Second, it said *ato alnisa'a sadokatihina* which means their mahr. This implies that it is to be paid to them not to anybody else. In other words it did not say pay it to their family or their father but to them which means it is their own property which is their full right. Furthermore, it says if they chose to remit any part to help their husband, exempt him from any part or reduce it they have the right to do that. How could someone make this concession to something they do not own? This implies clearly that this is a symbol of economic independence of a Muslim woman and her total freedom to dispose of the free gift as she wills. This is conclusive evidence that we find in the Quran that there is no connotation whatsoever of it being a purchase price.

Host: Sometimes we hear that the dowry is used to buy furniture for the bride, it seems that this is not consistent with Islamic Law?

Jamal Badawi:

If it is done against her free will then it would be against Islamic Law. Technically speaking in Islamic Law the husband is fully responsible for maintaining the household no matter how rich his wife or whatever income she may have. This means housing, clothing, food, furniture, medication and recreation are the exclusive responsibility of the Muslim husband. If that is done in the spirit of ignoring the obligation of the husband and against the will of the wife then it is against Islam. However, in many cases what happens in many Muslim cultures, even though the family of the wife take this money they do not take it for themselves but they take it and put many folds what she received to help the couple establish their life. Again it is the responsibility of the husband but if it is done by freewill and in good spirit it is fine. Even in this case anything that is purchased out of the mahr, marriage gift, becomes her private property. So if the husband dies or if there is a divorce then this property would go back to her, because it was initially her contribution.

Host: Is there any formula for figuring the amount of the marriage gift? Or a minimum or maximum for the amount of the marriage gift?

Jamal Badawi:

First, as far as a minimum is concerned there is no authentic reference in Islamic Law or as strong opinion that is based on a direct text from the Quran or Prophetic Tradition. The reason that there is no minimum is that the whole purpose of this system is not law for the sake of law; but a structure which facilitates marriage, makes it easier and possible for both men and women to protect their chastity by having a legitimate relationship. One woman during the time of Prophet Muhammad (PBUH) was married and the whole marriage gift that she received from her poor husband was nothing but two pairs of shoes. The Prophet simply asked her if she accepted to give herself in marriage for this simple gift. She said 'yes' and the Prophet was fine with it. This was narrated in Ahmad, Tirmithi and Ibn Maja.

Another interesting story was narrated in Bukhari and Muslim where a woman came and she offered to marry the Prophet. The Prophet did not respond so she understood that he did not wish to marry her and another man sitting there offered to marry her. The Prophet asked him if he had anything to give her as a marriage gift. He said I have nothing but this garment. He said if you give her this garment as a gift you would have nothing to wear, try to find something. The man said that he did not have anything and could not afford it. He told him to try to find a ring even it was an iron ring, just to give it to her as a gift. The man replied I can not find anything. He asked if the man had anything memorized from the Quran. He said that he had a specific chapter memorized. The Prophet told him to teach her that chapter and that would be his marriage gift. So we see how it was made very easy so long as both parties agree to marriage that no financial or aristocratic barriers should stand in the way of marriage. As in this case they got married with the recitation of the Quran.

In another interesting case another noble woman by the name of Umm Saleem was approached by a man named Abu Talha who was not a Muslim at that time. He wanted to marry her and was rich. She said that she could not marry a non-Muslim, but that if he became Muslim that would be his marriage gift to her. And actually he embraced Islam and married her. Islam makes it easy for people to get married. The Prophet said as narrated in Ahmad that "The most blessed marriage is one that is easy and not too costly."

As far as the maximum there is no set maximum either. We talked in a previous program about when Omar, the second Caliph after the Prophet, tried to set an upper limit to the marriage gift to encourage people to get married and he was ruled out of order. The Quran left it open without establishing any maximum leaving it to the customs of the place, time and generosity of the husband. It does not have to be one or two dollars, it could be a million. Islam makes it clear that parents and brides to be should make it a point not to turn marriage into a commercial dealing, negotiation process. If the husband to be offers more he is accepted; this is not a commercial thing but is much more noble than a mere materialistic thing. In fact some Muslims

in some Muslim countries do not following these teachings of Islam. In some cases they keep demanding higher marriage gifts for their daughters before giving their consent which is not an exemplary type of behavior. In fact the Prophet (PBUH) in one occasion said that if one of you comes asking for the hand of your daughter, sister etc. give him in marriage if you are satisfied with his character, because if you don't there will be lots of commotion, disruption or corruption on earth. Islam makes it easy without restricting it with any particular minimum or maximum depending on the circumstances of both while keeping the noble objective of marriage above all materialistic considerations.

7.30 Social System of Islam- Marriage Laws in Islam IV (Marriage Contract)

Summary of 7.29 "Marriage Laws in Islam III (Marriage Contract)"

We continued our discussion of guardianship in marriage. We also talked about the marriage of minors, indicating the various conditions attached to it. Third subject was the freedom of choice on the part of both husband and wife to be regardless of whether she was married before or if she was a virgin. It is required that the woman approves of the marriage and that it is not forced on her. Most of the program dealt with the question of the marriage gift. We explained in what sense the marriage gift in Islam is different from the typical term 'dowry' and the concept of it. Islam gave it a whole new concept which makes the dowry a gift rather than the purchase price. We indicated that this mahr is an absolute and complete right for the bride and nobody has any claim on it. She is not forbidden from using it to prepare her house or for clothing even though it is the responsibility of the husband. Finally, we indicated that there is no minimum or maximum marriage gift in order to facilitate marriage and encourage all who are concerned to observe chastity. In this way we find that Islamic rules are quite flexible and adaptable to a variety of situations, places and times.

7.30 Marriage Laws in Islam IV (Marriage Contract)

Host: If the amount of the marriage gift is not specified at the time of marriage does it cause the marriage to be invalidated?

Jamal Badawi:

The marriage gift in itself is not a prerequisite for the validity of marriage. However, for precautions and to avoid any differences it is better to specify the mahr in the marriage contract. If it is not specified there is no problem. Even the contract, from the Islamic point of view, it is better to be in writing but if it is not written and there

are two witnesses it is still regarded as a contract. However, if the amount of the marriage gift is not specified in the contract and there is any difference of opinion that may arise in the future there is concept called mahr almithl which is an exemplary marriage gift. If there is any difference a judge can rule that she be given the customary marriage gift for a woman of that socioeconomic status. This would make it binding in case there is any litigation on this matter. The problem can sometimes be more acute. In case there is divorce immediately after consummation of marriage the customary equivalent is used. It is better to always specify the amount.

Host: What happens if the mahr amount is specified but the full amount is not paid by the time the marriage contract takes effect? Would this invalidate the marriage?

Jamal Badawi:

No, it does not invalidate the marriage. This is one beautiful thing about the flexibility of Islamic Law. The marriage gift that is agreed to could all be paid at the time of the contract (example of \$2000 up front), they could all be deferred (example they agree to \$2000 at a latter time, even after the marriage is consummated) or as is the practice in many Muslim countries it can be specified that a part of the gift be paid immediately and a part is delayed which is called mua'ajal and muajal. For example if one accepts to give \$2000 as a marriage gift but they pay \$1000 now and the rest is deferred. All of these are acceptable even though within the spirit of Islamic Law it is perforable to give something before the marriage is consummated. As we indicated before the marriage gift is an indication of commitment and ties. It is always better even if most of it is deferred to have something to offer at the beginning.

Host: From a legal point of view when is the dowry due to be given to the wife?

Jamal Badawi:

There are three foundations for when the marriage gift legally becomes due. One, is the actual consummation of marriage, which causes the full amount to be due or whatever is remaining of it (if part of it was previously paid). A second case is the death of either party before marriage is consummated. The third case is intended for the protection of the woman. This is called aldukhul alhukmi which is the case after signing the contract and before the marriage is officially consummated where the couple meet in complete privacy with no other person or barriers that may prevent possible physical contact (such as the month of fasting). Even if nothing happened as a precaution this is presumed as similar to actual consummation of marriage. If they are together in privacy and something happens, and people are embarrassed to say that it did, and he divorces her and she gets pregnant, what happens then? To protect the

woman in that case it is presumed as a consummated marriage and she would be entitled to get the full amount even if he divorces her before actually consummating the marriage. In all of these cases the amount becomes fully due.

Host: What happens in the situation where divorce takes place before the marriage is consummated? Would the wife have any claim on the dowry?

Jamal Badawi:

Yes. If we look closely at marriage laws in Islam, it is a lot more generous towards the female not as a bias towards her but in consideration of their particular needs and in order to discourage any unscrupulous person exploiting them in matters of marriage. She would be entitled half of the marriage gift. This is documented in the Quran in (2:236-237) where it says that you divorce women before you touch them (as a symbol of consummation) that they should be given half of the paid amount.

Suppose at the time of marriage there was no specification of the amount of the marriage gift. Then the groom divorced the bride before consummating the marriage what is she given? The Quran also deals with this situation and it says that one should provide them muta'a a consolation type of gift.

There are cases where the marriage contract is broken because of deception on the part of either party like the discovery of hidden information or things that were false. In which case she would not be entitled to the mahr. In the previous normal cases she would get half of it.

Host: Is it permissible to mention other conditions or requirements in the marriage contract?

Jamal Badawi:

One position in Islamic Jurisprudence is that any condition which is lawful and legitimate could be added to the marriage contract. The evidence for this is in the Quran in (5:1) "O ye who believe! fulfill (all) obligations (contract)." Since we said before that marriage is basically a contract even if it is a civil sacred contract. Any mutually agreed provision should be respected and should be implemented. The second point is that Prophet Muhammad (PBUH) is narrated as saying in Bukhari and Muslim that the most important condition that one should be careful in fulfilling are

the conditions that make nuptial relations lawful to you. So any condition should be respected but more so those that pertain to marital relationships.

The only restriction on any condition to be included in the contract is that there should be no conditions that makes anything that God made lawful unlawful or thing that makes something that is unlawful lawful. In other words anything that violates the teaching of Allah would not be an acceptable condition.

For example, if the wife says that a condition to the marriage is that he divorces his present wife. In fact there is a saying of the Prophet narrated in Bukhari, Muslim and Ahmad in which he says it is not lawful for a woman to get married at the expense of the husband divorcing another woman. This is condition from the Islamic point of view is invalid and not an acceptable condition. The Prophet said Muslims should be held, according to their mutually agreed conditions, except a condition which makes a lawful thing unlawful or an unlawful thing lawful. So any other condition that may be beneficial to either or both parties may be included in the contract.

Host: What about the situation where the bride wishes to add conditions such as not moving from a certain province or area? Are these kinds of conditions valid?

Jamal Badawi:

We are getting into a case that is not a question of lawful or unlawful. Muslim jurists have two opinions on these types of conditions. Some say that these conditions are not valid because it forbids the person from doing things which are lawful. They say that if the bride says we can not move from Nova Scotia it is not appropriate because she is making moving from this place unlawful. This includes the Shafi'i and Hanafi jurists. Hanbali and other jurists said that this condition is valid and enforceable so long as both of them agree to it. They say that a condition like this does not make things that are lawful unlawful and it doesn't mean that it is unlawful to travel. It is just that both parties accepted to restrict their behavior in accordance to their agreement. This means that if the bridegroom accepts the condition of marriage to stay in that particular province or town he simply accepted to restrict his actions in the future.

Host: In addition to the minimum legal requirements for marriage are there other acts that are deemed commendable or desirable from an Islamic point of view?

Jamal Badawi:

Yes, even though these acts are not a requirement for the validity of marriage. When the marriage proceedings start it is better to have 'benediction.' The person conducting the marriage would start by praising God and giving thanks to Him and evoking his blessing on the Prophet and those who are present. Then it is desirable to also have a brief presentation about marriage in Islam and perhaps quoting a few verses from the Quran explaining the purpose of marriage and the duties of both husband and wife which would provide advise to them on the basis of divine injunctions. After these injunctions he can go on through the process of offering and acceptance. For example the agent on behalf of the bride would sit face to face with the bridegroom or his agent with the two witnesses seated in such a way that they can listen to both. Then as we mentioned before they make the statements that indicate the marriage. If the contract is put into writing, which is better but not a requirement, then the signature of both parties or their agents would be included as as the signatures of both witnesses.

After the contract is signed the person officiating the marriage might pray for the blessing of both parties and their future offspring. In fact according to a saying of the Prophet in Al Nassa'i the terms to be used to congratulate is "baraka Allahu fikum wa baraka a'likum" which is basically may God's blessing be upon you and yours.

The other thing that is highly desirable to the point that some jurists say it is required: is to announce and advertise the marriage. Having the two parties involved and the two witnesses is not regarded as appropriate. It serves a number of purposes to announce marriage. First, when the two parties (bride and bridegroom) are seen together people would not say anything ill about them because they know they are husband and wife, with no doubt about their integrity. It also allows other people to share in the joy of marriage and in the establishment of the new family unit. This is why the Prophet (PBUH) as narrated in Ahmad and Tirmithi says have these weddings in the Mosque (which is open for all Muslims to come and see), announce it and beat drums as a festive permissible occasion.

It is also desirable that the bridegroom should have a party or a meal. The Prophet was quoted as saying that you should have in any wedding a party or meal which was narrated in Ahmad. When this is done is flexible. The party can be the same day as the contract is signed even though it is before the consummation, after the contract, the same night that the marriage is to be consummated and she moves to the house of the husband or it could be the following day. It is quite flexible and either of these is acceptable. The main restrictions is that this is conducted in an Islamic way with no violation of Islamic Law. Second, when a party is given the Prophet said very clearly as narrated in Bukhari that the worst party is the party to which people who need it are

rejected and people who do not need it are invited. This is one way of saying a party where the rich is invited and neglect the poor. There are several sayings of the Prophet (PBUH) that say this is not appropriate. It should be more of an open type of event. This does not mean that one has to invite 5000 people but neighbors, friends or close people (also include close people). These are all majors that give marriage a joyful touch without any complex proceedings or undue formalities.

Host: It is sometimes stated that Islam allowed for temporary marriages can you explain that? Is this still allowed?

Jamal Badawi:

At one point in time drinking was not objected to (in the early part of Islam as we discussed in the sixth series when we dealt with intoxicants) even though now intoxicants are totally forbidden to Muslims. When Islam first came people were so involved in drinking that it was a way of life and if the legislation immediately made them give up these life long habits people would have not responded. Islam also considered human psychology and the gradual need for improvement. We might recall in the case of drinking first it discouraged people from drinking, then it said don't pray while intoxicated and finally came the absolute and unequivocal prohibition of drinking.

In the early days of Islam people were very pernicious (you can see this if you read about the Arabs before Islam). At the early days of Islam people used to go for campaigns for an extended period of time and some of them could not resist their needs and they went to the Prophet and asked him to allow them to sterilize themselves. He said no (because sterilization is not allowed in Islamic teachings) but he consented to a sort of marriage that is basically the same as normal marriage except that it lacks the intention of permanence. This does not mean that it was temporary and only lasted for one night because that was not the purpose behind it. It sometimes was for several months for a certain period of time but not necessarily for a permanent period. However, as time went on and people began to understand the spirit of Islam it ended up being totally forbidden.

As far as the situation of temporary marriage now, according to the overwhelming majority of jurists it is no longer valid. First, the purpose of marriage as indicated in the Quran as found in (16:72) it talks about God blessing us through our wives, children and grandchildren. The purpose is a continuation of relationships. Also, as we quoted in (30:21) that marriage is about tranquility, mutual peace and effect and is not something for a limited period of time. The Prophet (PBUH) was quoted by many authorities that what was permitted before has been totally forbidden till the Day of Judgement. There are very very few jurists who still uphold that view and they say that is ok in the case of absolute necessity like if a person who is traveling for years and fears that he would fall into adultery marries someone for a few years (without

deception) and then separates after this. The overwhelming position is that it is no longer acceptable and was only one stage in the development of Islamic Legislation.

7.31 Social System of Islam- Polygamy in Islamic Law I (Historical Perspectives)

Summary of 7.30 "Marriage Laws in Islam IV (Marriage Contract)"

The bulk of the discussion related to the discussion of dowery or marriage gift as Islam calls it. We indicated that if it is not mentioned in the marriage contract the contract is still

valid. Also, the marriage gift need not be paid immediately but could be deferred, a portion could be paid while the rest is deferred depending on the mutual agreement of both sides. We also talked about circumstances where the entire amount of marriage gift becomes due to the wife. We also discussed the case of adding conditions to marriage contract. So long as the conditions stipulated by one side or the other or both so long as there is mutual agreement are acceptable as long as they are not illegal in themselves. A brief discussion also issued with respect to the temporary (muta'a) marriage and we indicated that while this was permissible in the very early days of Islam it did not continue to be permissible. There are clear evidences that the Prophet indicated that it has been forbidden. It was just a stage that Islam went through just like in the stages of drinking.

7.31 Polygamy in Islamic Law I (Historical Perspectives)

Host: Can you explain the term polygamy and what it refers to?

Jamal Badawi:

Polygamy is a broader term which is used for plurality in marriage. Specifically it refers to the practice of having two or more mates at the same time. In the technical sense. It is a broad term because it includes two types of plurality of marriage. It may include the wife having more than one husband at a time which sociologists refer to as polyandry which is not really what we are dealing with. This is not what we are dealing with because in Islam and related religions like Judaism and Christianity polyandry is not permissible at all.

What we are going to talk about if we use the proper term is polygyny which means one husband who has more than one wife at the same time. Since polygyny is not a common term and maybe polygamy is not a common term for some but it is at least

relatively more known than polygyny. If we were to use the proper term it would be polygyny in Islamic Law.

Host: The title of the topic for today's discussion is Polygamy in Islamic Law could one imply from this that the ideal Muslim family should be a polygamous one?

Jamal Badawi:

No, this is sometimes a common notion which is not necessarily a correct one. Indeed the ideal structure of a Muslim family is that of monogamy (having one husband, one wife and their children). Monogamy is presumed to be the normal ideal situation but also Islam did not necessarily condemn polygamy or regard it as being unlawful. There is no major outright condemnation of polygamy, nor is there a requirement or desirability in favor of polygamy. It is no more of a permissible act that may or may not be desirable in a given situation. It is essential to clarify that Islam neither introduced or invented polygamy as might be implied by the writings of some non-Muslims.

In fact, if we analyze polygamy factually and historically we will find that polygamy is a practice that did exist in many ancient civilizations, many cultures and was consented to in religions such as Judaism and Christianity. It is more correct to say that Islam is the only monotheistic religion which dealt more openly with the topic of polygamy and was the first faith to restrict its unlimited practice by establishing certain conditions and control over its practice.

Host: Can we explore some of the historical background of polygamy before we go onto Islam's position on the subject?

Jamal Badawi:

Many historians and sociologists tell us that polygamy as a practice was in existence in almost all ancient civilizations. For example, it was practiced among ancient Egyptians, Persians, Indo-Europeans, pre-Islamic Arabs and among the Slavs (Yugoslavia, Czechoslovakia and Russia). Even in some civilization where the normal code of law was against polygamy it still provided a way out in case polygamy was absolutely needed. For example, one famous code in history is known as the Code of Hammurabi. In the Code of Hammurabi monogamy was assumed to be the norm but within the code there were exceptions made where a person could have concubines along with their legitimate wife. Even in cases where the code of law was relatively more strict against the practice of polygamy like in the practice of Greco-Roman marriages. We find that many authorities on the subject and

particularly Edward Westermarck writes in *A Short History of Marriage* that the Greco-Roman codes of law liaison between married men and mistresses was not uncommon. So whether the law restricted it or not in reality the practice of having more than one female partner was not uncommon. This does not mean that in all ancient civilization that polygamy was the norm. This would be an over statement because this could only happen when the sex ratio is so low that there are at least two women for every man which of course does not happen. This simply show that it was practiced and was acceptable either legally, openly or by exception. This was not limited to ancient civilizations but also includes early Jews and Christians too.

Host: Many would be surprised to hear that this was practiced by members of the Jewish and Christian community because many people in the West believe that polygamy is contrary to the Judea-Christian tradition. What is the attitude of the Hebrew people towards polygamy?

Jamal Badawi:

This can be approached from the scripture of the Bible or from the historical sense and how things were interpreted and practiced by Jews. Even though the general impression is that polygamy is against Judea-Christian tradition we find that this is not correct.

We will refer to the Bible (King James version) in the Book of Judges in 6:34 we are told that Gideon was so holy that the spirit of God came upon him and in the same book in 8:30 it says that he had many wives. Abdon who judged Israel for eight years had forty sons and of course we can easily say that one can not have forty sons without having more than one spouse. The mention of that is in the Book of Judges in 12:14. Even more explicitly in the 2 Conical in 11:21-23 we are told that Rehoboam had eighteen wives and threescore concubines. It is also well known according to the Bible that David had a hundred wives. Jakob is said to have had four wives. According to 1 Kings 11:3 it says that Prophet Solomon (Muslims regard him as a prophet) had seven hundred wives and princesses and three hundred concubines.

More importantly is the case of Prophet Abraham. Prophet Abraham is highly regarded and respected by Jews, Christians and Muslims and is regarded as the patriarch of the monotheistic faith. The Bible describes Abraham as the friend of God. With holy and respected position of Prophet Abraham we all know according to the Book of Genesis 16:3 that he was married to two wives: Sarah his first wife who was barren and Hagar who was the bond woman of Sarah. Again the Bible mentions her as a wife. So he had two wives at the same time and one can not say that he was sinning or committing any immoral act by having two wives because it is quite obvious from the Book of Genesis that God consented. God gave Abraham details on

what to do and He never told Abraham to divorce one and only keep one wife. Indeed it was mentioned in the Bible that when his first son Ishmael was born that the name was given to him by the angels which means God hears. God knew of this and still communicated with Abraham and obviously consented to his practice of having more than one wife. From either a Judea or Christian perspectives one can easily say that these great figures who are respected and whose revelations are regarded the main sources of religion and moral teachings are not immoral because they had more than one wife.

It is not just the text of the Bible but the practice that shows that it was not a theoretical thing that was restricted to the Bible.

Host: Could you expand about what actually was practiced by the Jews?

Jamal Badawi:

For example according to the dictionary of the Bible the addition edited by James Hasting Published in 1963 in page. 624 “Polygamy meets us as a fact. For example Abraham, Jacob, the Judge, David, Solomon...” Then later he says “In Deuteronomy 17:17 the King is warned not to multiply wives, later regulations fixed the number at eighteen for a king and four for an ordinary man.”

A noted authority who is usually referred to by many sociologists and historians on the matter of history of marriage is Edward Westermarck who has written several books on the subject. In one of his books A Short History of Marriage published in 1926 he says that “There is little doubt that the Jews throughout the ages more or less practiced polygamy.”

In a more explicit explanation in his book The History of Human Marriage published in 1925 Volume 3 pages 42-43 he says “Among European Jews polygyny was still practiced during the middle ages and among Jews living in Mohammedan countries it occurred even to this day (1925) and explicit prohibition of it was not pronounced until the convening of the Rabbinical Senate at Vernes in the beginning of the 11th century.” This means that even four hundred years after Islam the practice of polygyny continued and was not explicitly prohibited till the 11th century. Then he continues “This prohibition was originally made for Jews living in Germany and Northern France, but it was successively adopted in all European countries. Nevertheless the Jewish marriage code retained many provisions which originated at the time when polygyny was still legally in existence.”

It is obvious that polygyny was not regarded as illegal. Some writers say that he mentions that polygamy was practiced by Jews in Muslim countries and they ask if that is because of the influence of Islam (and Islam permits polygamy)? This is a superficial conclusion because in Muslim countries and within Islamic Law when there are religious minorities like Jews, Christians or otherwise Islam does not interfere with the personal law dealing with marriage and divorce. If Jews in Muslim countries who were following their own law wanted to prohibit polygamy Islam would not have interfered. Islam neither forced them to practice polygamy nor prohibited them from changing their own personal religious law to make it illegitimate. Some writers indicate that when the state of Israel was established on the land of Palestine that some of the Yamanite Jews whom migrated in 1948 came to Israel with two or more wives and still they were regarded as legitimate.

Host: What is the position of Christianity on this matter? A common belief is that Christianity explicitly prohibits polygamy.

Jamal Badawi:

It is a common belief but this does not necessarily mean that it is correct when it is examined objectively by looking at the text of the scriptures and its manifestation in history with the approval of the doctors of law. It is important to point out that there may be certain references in the Bible which are rather indirect which show that Adam and Eve were a monogamous family and that this was a good model. There are statements to the effect that God created one man for one woman or the reverse which seems to assume monogamy. This is one thing and to say there was explicit prohibition of multiple marriages is another question. We have already shown that the text of the Bible seems to contradict that notion and that it was permissible to Prophets and as we will see it was practiced by priests as some historical authorities point out. It is also fair to say that the practice of polygamy among Christians has been relatively less common than it was among Jews or Muslims. This does not mean that it was totally absent.

There are a number of points that one should keep in mind. We have already quoted the Old Testament on the matter of polygamy. The Old Testament is part of the heritage of Christianity. In fact Jesus had been quoted to have said "I came not to destroy the Law or Prophets, I came to fulfill." A second point to keep in mind is that in the New Testament there is absolutely no explicit text (to my knowledge) in which Jesus (PBUH) said clearly that it is prohibited, immoral or illegal to marry more than one wife. In addition one may point out, as many historians and sociologists indicate, that the relatively more monogamous orientation in Christianity was a combination of a number of factors which were not necessarily based on legal prohibition. The factors included the attitude of early Christians towards sex and it being an inevitable

evil and something to keep away from and that it is better not to get married. It might also have something to do with the preoccupation of early Christian teachers with soul saving which was and still quite prominent. In addition Christianity in the early period spread mainly in the Greco-Roman world where the legal norm was to have one wife, so there was no need to legislate it. In other words Christianity did not introduce it to the Greco-Roman world. An interesting remark made by Edward Westermarck that in the early days Christianity took root among the lower class (people who were poor and down trodden) who could not afford to afford to get married to more than one wife. In terms terms of the text of the New Testament I don't think it is correct to say that there is explicit prohibition of polygamy.

Host: Is there any historical evidence of any Christian church that consented to polygamous marriages?

Jamal Badawi:

Edward Westermarck said in *The History of Human Marriage* published in 1925 “Considering as monogamy prevailed as the only legitimate form of marriage in Greece and Rome it can not be said that Christianity introduced obligatory monogamy in the western world. Indeed, although the New Testament assumes monogamy as the normal or ideal form of marriage it does not expressly prohibit polygyny except in the case of a bishop and deacon. It has been argued that it was not necessary for the first Christian teachers to condemn polygyny because monogamy was the universal rule among in whose midst it was preached, but his is certainly not true of the Jews who still both permitted and practiced polygyny in the beginning of the Christina era.” Then he moves on to the attitude of the fathers of the Church and he says “Some of the fathers accused the Jewish rabbis of sensuality, but no council of the Church in the earliest century apposed polygyny and no optical was put in the way of its practice by kings in countries where it had occurred in the times of paganism.” Then he started giving explicit examples of polygamous marriages approved by the Church. “In the middle of the sixth century Diarmait king of Ireland had two queens and two concubines. Polygyny was frequently practiced by Merovingian Kings. Charles the Great had two wives and many concubines and one of his laws seems to imply that polygyny was not unknown even among priests. In later times Phillip of Hess and Frederick William the Second of Prussia contracted bigamous marriages with the sanction of the Lutheran clergy. Luther himself approved of the bigamy of the former and so did Melanchthon. On various occasion Luther speaks of polygyny with considerable toleration “It had not been forbidden by God, even Abraham who was a perfect Christian had two wives. It is true that God had allowed such marriages to certain men in the Old Testament only in particular circumstances and if a Christian wanted to follow their example he had to show that the circumstances were similar in his case, but polygamy was undoubtedly preferred to divorce. In 1650, soon after the Peace of Westphalia when the population had been greatly reduced by the thirty years war, the Frankish Christag at Nurnberg passed the resolution that thens forth every man should be allowed to marry two women.” This was not only found in history but even among some Christian sects it was advocated

as a better solution. Certain sects of Christians even advocated polygyny with much fervor. In 1531 the Anna Baptist openly preached at Manchester that he who wants to be a true Christian must have several wives. And the Mormons as all the world knows regards polygyny as a divine institution.”

7.32 Social System of Islam- Polygamy in Islamic Law II (Historical Perspectives)

Summary of 7.31 Polygamy in Islamic Law I (Historical Perspectives)

First we started by clarifying the terms and we said that polygamy is a broad term which includes any form of plural marriages which may include one wife having more than one husband which is called polyandry and this is not what we are dealing with because Islam does not allow it. Also, polygamy deals with polygyny which is the husband having more than one wife at the same time which is the subject that we are dealing with. We said that if we use the term polygamy that we actually mean polygyny not polyandry.

Secondly, we indicated that the assumptions and ideal in the structure of a Muslim family in Islamic Law is monogamy not polygyny. The norm that Islam requires is having one husband and one wife, unlike other common notions. In the meantime Islam neither prohibited polygyny nor did it require or encourage it. We started putting the subject into historical perspectives. We tried to look at ancient civilizations where we concluded that from many authorities it is obvious that the practice of polygyny was in existence in virtually all ancient civilizations. We have shown also that in the case of Judaism and Christianity there is textual evidence and or manifestation in history which shows that polygyny was accepted. We referred to examples of Prophets who had more than one wife and we referred to church councils or rabbi councils who only prohibited it in later centuries (several hundreds of years after the advent of Prophet Muhammad (PBUH)). We ended by indicating that this was not only limited to the 11th century in the case of Judaism or 17th century as in the case of Christianity. We referred to some Christian sects like Anna Baptist who encouraged the practice of polygyny and even the Mormons (more recent sect) who approve of polygyny and consider it a divine institution.

7.32 Polygamy in Islamic Law II (Historical Perspectives)

Host: Do Mormons still support and encourage polygyny?

Jamal Badawi:

The way it developed is in 1847 when the Mormons started to establish themselves in what they considered to be the Promised Land (particularly in Utah) they adopted polygyny quite widely during days of Brigham Young (the founder). In 1890 polygamy was outlawed by federal statutes in the United States and as a result (since the Church openly advocated polygamy) their property were confiscated. This might have been one of the reasons that lead the Mormon church to issue an official manifesto banning any form of polygamy.

However, we find that the church president Wilford Woodruff later declared a that this manifesto had been divinely inspired. Which raises the question as to why it was divinely inspired only after the Church property was confiscated? God knows what the motives behind the change were.

We find in a periodical call Journal an interesting article by Ben Merson published in June 1967 Husbands With More than One Wife. The article was written on the basis of visits and actual interviews with polygamous families in Utah, where a large number of Mormons live. He says that "it is estimated that in Utah alone over 30,000 middle class Mormons Americans secretly cling to the practice of plural marriages." I recall that he mentioned in the article that in some schools the teacher would as a child what their name was John Smith and Gary Smith and they would be the same age and in the same class. So he would ask if they were brothers and they would say yes (they were brothers from two different wives to the same husband).

One has to be careful because first of all officially in the 19th century polygamy was permitted by the Mormon sect but even after the first declaration, which might have been connected with the confiscation of Church property, the practice did not necessarily stop. It still exists now.

Host: What is the reason for the practice of polygamy in all civilizations, cultures and religions? From a sociological side?

Jamal Badawi:

I would like to refer to Hammudah Abd al-Ati in an interesting book The Family Structure in Islam where he as sociologist summarizes the views of many sociologists. He indicates that many sociologists after researching the issue more carefully (aside from emotions) have come to the conclusion that the practice of polygamy is not something irrational, non rational, anti social or

immoral. Sociologists feel that it is an issue which is multidimensional which involves lots of complex combinations of reasons which may be personal, demographic, social or anything else.

Some of the reasons sociologists give. For the explanation of personal reason they claim that an individual who is married may be overwhelmingly attracted to another woman (other than his wife) for whatever reason (sexual or aspiration or status). In some cultures having more than one wife may be a symbol of wealth and status. It could also be an attraction on the part of the woman. Some women in some cultures may prefer to marry, as a second wife, to someone who is rich and prominent than getting marrying a poorer person (this is not an Islamic perspective but from a sociological perspective).

There is also a possible demographic explanation. As it happens in many places the sex ration is low, whereby there are relatively more females than males. In this case in order for the extra females to have any sense of family life or marriage would be impossible if monogamy is upheld.

Some refer to a biological explanation (I am not saying I agree with each of these reasons) referring to the fact that man's sexual nature might make him comparatively more predisposed to polygamy than a woman is. This takes into consideration a male's aggressive sexual arousal, the capacity for physical dominance are possible explanation for polygamy.

Some sociologists suggest social explanations which point out that in some cultures polygamy might be one element in binding families and tribes together. It is a sort of pact of interfamily or intertribal alliance. Some may add that this may lighten the household duties or chores on the women involved in the same marriage.

There are also economic explanations which point out that in certain poor areas in the world where the infant mortality rate is high and where families are poor and there is a need for more hands to work for the family is essential which may lead men to marry more than one wife to make up for fatality of children and to provide human resources. For example, some cultures seem to except polygamy without much fuss just as much as monogamy is regarded as the ideal in Western communities. In a book by D. Campbell entitled *In the Heart of the Bantuland* published London 1922 he mentioned something of this nature, and the preference of women to marry into polygamy as a social norm. Another book by H. Corey called *Socoma Law and Custom* published in New York 1953 in page 52 he mentions something similar to that.

I think it is quite useful as Abd al-Ati concludes on page 110 in *The Family Structure in Islam* that “One should not forget however that these complex hosts of reasons (that we mentioned) are too complex in a way that (like in a system approach) they interact with each other. They interact internally, and then the combinations of those reasons also interact with the total social forces, which include traditions, customs, conception of public morality, law, and all of those forces which interact both internally and externally.” So it is not a matter that one can make over generalized statements about polygamy. All of these forces may contribute to make polygamy comparatively more or less acceptable. depending on the mode of these interactions of forces.

Host: What is Islam’s position with respect to polygamy? It appears that Islam did not introduce the practice of polygamy but simply sanctioned existing polygamy.

Jamal Badawi:

It is correct that Islam neither invented nor introduced polygamy. We have seen that it existed among many persons, many nations, cultures and religions including Judaism and Christianity. The question of Islam sanctioning existing polygamy is also acceptable but with some precaution. Islam did not sanction the practice of polygamy the way it existed before the advent of Prophet Muhammad (PBUH). Indeed Islam is the only monotheistic faith which restricted the practice of polygamy that was in existence at its advent. It regulated it and added conditions which might even be regarded as stringent conditions before it might be acceptable in some situations. It is legislation by acceptance rather than a norm that should exist in society.

It is also useful to remember that polygamy in Islam is not an obligatory duty. It does not say that a Muslim must practice polygamy, nor is it an article of faith or a principle where one is a sinner if it is not implemented. Polygamy is not even a commendable act that makes one a better believer. It is something that is not prohibited nor unqualified permissible but is conditionally permissible. The other thing that may relate from the purely legal stand point from Islamic Law. From a purely legal standpoint in Islamic Law acts that are conditionally permissible can become detestable, unlawful or even prohibited. In other words they may be allowed in principle but under certain circumstances they might be detestable or outlawed. An example would be in the case of committing injustice: if there is an obvious case of injustice if the person takes a second wife, even though the act in itself is permissible, under these circumstance it may be declared as unlawful. Islam is the only faith that did not ignore the practice of polygamy and did not keep silent on it, nor did it condone it and consent to it as it existed but stepped in to restrict it, limit it and provide regulation for its practice even though it is not the norm for an Islamic family.

Host: Is there explicit mention of polygamy in the Quran?

Jamal Badawi:

There is one key verse which is an obvious reference to the permissibility of polygamy which appears in (4:3) “If ye fear that ye shall not be able to deal justly with the orphans, Marry women of your choice, Two or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess, that will be more suitable, to prevent you from doing injustice.” We can make a number of observations from the text of this verse. To start with the verse is not an injunction but it says that one should practice polygamy and that it is not a crime or an offense to practice polygamy. Second, the permission here is conditional because it says one has to deal justly with them. If one feels that he would not deal justly if he had more than one wife then they should only marry one. Third, there is a restriction on the practice of polygamy unlike how it was practiced before Islam. Before Islam people had no upper limit to how many wives the person had. We had seen in the Bible the number of wives going to 700 and in the days of Islam among the pre-Islamic Arabs had ten wives more or less. The upper limit here is four it says two, three or four not two plus three plus four which would mean nine and is a mistake contrary to the Arabic language. The fact is that the Prophet allowed people to have four wives and if he had more than four he would ask them to divorce the rest. The consensus of jurists throughout Muslim history has been that it is not two plus three plus four but two, three or four being the maximum upper limit under any circumstances no matter how low the sex ratio is. This is an explicit restriction found in the Scripture. In addition it is important to note that in the very beginning of the verse it says “If ye fear that ye shall not be able to deal justly with the orphans” which shows that the main philosophy behind permitting polygamy is not just satisfaction of sexual needs but prevents injustice to women under certain situations or circumstances.

Host: Can you expand on the context of the revelation of this specific verse? And the circumstances resounding it?

Jamal Badawi:

The same question was directed to the wife of Prophet Muhammad (PBUH) Aisha and as narrated in Abu Dawood, Bukhari, Nassai and Al Tirmithi she said : This verse was revealed with respect to a guardian who had guardianship over one or more orphan girl/s and he gets attracted to her beauty and wealth and he wanted to marry her but without giving her a just marriage gift. Dowry should be fair with no minimum or maximum but it should be fair. He may worry that because he is her guardian he may exploit her position by not being paying a fair marriage gift to her. So what it means that one should not marry the orphans under his guardian ship unless he is fair to them and is able to give them their due rights rather than exploit his

position. If he is afraid of being just, aseptically when Islam makes it a big offense to devour the wealth of orphans or weaker people in the community, he could marry from other places. If one needs a second wife and is afraid of injustice then he can marry because God has permitted it.

Zamakhshari one of the major interpreters of the Quran in his book Alkashshaaf A Tafsir also mentions that this verse seems to imply that polygamy is permitted when there is fear of commission of adultery. More specifically he says that when people heard verses in the Quran threatening people who devoured the wealth of the orphan that some of them were so reserved that they stopped marrying orphans under their guardianship. So what it says here is that if one is afraid of doing that and afraid of committing adultery and if one has no way out then that is what one should do. In addition the timing of this verse is quite revealing. This verse was revealed after the battle of Uhud in which many Muslims were martyred leaving behind young daughters of marriageable age, widows (some who were young and had a lot more to fulfill in their lives) and small children who need help and support. Of course the notion of getting married as a second wife to some of those unfortunate women and looking after their needs is much more humane than simply giving them a handout. This provides for their physical sexual needs as well as the need for warmth, marital life and the need for a father for their children. This was practiced by early Muslims in order to provide this mutual support women and their children.

Host: What is meant by the justice as a condition of plural marriages?

Jamal Badawi:

First, justice is an absolute condition for the validity of polygamy. One should not get a second wife according to Islamic Law even if they have good reasons unless justice can be achieved. The verse is very clear that if one does not have justice between the wives then one should only marry one (which is the norm). Prophet Muhammad (PBUH) as narrated in Abu Dawood, Al Tirmithi, Al Nasaai and Ibn Maja said that whomever had two wives and he was bias towards one of them he will come forth on the Day of Judgement with one of his halves lowered or imbalanced. This is a kind of warning for one not to be bias and if one fears being bias they should only marry one.

What it really means is the maximum humanly attainable justice. This means if a person happens to have two wives the amount and quality of food provided for both should be the same, the quality and amount of clothing for both should be the same, medication, recreation, housing and the amount of time that the husband spends with each should be the same. Mercy, compassion and good treatment is required for both of them. However, there is one aspect of justice which is not humanly attainable, which has to do with his internal emotions. It is not humanly possible for one to have

the same humanly emotion of love towards both in the exact same way. This is not humanly possible and God does not ask people to go beyond their human capacity. This is why Prophet Muhammad (PBUH) said as narrated in Abu Dawood, Al Tirmithi, Al Nassai and Ibn Maja “Oh God this is my justice in what I could control. Don’t blame me in what you control and I don’t control.” Finally, the Quran alludes to this in (4:129) “Ye are never able to be fair and just as between women, even if it is your ardent desire: But turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air).” One should try to be just and equatable only in cases of extenuating circumstances which justify deviating from the norm which is monogamy.

7.33 Social System of Islam- Polygamy in Islamic Law III (Historical Perspectives)

Summary of 7.32 "Polygamy in Islamic Law II (Historical Perspectives)"

In the last program we started by giving some of the anthropological and sociological explanation of the existence of polygamy in a variety of cultures throughout different points in history. We discussed the various reasons such as personal, demographic, social, biological, economic and so on. We concluded that each of these explanations in itself does not provide a satisfactory explanation or understanding of the whole picture of such a complex institution like polygamy. All of those reasons interact with each other and in turn they interact with other social sources (legal, cultural, traditional etc) which may shape the attitude towards polygamy being acceptable or not.

The bulk of the program addressed the nature of polygamy in Islamic Law. We started by referring to the mention of polygamy in the Quran. We indicated that there are two verses in the Quran that deal with this in (4:3) and (4:129). We tried to analyze the circumstances for the revelation which might shed light on the spirit behind it. We have seen that these verses were connected with the question of guardianship of orphans and the fear of doing injustice to them. We have seen that being connected according to explanation of Zamakhshari that this is related to the fear of adultery (it is better for one to get a second wife than to have illicit relationships).

We have seen that the verses were revealed after the battle of Uhud where many Muslims died leaving behind widows and children who were in need of care that was more than handouts. They were in need of a family or home atmosphere in order to look after their needs.

We concluded that if one looks closely at the verses revealed in the Quran one is bound to conclude that monogamy is the norm that the Quran encourages. In the mean time it allows polygamy not as a requirement, not as a commendable act but as a conditional permission which seems to be designed to deal with certain situations and extenuating problems. Even then there is the requirement of ability to look after more than one wife financially and of being just.

7.33 Polygamy in Islamic Law III (Historical Perspectives)

Host: There are people who suggest that the Quran prohibits polygamy. What would your response be to this view?

Jamal Badawi:

People with this kind of interpretation say that in verse (4:3) it says that one may marry more than one wife and it requires justice and that it says that if one fears that they can not do this then marry only one. Then they say that in verse (4:129) where it says “Ye are never able to be fair and just as between women, even if it is your ardent desire.” It says justice is a requirement and on the other hand it says one will never be just and equitable if one has more than one wife and this implies that it is prohibited.

This is not a well founded interpretation. The very same verse they refer says that one could marry more than one wife. It would not make sense to say that one has two options: monogamy or polygamy if need be, but it is forbidden to be polygamous. Why give two choices to start with, if one of the options is non existent. On the other hand it has been authentically shown during the lifetime of Prophet Muhammad (PBUH) and many of his companions who had practiced polygamy. How could they deliberately violate the teaching of the Quran without the prophet objecting to it? This shows that permission was given and there was no absolute prohibition. I think the confusion about this whole issue as to whether the Quran really prohibits polygamy or not arises because of the meaning of the term *adl*. Justice is used in both verses (4:3) and (4:129) but it is used in different contexts with different meanings. In the first verse it talks about human justice which is possible (equal amount of support, clothing, food, housing and time). If someone fears that they would not be just in what is humanly possible then they should not marry more than one wife. The term *adl* which is sometimes translated to justice or balance which is mentioned later on in (4:129) deals with justice in a sense of having equal feelings. If one recalls from the previous session that we discussed the issue of feelings and that it is something that one does not control. The Prophet himself that one can not divide something that they can not control. This is why the verse says that one would not be just and equitable between women if one tries to and then it says don't be overly inclined (leaving one wife in suspense or feeling hurt and

bitter). This means try your best but if you can't have equal feelings it beyond your control.

Host: Is there any significance to the maximum number of wives that one is permitted to marry?

Jamal Badawi:

If the verse said five we would say why five, or if it was three we would say why three. Some people tried to explain some of the possibilities for that particular number. Some argued that it would be too much for a wife to be away from her husband for more than three days. So if the person is married to four each woman will get her share at least once every three days, which they think is the maximum time that they can spend apart. Some people say that if one marries more than four, even in the most extenuating circumstances it becomes very difficult to be just, equitable and it is rare for a person to have enough wealth to be able to support four wives. This might be a partial explanation. I don't think that these reasons by themselves give satisfactory answers. I think the point that is forgotten is that this number is not arbitrarily placed but it comes in the Quran which is the word of God, and God's wisdom exceeds ours and we will not be able to fully comprehend any specific maximum. On the other hand we are not prohibited from trying to find possible explanations in order to better understand it. It may be kept in mind that the number 4 stands somewhere in between an extreme restriction of monogamy and going into a marriage with such a large number of wives which might look like a purely sensual type of relationship. Perhaps four would cover a variety of extenuating circumstances such as war, low sex ratio and it is unlikely that the need would arise where people would need more than four wives (for personal reasons or because of social reasons or problems).

The other thing to remember also is that the number 4 is mentioned in the verse as an absolute maximum which means that if the problem can not be solved in specific setting except by having four wives then that is fine, if the problem can be resolved by having three wives that is even better, two is even better and monogamy which is the norm according to Islam is even better. This number was established as a cut off line in order to establish the unrestricted practice of polygamy that existed before in different cultures and religions. This is an absolute maximum rather than something that is regarded as the average or norm.

Host: If the norm is to only have one wife why did Islam allow for polygamy in the first place?

Jamal Badawi:

Most writers when discussing this topic move into listing possible reasons of possible circumstances which may make polygamy a more moral solution of certain problems (which is fine). My approach to this is that before getting into any of those reasons, especially in a topic like this which evokes very severe reaction and emotions, is that we should remember that this conditional permission of polygamy is not a law that has been set by a human being. If the law was made by men we would say they are bias because they are male if it was made by women we would say they are bias because they are females. God is neither male or female and when He established these rules or allowed certain things, He definitely has good reason behind it and has no reason whatsoever of being unjust to males or females. It is impossible to believe in God and to believe He is unjust. As indicated earlier this does not mean we do not have the right to explore these reasons. But a believer would not say that if I don't get reasons then I don't believe in what God says. A believer should say that they believe in God and that they try their best to understand these things.

The point here is that Islam, as the seal of revelation of all the prophets as there is no prophet after Prophet Muhammad (PBUH) and there is no Holy book after the Quran, is the culmination of all the messages and the mission of all God's prophets. If Islam is not intended as a religion for the Middle East, Arabs or Westerners but for the whole world as a universal faith. It would not be eligible to be called a universal faith unless it has enough flexibility in its laws so as to be able to solve problems in different times, different places and different circumstances. It is good for different times because Islam as a last revelation would not be universal if it only addressed the problems faced by the people during the time of the Prophet, only our time, or the time in between but it must meet the needs of these different times, it should not be time bound. It can not be a universal faith if it is tailored for the Arabs, Americans or Canadians. It must have the flexibility to deal with different cultures in different settings. It has to be a faith which is not place bound. Third, it can not be a faith bound by circumstances. One can not have a universal faith that solves problems under certain circumstances under certain certain cultural practices or norms but fails to cover other practical problems of other circumstances. So again in order to be universal it must be a faith which not bound by circumstances. For these reasons we realize that there may be circumstances on an individual level or collective level which may make it very difficult to find a solution if we did not have this conditional permission for polygamy.

Host: What are some of the social reasons for polygamy?

Jamal Badawi:

First of all in some places and times there are constant complaint of a lower sex ratio (larger number of females than males). This might include girls of marriageable age, widows and divorcees. If in such kind of settings there is insistence that anything other than monogamy is wrong and illegal what would happen to these women who

want to get married but are not able to because of the shortage of males. In Islam their basic needs can not be satisfied in any illicit way, so what other practical solution is there? Of course if they don't want to get married that is their choice but if they do why should the law make it very restricted.

Second, which is quite normal in human history. We all hate wars, no body really wants wars as it is part of the basic human instinct to strive for peace. On the other hand it is unfortunate that so long as there is good and evil in this world, human capricious claims and arrogance of power remains to be part of the fact of life at present and will probably continue till the Day of Judgement. In most cases the casualties of these wars, even though it may include women and children, is mostly males who are killed. Of course if we look at the First and Second World Wars there were a large number of men killed which caused an imbalance and lower sex ratio. What is to be done in situations like this? After the Second World War there were demands in Europe for some form of polygamy to be permitted. In Munich in 1948 after the war there was an international youth and a discussion went on regarding how to solve the shortage of men after the casualties of war. Many suggestions were offered non of which seemed to be very practical. Some of the attendees were Muslims proposed the notion of allowing polygamy under these extenuating circumstances. Of course in the beginning like any Western reaction they were disgusted and surprised at these suggestions. But after things were discussed on an objective reasonable and rational basis the people who were attending who represented a variety of cultures and religions agreed to adopt polygamy as a recommendation that would solve this problem. In 1949, the residence of the city of Bonn, Germany actually made a request to their government that the constitution should have a provision permitting polygamy when the need arises.

Another circumstance that is very similar to the question of wars, is that in human history even at present despite the fact that women have been involved in lots of work and jobs that were traditionally mens jobs, we still find that jobs which involve a great deal of danger (mining, construction, truck driving) are still mostly mens jobs. The deaths in these jobs are relatively higher for men than women which would result in lower sex rations and the presence of widows and others who might prefer to have a family life instead of being alone.

There may be some individuals with and overwhelmingly strong sexual drive and if strict monogamy is insisted upon they would have no alternative but to commit adultery and involve themselves in illicit relations which are regarded as a major sin in Islam. This is regarded as an offense not only against God or one's self but against society because women will be exploited, people have illegitimate children as a result. In some cultures polygamy seems to be part of the social structure (example: African countries that we discussed last time). Even among non-Muslim societies in Africa it was reported several times that even the missionaries and some Churches permitted people who converted to Christianity to keep their wives (because some of

them were polygamous when they were pagans). All of these show that there are circumstances on a social level which make polygamy a much more viable and more wholesome approach than doing things illegitimately to solve these social problems.

Host: What are the individual circumstances that can possibly justify polygamy?

Jamal Badawi:

Supposed we have a young man in his twenties who marries a girl (about the same age), their family life is good, they love each other, they had two babies (one is a year old and the other is two) then all of a sudden the wife contracts a serious disease which would effect her availability to him (for marital relations). It could be something that causes a slow death like cancer or leukemia, it could be a sudden mental disease, it could be a coma (some people can stay in comas for years). What kind of alternatives does the husband have?

One, he can control his instinctive needs (if this situation continues for 5,10 years or forever) and he should sacrifice and not satisfy these needs. Islam does not object to this if this is his choice. If a person is able to control their basic sexual drive for that long or forever there is nothing that explicitly says one should not do that. How many people or what percentage of young people who are in their 20s are able to take this route?

Second, he can keep his wife (because he believes monogamy is the only mode of marriage) and he can go from the back door and have mistresses. This from an Islamic perspective is not permissible because it is adultery.

Third, he can divorce his wife and marry another in order to satisfy his needs. This is like dumping one's beloved in the time of need, which is cruel. What is an alternative to these three that is better than all of them and more practical? To marry another woman, satisfy his needs, maybe having someone to look after his kids and home and if she is noble enough she would help sever the first sick wife. The practical solution which might be surprising because many of the viewers are raised in a Western atmosphere where it is inconceivable to think of a person marrying two wives. But practically speaking when we look at a situation like this what meets the criteria of morality, practicality and kindness? This may not be the best solution; but it is the best one that we can think of in a situation like this. If not this than what is a practical and moral way that is better?

7.34 Social System of Islam- Polygamy in Islamic Law IV (Historical Perspectives)

Summary of 7.35 "Polygamy in Islamic Law III (Historical Perspectives)"

In the last program we covered the meaning of 'justice' which is a prerequisite for polygamy in Islam. We also discussed the fact that Islam for the first time (from among all other world scriptures) specified the maximum number of wives to be taken under any circumstances. This is a step in the commonly unrestricted practice of polygamy.

The main part of the program analyzed some of the possible reasons why polygamy was permitted in Islam. We started Divine Wisdom which allowed it in various religions, even before Islam, which must have a good reason. Second, as a universal message to all people of all times and places which might have different cultural needs, social problems and individual problems; Islam proposes practical and wholesome solutions to all of these rather than just talking about idealistic things that does not exist in the world of humans. More specifically we talked about the collective reasons which may make polygamy a more wholesome and compassionate solution. Such as the case of low sex ratios as a result of wars and more fatalities among men depending on different circumstances. Towards the end of the program we dealt with some circumstances of individual cases such as incurable diseases or a wife who might be confined for years (mental hospital) where any other alternative other than polygamy would be cruel, because it would involve divorcing a sick wife who is in need of support during her suffering or to encourage the husband to do illegitimate things to satisfy his needs.

7.34 Polygamy in Islamic Law IV (Historical Perspectives)

Host: Can we continue with additional examples of individual circumstances?

Jamal Badawi:

A common example is in the case of bareness which can be from the man's or woman's side. Suppose there is a case of bareness on the woman's side. It is part of the human instinct to want to have children of their own. What would a person faced with this do if he wishes to have children of his own which is not possible with his wife? Should he suffer for the rest of his life? Or should he divorce his wife whom he loves so dearly? Of course some people might suggest adoption (Islam does not

allow adoption in the Western sense but allows fostering). This is possible and if it satisfies his needs and his wife's needs then it is fine. But on the other hand there are some people who wish to have children of their own. One would not expect them to suffer for the rest of their lives. In a case like this taking a second wife may be, in some cases, a more superior and compassionate solution than divorcing his wife, or going through this type of torture. There are similar cases of individuals who have different dispositions (God created people with different energies and feelings) and there may be some exceptional cases where people have the overpowering urge which may not be consistent with the predisposition of his wife. In cases like these, rare as they may be, the only alternative would be to push him to commit acts of adultery outside of the marital bonds. If such exceptional cases exist it is more moral to have things in the open, to have relationships which are protected legally and are natural, instinctive, marital relationships than to encourage this kind of backroad solution to the problem. There could be a variety of situations like this which do not necessarily happen to every person or in every place but it does occur once in a while.

Host: We have discussed polygamy from the male perspective, can we look at it from the female's side? Can we look at the options of the second wife?

Jamal Badawi:

In the rules of marriage in Islam the consent of both parties is a prerequisite for the legality of a marital relationship. In cases where a woman does not agree and is forced into a given marriage it could be nullified. A second wife should not be forced into a relationship with a man who is already married to another wife. She has to voluntarily choose and agree to this type of marriage. If we put emotions and social orientations aside which might vary and try to look at it on a more honest and objective level.

It should not be too difficult to point out to certain cases where it is a good solution for the second wife. An example would be a widow or divorcee who may have three children. Her chances for marriage may not be that great; for this woman to marry a man and be his only wife. It does happen but it may not be as attractive and her chances may be greatly reduced. In a case like this a woman may find out that it is better for her to experience the warmth of marital relationship and to have a male around or a step father to help in the upbringing of her children. She may find that her position as a second wife is still better than loneliness and having to struggle alone in life.

There may be cases where a woman may not be in that particular position but in cases of low sex ratio where the youth are not interested in getting married, again the only alternative before her would be to spend her life as a spinster without having

experienced the marital relationship. If that extends for too long she may be tempted to break moral laws whether for physical or emotional reasons. In a case like this she may decide that it is better for her to marry as a second wife rather than to remain single for the rest of her life. These examples are not theoretical. If we open our eyes and look around us, even in our own neighborhoods, we might see that there may be some cases where a great deal of suffering and deprivation is taking place which leads to the breaking of moral law. In situations like that Islam offers a solution. Instead of saying that one has to suffer for the rest of their life or force individuals to break moral laws it provides a clean and practical solution.

Host: What about the first wife? Is it necessary that she consent to the husband taking a second wife? What options and protection are open to her as the first wife?

Jamal Badawi:

We can not say that the agreement of the first wife to her husband taking a second wife is an absolute prerequisite. But we can say that within the spirit of Islam and the spirit of Islamic Law in general that it is only appropriate to have some discussion and consultation about the matter with the first wife. A person who gets married to a second wife in secret, or to surprises the first wife after the decision is made is not regarded to have good character. This is not a decent act on the behalf of a Muslim. We are not talking strictly in terms of legality but appropriateness. It is however, possible that the first wife has what amounts to a veto right on her husband taking a second wife. In Islamic Law at the time of marriage if the first wife specified in the marriage contract that her husband should not take a second wife many jurists say that this condition is enforceable and would be binding on the husband. Various schools differ in the explanation but not the principle. In the Hanbali School of jurisprudence they say that marriage could be invalidated if he takes a second wife on the basis of violation or breaking of the marriage contract. In other schools like the Maliki School of jurisprudence they said that she could ask for the nullification of the marriage because of harm was inflicted upon her because of his violation of the contractual commitment or agreement. This would be a no fault type of divorce on her part.

There is also another for of protection for the first wife. This can amount to a veto right on polygamy. This is called ismah in Arabic which is translated in English delegated repudiation. This simply mean that a woman at the time of marriage may specify in the contract that she would have the unilateral right to divorce her husband in this case. In which case if her husband takes a second wife and she doest feel happy with it she has the right according to that clause to divorce her husband unilaterally.

Host: What about circumstances where marriage contracts do not place any restrictions on polygamy, does the wife still have the unilateral right to divorce?

Jamal Badawi:

No, it does not mean that she has no protection if it is not specified. In Islamic Law a woman is also entitled to seek divorced for good reasons. If a wife can show that her husband taking a second wife caused her harm or injustice which is against the pre-condition of polygamy. In order for polygamy to be permissible there has to be equal justice: no first and primary wife etc. In this case she can go to the judge and ask for divorce.

Host: What happens if the judge is not convinced that there is any real harm?

Jamal Badawi:

In Islamic Law there is a system which is not known in the West, which is called khul' which means that even if there is no fault on the part of the husband (applies to polygamy or other cases) and the judge could not find any fault (with the case above the judge could not find fault except that he simply needed a second wife) the first wife who is not happy can make an agreement with the husband to pay him some financial compensation in order to get out of this marital relationship. This compensation is usually in the form of returning the marriage gift, mahr or sadaka, that he gave her for the marital relationship or any other property he gave her because of the marital relationship. Justice demands that if she wants to get out of the marriage then at least she should give back the things that he gave her with the understanding that it would be a lasting marital relationship. She can apply this option if she feels that it is against her best interest to continue as his wife. She also has the other option of staying if she feels that it is comparatively better for her to remain his wife.

Host: If she offers to make this payment in order to get out of the marriage is he obligated to accept?

Jamal Badawi:

Yes, the husband has no right to refuse it and they have to work out the financial agreement.

Host: Why is polyandry (plurality of husbands) prohibited?

Jamal Badawi:

First we will look at this from an Islamic point of view then from historic and analytical point of view. To start with polyandry or having more than one husband for the same wife is not permissible in Islamic Law under any circumstances. In fact when we go back to the Quran in the verses which mentioned or alluded to polygamy in (4:3 and 129) it says marry women of your choice, it does not say marry men or women. The Quran is very delicate and accurate in its expressions. This rules out the notion of polyandry because it was only the female gender that was used. Again aside from the fact that there is absolutely no difference among jurists polyandry is not permissible in Islam, if we look at it historically speaking (not just the history of Muslims but the history of the world) we will find that the incidences of polyandry are very rare. I am not saying it is not existent, it did exist, and might even still exist. It is however very rare in comparison to polygamy. We have seen before that even Israelite Prophets in various religions in their early stages of development including Judaism, Christianity and Islam permitted (Islam still permits) polygamy.

When we try to explain why this was more common in all civilizations, religions and different parts of the world. Perhaps some analytical questions may be useful. First of all, biologically speaking a woman gets pregnant once at a time where as a man may have several kids from his progeny at the same time if he has more than one wife. It is well known in all cultures and everybody agrees that every child is entitled to know his lineage, to know who is his mother is and who his father is.

Lets assume for the sake of argument that a woman has more than one husband and she gets pregnant. Who's child would she be carrying? When the child is born his mother will be known but if she is married to three husbands his father will not be known. This is a very difficult question which has no practical solution if we look at it from a purely biological point of view.

Second, a social aspect, it is not generally the male's side is the head of the family (even in the contemporary world) not as dictators but he holds some kind of leadership of the family. If a woman is married to more than one husband who is the boss? This leads to a situation (considering males aggressive and dominating nature) where blood will be spilt. I can't imagine the situation where two husbands are competing for the same wife under one household.

In addition to these biological and social aspects I think there is something that is even more important than that which has to do with the innate and psychological aspect of it. For a woman the matter of sex is much deeper than it is for males. I am not saying that males don't have feelings in matters of sex but comparatively speaking the instinctive nature of the female is that sex is very much tied with not just the

physical but emotional and feelings aspect (more so than the male). It follows from this that her feelings tend to concentrate on one particular person. I am talking about a natural healthy female whose mind and values are not polluted by promiscuous situation or rampant loose sexual morality. I am not saying this in terms of a theory but I have talked to many females regarding the same issue and I would ask them if they could imagine or perceive themselves to be the wife of more than one man? And it is almost a universal answer that it is not comprehensible. Of course, imagining herself being a second wife or the first wife of a man who has more than one wife is still also not as pleasant, but the comparative degree is quite different. This is why we find some scholars who say that women by nature is much more monogamous in her attitude where as man has some elements of polygamous tendencies.

Host: What happens in a situation where the husband is barren or chronically ill? What can a woman do if she is not permitted to have more than one husband?

Jamal Badawi:

If a woman faces a problem like that she has various options. The woman is not forced to stay in this situation at all. If a woman wants to be kind and compassionate it doesn't mean that she should marry another husband while also looking after her sick first husband (this wont work). If she is really sacrificing and wishes for the sake of God or for whatever noble motive she may have to look after her husband and children she may do so. If on the other hand to terminate the marital relationship then she can use the same majors described before in case like that. We talked about these measures in the case when the husband takes another wife and she the first wife doesn't agree. Now we are talking about a wife whose husband is chronically ill or is confined to a mental hospital and she does not wish to live like that. She can apply the same majors: she can go to the judge and ask for divorce and of course that would be a very justifiable reason. She can use her ismah if it was specified in the contract, suspended repudiation which might preserve some rights or certain conditions or she can ask for khul' and she can return the property that he gave to her in return for nullifying the marriage. So it is not the same exact thing on both sides. God created males and females with different dispositions. They are equitable in the basic human and spiritual structure but not necessarily in every aspect of their lives and their nature. The solution is there which is equitable rather than it being a superficial and mathematically equal.

These solutions are more than what are found in Western Laws.

7.35 Social System of Islam- Polygamy in Islamic Law V (Historical Perspectives)

Summary of 7.34 "Polygamy in Islamic Law IV (Historical Perspectives)"

Summary:

We continued our discussion last time of some of the contingent situations which may make polygyny a better solution: for cases such as barrenness, illness and so on. We also talked about some of the guaranties and protection provided for women in the case of polygyny whether she is a second wife (so that she is not forced into that situation) or a first wife. We indicated a variety of things that could protect her (the wife that is in situation where her husband is remarrying) such as ismah or delegated repudiation where she has the right to a unilateral divorce should her husband take a second wife if it is specified in the contract. She could include strict monogamy as a condition for the continuation of her marital relationship or she could go to the judge if she is hurt and feels that her rights and vested interest has been affected by her husband taking a second wife. If the judge doesn't agree we said she can apply the concept of khul' and make an agreement to return some of the gifts gave to her and she would be relieved from the marital relationship.

Finally, we dealt with the question why Islam does not allow polyandry (marriage of one woman to multiple men) and we discussed this issue from the biological, social, instinctive and psychological aspects.

7.35 Polygamy in Islamic Law V (Historical Perspectives)

Host: What are some disadvantages to polygamy?

Jamal Badawi:

Of course the most obvious disadvantage is the question of jealousy. No matter what type of woman with the degree of faith to God, no woman wishes that any other woman shares her husband (shares his love, affection or resources). This is a nature human inclination. There are disadvantages for men as it is quite a job to keep two wives (not only financially) but it is tough as far as the Islamic requirement of absolute justice (whatever is humanly possible) between all the wives. Obviously as a result difficulties, particularly the issue of jealousy, would be a constant problem for the man. There are constant quarrels that are likely to arise between the wives which could make his life very difficult. Even if there is harmony between the wives they could conspire against him. They could harmonious with each-other but conspire together against him to get whatever they can or want from him. This kind of struggle could also be passed on to the children. If the man has children from more than one wife, there is difficulty in vying for power and the favor of their father.

In addition to this Islamic Law shows that polygamy should be used not abused. It should be used as a last resort for certain problems and not as a rule just like any other

thing that is permissible. There is always a chance of abuse of these concessions. The problem boils down to weighing the relative harms and benefits from resorting to this measure. Whenever the benefits are greater then polygamy might be a more wholesome solution.

Host: Can you elaborate on weighing the harm verses the benefits of polygamy?

Jamal Badawi:

In societies where polygamy has been totally outlawed we find that the problems that can be connected to the prohibition of polygamy are relatively greater than any problems that may result from allowing polygamy. In extenuating circumstances, as we have discussed in previous programs, we find that the people who are effected whether they are men or women face very difficult and limited choices if polygamy is not permitted. They may be subject to suffering for the rest of their life from the deprivation from the warmth of marital life, the satisfaction of their instinctive needs in a moral and wholesome matter and the satisfaction of their need to have children and a family. This may lead some women who do not have a chance to get married otherwise to look for jobs in order to support themselves and in some cases in order to support themselves and their children (if they are widowed or divorced with children) who can not find a husband that would be married to them alone. No matter how much a woman makes from a job in salary or status it definitely does not compensate for the basic yet strong instinct to experience motherhood and raise a family. We find that closing a door to a wholesome and moral solution (such as polygamy if need be) to some of these problems opens the door to moral corruption in society which ultimately leads to the destruction and disintegration of the family. It may also lead to more cases of divorce. Sometimes a problem like we discussed before can be solved by getting a second wife; if the door is closed the only other alternative would be to get a divorce which is another problem. This starts another vicious cycle with the consequences of divorce in the way the effect the woman, man and the children.

When we look at the problem with an objective eye and while putting emotions aside: we find that the various alternatives that are available in view of the moral values, prohibit adultery, illicit sexual relations and which considers sexual relations without commitment to be repulsive, to be less repulsive. It is very strange that some people would consider illicit sexual relations to be ok but pure and wholesome marital relationships, even within the context of polygamy, as repulsive.

Would it be better for a person to have a second wife (in the case that it is a necessary step to solve certain problems) who is married publicly, with all her rights and her children's' rights intact and has the right to her husband's inheritance after his death or to for a person to take part in hypocritical monogamy, but in the same time having

mistresses and other illicit relationships where there is no protection, no moral laws and there is no commitment? On top of that there is also psychological torment that the person goes through when knowing that he is committing infidelity towards his wife and that he is hiding certain things. In this case eventually the first wife will have doubt and then shock when she actually finds out about it.

Even in this case we should remember what was mentioned in the very early portions of this program that polygamy as viewed by Islam is not the general rule but rather something to deal with exceptional problems which is both practical and moral.

Host: Can you explain to what extent polygamy is common in the Muslim world today?

Jamal Badawi:

Unlike what some people feel as was indicated earlier in these programs some people seem to unfairly and incorrectly associate polygamy with Islam. We have seen lots of evidence against that. Also, people tend to think that in Muslim countries, because Islam permits polygamy that it is rampant. Many times my non-Muslim friends ask when we talk about marriage, "how many wives do you have?" I reply that I have only one wife and that I have at no time felt any need for considering any different options even though Islam permits it. It is just a false stereo type and an over generalization.

Various scholars give different figures of polygamous marriages in the Muslim world, depending on the country where the surveys are taken. In non of them (contemporary figures) were there any figures which was more than a fraction of one percent. Even then we find it to be more common in certain social situations and circumstances like among peasants for example where children are very important part of the family and the economic situation. There is no evidence also that there is an increasing or alarming increment in the number of people who are practicing polygamy even in Muslim countries where this is permitted. There are no major problem, as such, that is alarming.

Host: What is your view of those people who call for the Prohibition or abolition of polygamy in Muslim countries?

Jamal Badawi:

There are some among Muslim scholars and people who have taken that position. Quite frankly I consider it to be a very superficial and apologetic position. Apologetic because they are simply reacting to all of the unfair accusations

made against Islam and Muslims and the stereo types that are quite common in references about Islam by non-Muslims in the West.

One should not react in that way but in fact if we look at it objectively it is not a very useful thing to prohibit polygamy. There are at least three basic reasons for that. One, is a basic methodical question, is that from a Muslim stand point no human authority should supersede divine authority. If Allah, God, gave this concession for polygamy both to the Old Testament Prophets and as we have seen in the Quran then it was definitely for a good reason and from wisdom as He knew that some situations can best be solved through polygamy rather than through divorce or adultery. Then who are we as humans to simply respond to attacks and be apologetic, who are we to put our human wisdom above that of our creator?

The second reason why this is not a very good solution is that we have indicated before that the present state of polygamy in the Muslim world is so minute (1%) we are not talking about an alarming problem or major danger that calls for absolute and outright prohibition. A third reason, is that the outright prohibition of polygamy is a negative approach which simply bans polygamy without providing alternatives to the problems we discussed over the last few programs. It simply bans it because people feel it is repulsive but it does not give a wholesome and practical solution to the problem.

There is one case that I am familiar with in one Muslim country where the legal system was modified to prohibit polygamy but it is ruled by a ruler who is quite Westernized and not very committed to Islam and the implementation of the Law of Islam so he just follows whatever comes from the West be it right or wrong. This resulted in some funny situations. For example if one goes to the judge and acknowledges that the second woman that he has contact with is his legitimate wife and that he is responsible for her legally and responsible for them they will be punished and sent to jail. If he goes before the judge and says no that woman is not his wife she is their mistress they let him go free. From a Muslim standpoint this is sheer hypocrisy. If one claims that it was an adulterous or illicit relationship one goes free but if one claims to be responsible and that it is a commitment one goes to jail. This indicates the superficiality of this kind of prohibition. I don't think there is a better alternative in cases like this at all. In other words to have an outright prohibition creates problems rather than solving them.

Host: What kind of restrictions are there that can be put on polygamy in order to restrict some of the problems associated with it?

Jamal Badawi:

Islamic Law provides for stopping abuse. This is not done by outright prohibition but by taking other measures. However if restriction rather than prohibition is the course of action that is taken it should also be done within the limits of Islamic Law. It has been indicated before that there are two major conditions for the use of this concession of polygamy. One is the financial ability to look after more than one wife and household. Second, is the observance of justice and equality between the wives. We have indicated again that these are very difficult conditions to meet. If there is any legislation that insures that these conditions are met it is not against Islamic Law at all. The main thing that one has to be careful with is that these conditions or restrictions should not be such that they make it impossible to practice polygamy (which then would push people to break the moral code in Islam). There have been claims in the 19th and early 20th century where we find that there were Muslim jurists who called on some measures to prevent abuse of polygamy. Among those the famous jurists Shaikh Muhammad Abdo, who as reported by his student Muhammad Rasheed Ridah in *Almanar* a commentary on the Quran he quotes his teacher, felt that at his time there were so many abuses of polygamy and he hinted that it is not against Islamic Law that certain laws be passed to prevent those abuses. There have been several attempts after Shaikh Muhammad Abdo to make several attempts to change the laws but unfortunately most of them amounted to a veto right that required permission from the judge before the second marriage could legally be upheld. This again places too much power in the hands of the judge in matters that are very intimate and close to the private life of individuals involved. A better proposal was made by another famous jurist known as Shaikh Muhammad Abu Zahra in his book *Lectures in Marriage and Desolation of Marriage* (translation of the Arabic title) he said that we have to make a distinction between religious conditions and legal conditions. There are some religious conditions which are based on the ethical convictions of the individual and his religiosity. Not all of these conditions should be turned into a legal condition which requires a judge to sign and approve of. He said that the question on the sensitivity of marriage itself should not make the permission of a judge as an absolute precondition for the validity of the second marriage. The same idea seemed to have been implemented in Syria in the Personal Law passed in 1953 which said that the judge may refuse to give permission to have a second marriage but if the person gets married without the approval of the judge the contract is legal and acceptable, but the person might be fined for not registering marriage in the proper way. This method does not prevent marriage because the judge thinks that one should not. These are some the measures that could be taken legitimately without using outright prohibition as a solution.

Host: Do you think that in non-Muslim societies permission permitting polygamy may be relevant and useful?

Jamal Badawi:

Even your question might be shocking to some that have been brought up to believe that polygamy is such a terrible thing and that it exceeds in its repulsiveness any other thing whether it is adultery or other social ills or problems. If we look at it more honestly we can say that yes it could contribute a great deal in resolving some of the problems in non-Muslim or Western societies. Human nature is basically the same, regardless of their ancestors and backgrounds certain things that are quite universal. Some of the problems that we discussed last time like the incidence of prolonged disease of a wife and a youthful husband, various problems pertaining to bareness are quite universal and are not restricted to one society or another. In addition the common social problems pertaining to male/female relationships is something that may vary in its format but not in its fundamentals from one society to another. So, whether we are talking about the East, West, South or North it doesn't really matter because these are basic social problems which arise inevitably in any society and polygamy could be a solution to those problems. The other thing is that one should keep in mind that the West like any other place is not problem free. If your question is whether polygamy could offer some help if it is legalized in North America (for example) my answer would definitely be yes because if we look at the social malaise of our time with problems regarding sexual morality, problems with the disintegration of the family, the problems of juvenile delinquency and the divorce ratio (which is sometimes 40% many folds what is found in Muslim societies where polygamy is legalized). If one looks at all of these social malaises (I am not saying polygamy alone would solve these problems) but for sure in some of these cases if polygamy was legalized it could provide a more wholesome and practical solution that would avoid the break up of certain marriages. Again this could decrease sexual immorality which can be quite rampant when all other doors are closed.

Host: Some Westerners have called for the legalization of polygamy rather than condemning it. Could you give us an example of this view?

Jamal Badawi:

Annie Besant says that "There is pretended monogamy in the West, but there is really polygamy without responsibility." She goes on explaining that this is just a pretense rather than it being real monogamy that exists in the West. Ram Landau says that "Polygamy must be considered both natural and legitimate." He also indicates that "In most cases I have found that polygamous behavior or polygamous longing went hand in hand with the essentiality of monogamous nature." Professor Von Urnfeld says "Polygamic marriage order has become necessary order and it will succeed monogamous system." He goes as far as saying that it will succeed monogamous system because he says that it is morally superior. Professor Havelock Elise says "In no part of the world is polygamy so prevalent as in Christendom, in no part of the world is it so easy for man to escape the obligation incurred in polygamy."

I would like to conclude by saying that this is only a sample of many objective Western scholars who thought that perhaps in polygamy there is a more wholesome and practical solutions to many problems. I am not quoting these to say that divine

commands need any human rationalization but it simply shows that people aside from their religious convictions can see a solution. Lets remember what was repeated throughout the sections of this segment of the program that after-all Islam views polygamy, not as the basic or general rule, but as something to meet a contingent solution to a difficult problem in a more wholesome and practical way.

7.36 Social System of Islam- Marital Relations I (Wife's Rights)

7.36 Marital Relations I (Wife's Rights)

Host: What are the main rights and obligations resulting from marriage?

Jamal Badawi:

As a result of the marriage contract a number of things follow. One is the eligibility of the wife to receive the marriage gift (which we discussed in several programs). Another thing that was covered before that comes as a result of the marriage contract are the rules against incest (for example the husband would not be eligible to marry his mother in law once he consummates his marriage with the daughter). A third, any additional condition that was mutually agreed to between both parties which is included in the marriage contract becomes effective and binding on both parties. In addition to this there are other consequences such as mutual inheritance between husband and wife (this is a topic we have not addressed yet).

On top of that there are additional duties and responsibilities between husband and wife. This includes the eligibility of the wife for maintenance and the legitimacy of the children born to the couple are some of the various which might follow from from the marriage contract. According to Islam and Islamic Law the identity of the woman does not change with marriage. She is not required to change her religion (if she is Jewish or Christian), she is not required to change the school of law that she follows, she doesn't have to change her name and her legal personality remains in tact. She has the right to contract as any other person would be and financially she is entitled to her property. Second, the kinds of rights and responsibilities that are mutual between husband and wife (as a result of the marriage contract) are not just matters of the legalistic aspect but are based on religious and ethical grounds.

Host: What is the ethical foundation of marriage in Islam?

Jamal Badawi:

The essential point to remember by both husband and wife in Islam is their servitude to God as was covered in a previous series. As was covered in a previous series on Moral Teachings of Islam the human being is created on earth to serve God. This is one of the most important and challenging functions for humans here on earth. In order to serve God as his trustee on earth one requires both males and females to cooperate with each other in fulfilling this responsibility. For example in the Quran (9:71) it talks about the believing men and women being helpers and supporters of each other in obedience to God. If this general rule applies to any male female relationship it is definitely more so in the case of a marital relationship. The husband and wife relationship is above all a spiritual fellowship. It is something to help each other fulfill their spiritual responsibility on earth. In the Quran in (4:20) it describes marital relationship as something solemn and very profound, it is not just a light relationship, a contract or people agreeing to live with each other. It is called methaqan galithan which is a very solemn covenant.

One of the foundation of the ethical view of Islam with respect to marriage is that is a blessing and a divine gift from God, it is not as some used to (or still) believe as being an inevitable evil that has to be done. It is actually a blessing that is not only permissible but is desirable and commendable. The Quran also describes the relationship as that of mutual love, compassion and cooperation. In (30:21) it says “And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (hearts): verily in that are Signs for those who reflect.” It is presented as a blessing from God. Similarly, in (7:189) it says “It is He Who created you from a single person, and made his mate of like nature, in order that he might dwell with her (in love).” Similarly in (16:72) “And Allah has made for you mates (and companions) of your own nature, and made for you, out of them, sons and daughters and grandchildren, and provided for you sustenance of the best: will they then believe in vain things, and be ungrateful for Allah's favors?” Again this is mentioned in the context of having children and that among the gifts of God is that He created mates and from that He gave children and grandchildren which is a bounty or blessing from God.

Perhaps one of the most impressive verses in the Quran dealing with the nature of the marital relationship is in (2:187) “They are your garments and ye are their garments.” This is an interesting concept (even if taken in the literal meaning). What are the basic functions of a garment? First of all it provides warmth, is the closest thing to you, it protects you from the weather, it provides you with a sense of security, it beautifies you, it covers or conceals parts of the body that should be covered. When the Quran states that a wife is like a garment to her husband and a husband is like a garment to his wife is a very tender expression. All the points that were mentioned about the function of a garment applies as well in the marital relationship. One, the garment beautifies so does marriage. It beautifies and completes the person. We mentioned that marriage is like fulfilling half of one's faith. As the garment provides warmth so does marriage. As the garment is the closest thing to the body so should husband and wife. As the garment protects you from the weather so does marriage

from evil desires or illicit sexual acts. Husbands and wives conceal each others mistakes just like a garment conceals one's body. They are the closest to each other. This is a very tender and deep concept that the Quran deals with in terms of this mutual support of each other.

We also find the various sayings of the Prophet (PBUH) which emphasizes the same meaning in Muslim he says "There is some joy in life: the best joy is a good a pious wife." As narrated in Tirmithi and Ibn Maja some companions asked the Prophet (PBUH) "What is the best kind of wealth?" He replied "The best wealth is a tongue which is wet with the remembrance of God, a heart which is thankful and grateful to God and a pious believing wife who helps him with is piety and belief.

Host: What are the rights of a wife in marriage?

Jamal Badawi:

Jurists usually divide the rights of the wife into two categories. One is the financial rights (maintenance and similar acts). Two, are the non financial rights (treatment and the way she dwells with her spouse).

Host: How are the right to maintenance defined and what is the basis for these rights?

Jamal Badawi:

First of all, the financial rights (maintenance) means that no matter how rich one's wife may be according to Islamic Law the husband is fully responsible to provide for all her needs. In the Quran it talks in chapter 2 that the father of the child is responsible for providing food, housing and every need for his wife and child. In a saying of Prophet Muhammad (PBUH) narrated in Muslim he says that "Your wives have rights over you which include their food and their clothing (as an example of the kind of things that should be supplied for them). In another saying narrated by Abu Dawood and Al Nassai Prophet Muhammad (PBUH) said that it is a sufficient sin is for one to neglect the rights of those whom he supports. This shows that it is a moral responsibility for one to look after his family which includes the wife and children.

Beside these foundations in the Quran and Sunnah the nature of marriage in Islam in terms of mutual duties and obligations makes the responsibility of the household on

the man's should not charity but is part of his duty which is counteracted by her cooperation and her fulfillment of other duties which don't require her to contribute any financial support. Of course she may contribute financially if she does so from her own free will, but legally she is not required to spend a penny.

Host: Can you be a little more specific regarding the items which are included under maintenance?

Jamal Badawi:

The most important aspect is residence. The husband is required to provide lodging for his wife which is consistent with his financial ability. For example in the Quran in (65:6) "Let the women live (in 'iddat) in the same style as ye live, according to your means." The least qualification of housing which is accepted in Islamic Law would be one that insures the wife's comfort, privacy and independence. According to the majority of Muslim jurists they say that a man should not provide housing for his relatives in the same household as his wife without her consent; with the exception of her step children (his children by another woman). By the same token, she may not force her husband to accept her relatives to live with them without his consent. Even in the case of jurists who say that her consent is required also has the condition that they do not hurt the wife.

A second basic item that the husband should provide food without extravagance or miserliness. Again there is no particular specification as to how much or what type, it depends on his means and also what is accepted from a customary standard.

The third basic item is clothing. It is interesting how the books in Islamic Jurisprudence go into detail in order to make sure that justice is being done to wives. For example they say that if a person is poor they should provide clothing made of cotton and if he is rich (and it is customary for a rich person to provide silk garments) then he would be required to provide her with silk garments. It is interesting to notice that beyond these basic needs many jurists say that if the wife happens to come from a well to do family and is used to having maids to help with the housework, or if she is sick (and requires help) then it is a legal responsibility of the husband, according to Islamic Law, to provide her with a maid (if he is able). In general, all her reasonable needs of lodging, food, clothing and help is taken care of.

Host: What about healthcare and medication?

Jamal Badawi:

There is no evidence in the Quran or in the saying of the Prophet which excludes medication or treatment. This is only consistent with the purpose of marriage in Islam. We find in the Quran and the Prophetic tradition that is companionship, mutual concern and kindness. Of course mutual concern and kindness would not be there if medication is excluded from these responsibilities.

It is the opinion of an overwhelming majority of jurists with the exception of some minority opinions (which do not have solid facts from the main sources of Islam) to include these responsibilities.

Host: What happens in the situation where the economy is bad and the husband loses his job or for some reason he is unable to support his wife at the level she is accustomed to? What are her options?

Jamal Badawi:

According to the great majority of Muslim jurists the wife is given the choice between enduring with the husband until his financial status improves or to seek separation from him. This separation could take different forms: she could seek divorce, annulment of the contract or she could seek separation without actual divorce.

An additional interesting remark made by the Hanafi jurists that if the husband becomes poor the wife could be sponsored or supported by the closest male relative who otherwise would be responsible for her maintenance if she were not married. In Islam a wife is assured financial security. If she was not married her father, brother or son would take care of her. They also added that a woman could be given the choice to borrow money (reasonable amount of money to support her basic needs) until her husband's situation improves. Whatever she borrows becomes a debt which her husband is responsible to pay as soon as his financial situation improves.

There is one exception however, by the Thahiri jurists like Ibn Hazm who claim that if the husband becomes poor on a temporary basis and his wife happens to be rich then she would be required support herself and her husband. Even when his situation improves he is not required to pay her back. They say that if the wife is rich and can support herself and the husband and weather this difficulty it is definitely better for her to suffer financially (sacrifice some of her wealth). They say this harm (it is considered her to her when she sacrifices some of her wealth) is better than the harm of separation, divorce and the difficulty that she and her children might face in the future. It is a basic rule in Islamic Law that if there are two harms it is better to take

the lesser harm and prevent the greater harm. They consider divorce to be greater harm.

It also depends on the situation and if it is temporary or if the husband simply refuses to fulfill his duties. Ibn Al Qiam says that if the husband falsifies information about his financial state at the time of marriage or refuses to provide for his wife then there is no question that she could seek divorce. If it is temporary situation perhaps there is room for interpretation depending on the situation.

Host: What if the husband is not poor but marginal with his property, can the wife take what she needs? Even without his knowledge?

Jamal Badawi:

There was a similar situation that was raised during the lifetime of Prophet Muhammad (PBUH) in the case of Hind the wife of Abu Sufian. She came to the Prophet as narrated in both Bukhari and Muslim and said "Oh messenger of God my husband, Abu Sufian, is a miserly person and he does not give me enough for myself and my children, except whatever I take from his property and spend without his knowledge." The Prophet's answer was "Take whatever is sufficient for you and your children; but in a fair and customary way." That is that she should not just stanch anything that she could but that even without his knowledge one can spend as much as is customarily regarded as fair and equitable. This is based on an interesting rule in Islamic Law that first, a person who has a right is entitled to take his right with his own hand if he can. Second, even if the person who is taking away one's rights does not know that you are taking your right you can take it. It should be added that in the case that this dispute about the miserliness of the husband is not resolved amicably between the couple in Islamic Law she is entitled to go to court and they could impose on him a certain amount which he pays to his wife. There is a great deal of security and protection there.

Host: Are there situations which make the wife ineligible for maintenance by her husband?

Jamal Badawi:

The only disqualification (by a consensus of Muslim jurists) is the case when the wife is a refractory wife or an obstinate wife. Obstinate in the sense that she is rebelling, does not yield to reason or plea to fairness in treatment to her husband. Not all ways of defiance are included; if she is defiant and still in the household he is still

responsible for her, but if she is so unreasonable, obstinate that without any agreement between her and her husband that she moves then he is not responsible for her. If he provides her with reasonable housing and she moves to another place he can tell her to pay the bills, because she moved without his permission. Also, a woman can not travel without her husband's consent and expect him to support her. Short of these reasons the woman is fully entitled to maintenance regardless of age, health, illness and regardless of her wealth. Some Muslim jurists add that even if the woman is divorced that for the waiting period before it is effective she is still entitled to full maintenance in the household of her husband. These issues will pop up when we deal with dissolution of marriage and the various rules associated with divorce. In any case there is full protection and security for the wife in return for her great contribution as a wife and mother.

7.37 Social System of Islam- Marital Relations II (Wife's Rights)

Summary of 3.36 Marital Relations I (Wife's Rights)

We started by talking about the various consequences of the marriage contract. We focused more on the mutual rights and obligation between husband and wife. We indicated that these rights and obligations are founded on ethical and religious ground for marriage in Islam. We explained the question of servitude to God and fulfilling our trusteeship on earth and the description of marriage in Islam as a sort of comfort, dwelling and mutual concern. The specific rights of the woman can be divided into financial rights (maintenance) and non-financial rights. We discussed the question of maintenance and what it entails. We discussed every reasonable need for the wife in terms of food, clothing, lodging and medication. We also covered the special case and what happens if the husband becomes poor and is unable to support his wife or when he is miserly. We mainly covered the financial segment of the wife's rights.

7.37 Marital Relations II (Wife's Rights)

Host: Could you give us an idea of what the non-financial rights of the wife include?

Jamal Badawi:

This is perhaps the more important part of the wife's rights in Islam. It is not enough to provide sufficient food and clothing for the wife and deal with her as an asset at home. In fact one can put his wife in a palace and provide her with the most magnificent food and clothing but she could still be the most miserable person. Why? Because of the lack of feeling.

Marriage is not just a partnership in food and drink, it is a partnership in feelings, affection, relationship, talking, sharing the sorrows and happiness. The Quran does emphasize this and in fact in the previous program when we talked about the ethical foundation of marriage we referred to the various terms used in the Quran used to show this intimacy and closeness, consideration and mutual kindness that should be found between husband and wife. If we want to put it in a nutshell we are talking about the kind and considerate treatment of the wife. The Quran refers to this in (4:5) "Speak to them words of kindness and justice."

In the sayings of Prophet Muhammad (PBUH) we find a great deal of emphasis on this part of the relationship between husband and wife. In Al Tirmithi was narrated that he said "The most perfect believers are those whom are the best in conduct, and the best of you are the best to their wives." So he put goodness to one's wife as one of the major criteria of determining whether the person is really good or not. In a similar saying in Bukhari and Muslim he said "I commend you to be kind and considerate to women." In another saying he says it is only the generous in character who is good and considerate to women and it is only the wicked in character who insults them. We also find that in his behavior he was the model in how a husband should treat his wife. Not just to be kind but to simply enjoy life without too many formalities and barriers. People are surprised when they hear about a great personality like Prophet Muhammad who raced with his wife Aisha. They ran and each tried to beat the other. Also busy as he may have been and as particular as he was on the question of statues or three dimensional objects which had human or animal figure; when he found that his wife Aisha (when she was really young) was playing with dolls he did not object to it (exempted and not condemned in Islamic Law). Even when some of her friends came to play with her he would smile and laugh with them. He did not take the approach that some people think is best, where the husband is always strict and never smiles or laughs. This simple interaction between husband and wife was a practice of the Prophet and was recommended by him to his followers.

Good treatment is a necessity and to avoid causing hurt or harm to one's wife. The Prophet (PBUH) was asked as narrated by Abu Dawood and Ibn Hibban "What is the right of one's wife on him?" He replied "You feed her whenever you eat, you cloth her whenever you cloth yourself (buy clothing), never slap her on the face (regarded as an insult), never swear at her and never desert her except in the house (even if she is rebellious one should not leave the house and go out)." We have seen in the previous program verses from the Quran which emphasize the nature of consideration and mutual compassion. A wife who gets more attention and less of the materialistic things is the happier wife.

Host: Would these rights apply if the relationship between the husband and wife is not a good one?

Jamal Badawi:

Of course it sounds somewhat idealistic and we realize our human shortcomings and weaknesses but at least it points the way and perhaps one can strive as much as is possible to try and fulfill this. Even if the relationship is not an idealistic one these rights still apply. First of all, one of the basic ethical teachings of the Quran is that one should be just and equitable regardless of his or her personal feelings with other Muslims or with non-Muslims. In the Quran in (5:9) it says "O ye who believe! stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice." Many interpret this to be related to the relationship of Muslims and non-Muslims, so then this means that between husband and wife justice should be found no matter what personal there may be. A husband is not free from faults and shortcomings so why can he be overly critical and see his wife's short comings in a magnified clear way and not look at his own shortcomings. If the person notices that his wife is doing something that he does not like (which is not casual but a type of bad habit) the Prophet provides a nice answer to this. As narrated in Muslim he says "Let no believing man (husband) dislike or hate a believing woman (wife). If he dislikes some aspects of her conduct or behavior he should be able to find something else, that is good, that he can admire." This is a nice reference that the idea of perfection in every respect does not exist and what the Prophet teaches is that one should not be overly idealistic in his expectations of what he wants his wife to be or what she wants her husband to be. They should way the short comings with the disadvantages and they should be fair in this kind of assessment.

The Quran answers this question in (4:19) "live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing, and Allah brings about through it a great deal of good." This means that a great of blessing and goodness might come to one through their wife whom they at one time or another disliked. Some jurists say she could be a very faithful wife or if he happens to fall sick she will prove to be very considerate. One should not expect the impossible. The Hadith or saying of the Prophet when he says that a woman is like a curved rib and he begins and ends by saying be kind and considerate to women. Women and men have special inclinations like a rib so we don't try to force the rib or it will break so we try to give allowance to the natural emotional inclination of both men and women. Of course in the case of women it is quite important. the other thing to remember is that not all marital life is romance, like one reads about or sees in movies. Even if there is a fair degree of love and affection there are definitely situations where they need more than just romance to establish a household. Omar, the second Caliph after the Prophet, once mentioned that when a man came to complain about his wife and was planning to divorce her because he felt that she did not love him. Omar said that very few homes are built on this romanic love and that there are other things such as the relationship, mutual concern besides the romance. I am not saying that romance is bad or unneeded but that one should be realistic in his expectation or else he or she would be perusing an illusionary objective that can never be reached.

Host: What is Islam's position on jealousy?

Jamal Badawi:

It depends on what jealousy is referring to. If what is meant by jealousy is that the person does not want any body to flirt or touch his wife it is not only permissible but is required as part of good treatment of the wife which protects her and one's self from any acts which may lead to indecency. This does not mean that over possessiveness is ok as some people may interpret it. We find that Prophet Muhammad (PBUH) as narrated in Al Tabarani and in similar sayings are found in Al Nassai and Al Hakim he said that there are three types of people who would not get into Paradise. One category is aldayooth. When he was asked what aldayooth was he said a man who does not care who sees his family or goes to his wife. This is regarded as being very bad not to have this sense of jealousy to one's spouse. This is not a matter of over possessiveness or always assuming bad intention or evil motives on the part of the wife or others. In one saying of the Prophet as narrated in Abu Dawood and Al Nassai he mentioned that there are two types of jealousy: one that God likes and one that God dislikes. The kind of jealousy that God likes is this kind of decency and not wanting people to flirt with one's wife, or vice versa. The other type of jealousy which the kind that God does not like is doonna reyba which is without good reason and to always have bad intention. In fact, one of the teachings of the Prophet is that if one is coming back from travel he should not suddenly bust into his house at night as if he is trying to see whether she is on good behavior. It was actually recommended that he sends warning that he would arrive ahead of time which would give her a chance to get ready. It depends on what jealousy means.

Host: Are there any other rights of a Muslim wife?

Jamal Badawi:

There was one area that I was rather hesitant to include, especially with the nature of this program. After some thought I did prepare some information on this. After all in the matter of intimate husband and wife relations it is quite customary for people to vulgarize this in the media etc and to talk about it in its proper context would not be bad. Basically it is the right of the wife to be fulfilled and satisfied in the area of her instinctive needs. In fact many Muslim jurists include this as a right for the woman and a duty on the husband.

We will cover a few examples from the early days of Islam which show that these things were not taboo and in order to reflect the understanding of the contemporaries

of Prophet Muhammad (PBUH) about the wholesome and natural way of looking at this relationship. In one story Omar, the Caliph, was walking around (he used to walk around at night in order to see if anyone was in need or trouble) and he passed by a house and heard a woman reading poems. Basically the poem said that the night had become too dark and too lonely, difficult and long and that there was no one to talk and no companionship. He asked about her case and he was told that her husband was in a military campaign and was away for a few months and she missed him badly. He immediately went to his daughter and asked her a question she was rather shy to answer. He asked how long can a wife be away from her husband in terms of intimate relations. She was a little shy and said that maybe 4 to 5 months. As soon as he found this out he immediately decreed that even people sent on military campaigns could only go for 4 months. That would allow one month for traveling, 4 month participation and one month to come back, so that they can see and spend some time with their wife. This shows the very natural way of looking at this kind of relationship.

Another story which is even more interesting: A person came to the Caliph, Omar, who was a woman. She came and said "Oh commander of the believers, my husband fasts during the day and spends the nights in prayers. I hate to complain about him because he is obedient to God." Omar did not understand her question and said "Oh what a wonderful husband you have." The woman repeated again "Omar he fasts and prays and obeys God, I hate to complain." And again he responded "Oh what a wonderful husband you have!" Then there was another person sitting there by the name of Ka'ab Al Asadi who looked at Omar and said "Oh Commander of believers this woman is really complaining about her husband keeping apart from her in terms of intimate relationship." Omar said "Since you understood her message why don't you judge between her and her husband." He agreed. He called to her husband and told him that his wife was complaining against him. The husband said "Is she complaining that I am not providing her with food or drink or anything like that?" And the judge said no. Then the wife intervened and made a subtle poem to the effect that her husband's love of God and his acts of worship keep him away from her. The husband understood her message and made another beautiful poem to the effect that his love of God kept him busy with so many spiritual acts. Then the judge responded with a third poem trying to hint that he should be pious but that he should also give his wife her due right. Then he made a judgement and said you can spend three nights doing acts of worship but the fourth night you give to your wife. Omar was sitting there and admired the understanding and wisdom of Ka'ab and he said "I don't know what to wonder about: your intelligence and astute understanding of her complaint or should I wonder more about the astute and wise way that you judged in order to settle their dispute. Go, I will appoint you a judge in Basra (now Iraq).

Host: What do these examples signify about Islam's view regarding this aspect of marital relationships?

Jamal Badawi:

First, it shows that there is no hang up in Islam concerning sex or marital relations so long as it is satisfied within the normal marital relationship. As indicated in the previous program marriage is regarded as a blessing from God which is both spiritual, psychologically comforting and physical satisfaction of one's needs and instinct. There is a saying of the Prophet that we mentioned in the series on Moral Teachings in Islam which was narrated by Muslim where the Prophet said "If one of you goes to his wife (to have intimate relations) he gets divine reward from God." The companions wondered why a person who enjoys himself gets reward and he answered "That if the person does not get that enjoyment in the permissible wholesome marriage wouldn't he get it through unlawful ways?" They said yes. So he asked "If he does so would he be punished for it?" They said yes. He replied "If he does it in the wholesome manner he gets reward for it." In one version of this saying he also says "Why do you count the punishment for a sin but not the reward for the right thing?" The Prophet was so sensitive in his teaching of how a Muslim should be considerate towards the needs of his wife and that he has patients even in the most intimate of relationships so that she may also attain her satisfaction. There are specific guidances which are found in the sayings of the Prophet as well as in other books about Islamic jurisprudence about how to make this relationship a successful and satisfying one for both. There are several sayings of the prophet concerning prayers at the beginning as narrated in both Bukhari and Muslim "Oh God protect us from Satan and keep Satan away from whatever you bestow on us." And the Prophet (PBUH) said that if a child is born as a result of this relationship Satan would not be able to mislead. In another saying of the Prophet (PBUH) he indicated that a person should not go to his wife like an animal but rather to have a messenger between him and his wife. The companions asked what kind of messenger? He responded "The kiss and talk." 1400 years ago it was regarded as something strange that religious teachings talked about proper stimulation and making sure that there was mutual satisfaction of both parties. In fact on other occasions we find that the Quran itself hints to this in (2:223) "Your wives are as a tilth unto you; so approach your tilth when or how ye will; but do some good act for your souls beforehand; and fear Allah." One should not be inconsiderate for the need of sufficient preparation. Some may find it strange that religious teachings and a Holy Book would hint to this. All of this stems from Islamic philosophy to life and that it is a natural instinctive thing and that it is not an evil in itself and the way of satisfaction which may be good or evil.

7.38 Social System of Islam- Marital Relations III (Related Issues)

Summary of 7.37 "Marital Relations II (Wife's Rights)"

Last time we talked about the non financial rights of the wife and we indicated that according to the Quran one has to dwell with his wife in equity and kindness. The Prophet considered that one of the criteria of faith and goodness from a spiritual sense also is for a man to be good to his wife. This includes not hurting her, and being considerate, cheerful and providing reasonable recreation for her.

The other aspect that we covered was jealousy and the acceptable and extremes of it. We also talked about the case where there are hard feelings towards one's wife. Even if affection and the romance are missing it should not cause mistreatment or injustice to one's wife. The Quran in chapter 4 indicates that one may hate something but God can place lots of good in the thing that one hates. Also, we referred to the teachings of the Prophet that one may dislike certain aspects of their wife's behavior but that he should find something else in her to dwell on that satisfies him and to remember that the husband also has his own faults. Towards the end we discussed the Muslim wife's right to have her instinctive physical needs satisfied. We even indicated the variety of teachings in the Quran and the saying of Prophet Muhammad (PBUH) that this a duty on the person and should be performed with patience love, considerations and proper preliminaries so that it is not a mechanical act. We also said that within the Islamic and spiritual framework and responsible attitude there is no hang up in the mind of the Muslim concerning sex so long as it falls under the wholesome and proper framework.

7.38 Marital Relations III (Related Issues)

Host: What happens if the husband continues to deprive the wife from her matrimonial rights?

Jamal Badawi:

The majority of Muslim jurists require this as a duty. Some say that it is his right and do not mention the other side. I think the more accurate and common view is that it is her right as well. If someone doesn't fulfill their duty or obligation, as with all rights, then it has to be enforced somehow or other. The Arabs before Islam had a method called *eela'a* which meant an oath of abstention from one's wife. This was an attempt to hurt the wife if there was a problem or for disciplinary measures a person does not divorce his wife, she lives with him but he does not satisfy her basic matrimonial needs. This could go on for years. In the Quran in (2:226) a stop was put to this endless type of suspense and the verse says that those who have an oath of abstention from their wives have four months. Within these four months they either repent and go back on this unfair oath that they made or if the four months elapsed and he still abstains from his wife then divorce should follow. The majority of Muslim jurists say that after the elapse of the four months the wife can demand that he change his behavior and be fair to her or that he should divorce her. If he refuses to divorce her according to the Maliki School of Jurisprudence that if he refuses to divorce her a ruler or judge would have the right to force him to divorce her because this is a kind of harm to her. In Islamic Law they can force him to divorce her if she desires. Other jurists like Ahmad and Shafi' say that a person like this could be punished or imprisoned till he changes his behavior or divorces his wife. Whichever way it is looked at we see that there are serious consequences in Islamic Law for the husband

to deliberately neglect the needs of one's wife even in the most physical and most intimate types of relationship.

Host: What is the position of Islam on birth control?

Jamal Badawi:

First of all, I have some reservation with the term itself. It sometimes gives the impression that as humans we control who is to be born. In Muslim belief it is only God who controls birth and death, there may be means that humans may use to bring either about but the ultimate controller is God. We know many people who use many kinds of means and still if God wants them to have a baby they will have a baby. In general Islam encourages having children. The Prophet Muhammad (PBUH) indicated in more than one Hadith that people should get married and have children. It is encouraged to have children in quantity and quality. The other thing about birth control is that I have not seen any consensus among Muslim jurists that birth control should be adopted as a national policy; this is not appropriate approach. There are some scholars who dispute all the Malthusian and other similar alarmist approaches that there would only be a standing place for every person if the world continues to multiply as it is. There are lots of untapped resources and there are lots of injustice in the world which cause this problem. A great jurists Maulana Maududi wrote a whole book about birth control. As far as a national policy about birth control this is not an acceptable thing.

However, when it comes to birth control at an individual case by case situation we find that if there circumstances which may provide reasonable justification for birth control it is not regarded as unlawful in Islam. Indeed in the two most authentic sources of Prophetic Tradition after the Quran, Bukhari and Muslim, in a saying narrated by Jabir he said that in the days of the Prophet (PBUH) we used to use a particular method of birth control, withdrawal and the Quran was revealed. In another saying in Muslim it says that the Prophet knew of this method that they used to prevent pregnancy and he did not object to it. It is well know that whenever something was done which was unlawful or against Islam and the Prophet knew of it he always spoke against it and stopped people from doing it. The fact that he knew and did not object is an implicit consent.

As narrated in Al Nassa'i and Ibn Maja a person asked the Prophet about these things and he said "If Allah wanted to create a child he would not be able to do anything about it." Again he did not say don't do it but that one should always believe that God is the one who determines and decides on these issues. I would say these are the general consensus.

There are minorities who have opinions on this subject who feel that it should be regarded as unlawful. They say that avoiding pregnancy is an irresponsible attitude. But we can not generalize that in all cases it is an escape of responsibility, there might actually be good reason for it. Second they say that in one of the sayings of the Prophet that it is a hidden killing of infants. Hidden is a sort of reference to something that is not real. One is not killing a fetus but rather just preventing fertilization from the beginning. Just like the term hidden associating others with God is used to describe something much more minor than the major association of others with God. So this can not be taken literally in that sense. The maximum that one can go with this prophetic saying is that it is a discouragement rather than an absolute prohibition. So long as there is no abortion involved it can not be regarded as unlawful. Most importantly we can not stick to one saying make a rule with it alone, because there are other sayings of the Prophet's on the same subject. They should all be put together and interpreted in the context of each other and the general indication is that it is permissible. The only thing that I should add is that one should make sure that the birth control method used does not involve any early abortion. There are some methods like the loop or IUD, after checking with gynecologists, they said they were not quite certain as to how it works. I asked specifically whether it may possibly be a sort of early abortion of a fertilized egg because of the presence of a foreign body in the uterus and she said this is not certain but the possibility might be there. This is the thing that one has to watch for but if it is a matter of prevention of fertilization then I don't see much problem with it in view of the various Prophetic texts.

Host: You mentioned that there should be good reasons for birth control methods to be pursued, what are some examples of this?

Jamal Badawi:

Perhaps the first clear reason is the protection of the life of the mother. There may be medical reasons where if a woman gets pregnant it may effect her life or health. If this advise is given by a trusted doctor then it could be a good reason to avoid pregnancy. Some contemporary jurists feel that if there is strong indication that if a woman gets pregnant the child may be deformed (for one reason or another) then avoiding pregnancy might be advisable. Some Muslim jurists in the past added, based on a saying of the Prophet in Muslim, which made a hint that if a woman gets pregnant while she is still nursing a baby that this may hurt the health of the baby. This again could be a good reason. There should be some gap between them. In fact some jurists refer to the Quran which says that the suckling period of the baby could go as long as two years and they say it is better that they avoid pregnancy so that the child gets enough attention both physically and psychologically. Some even added that if a person is very poor (even though the Quran indicated that it is God who provides for all) and his resources are limited, or his or his wife's health might not allow them to take care of a large number of children and they are very fertile some jurists say that this is a justifiable

reason. There might be personal reasons which each person would have to ask his or her consciousness as to whether it is a justifiable reason. A wife might be interested in completing one particular program of study and finds that it might be difficult in the initial year or two to get pregnant and have a child while continuing her studies, could be a justifiable reason so long as it is not done out of convenience or for avoiding responsibility. Some jurists say that one has to take the permission of the wife because she is just as entitled to have a baby as the man is.

Host: What is Islam's position on abortion?

Jamal Badawi:

We covered this several months back in the Moral Teachings of Islam and the preservation of life and the sanctity of life. Abortion is unlawful except in the case of saving the life of the mother. Some contemporary scholars like Sheik Yusuf Al Qaradawi in his book *The Lawful and Unlawful in Islam* (in Arabic) he adds that if there is indication through tests that the baby is likely to be deformed he has taken the position that abortion in this early stage may be justifiable. But like I say that with reservation because this does not necessarily reflect the position of all Muslim jurists. I don't even know if the case of rape could be made analogous to that situation.

However, jurists refer to one of the sayings of Prophet Muhammad (PBUH) where he indicates that the child develops in the womb of the mother in different stages and that after the 120th day the "soul" is breathed into the baby. This doesn't mean the biological life because this is found on day one. We know that the early stages of the development of organs take place in the early pregnancy. What is meant is that the fetus after the fourth month really becomes more distinct as a human being, of course it is still a potential human before this. Some jurists take this and say that abortion prior to the 120 days if there is a necessity for it. It is not a commendable act unless there is a life threatening situation but otherwise it becomes a detestable act. It also becomes clearly unlawful after the fourth month of pregnancy. Al Khazali in his book *Ihya' a Ulum Al Deen* he indicated that any sort of abortion is wrong, even in the early stages. Once the fetus develops into a lump it becomes worst (to have an abortion) and if the soul is breathed into the fetus after the fourth month then it becomes even a greater sin. Of course the greatest sin is to kill a person after he or she is already born which is an absolutely sinful act with no question about it. When it comes to abortion one has to approach it very carefully and not just call for abortion on demand for whatever reason and make all kinds of silly reasons to destroy a human life or a potential human life.

Host: Can you clarify Islam's view on test tube babies or surrogate mothers?

Jamal Badawi:

It depends on the situation in question, because there are all kinds of situations. At least we can distinguish between a minimum of three basic cases. There are three basic cases: one is where the woman is fertile but there might be tubal blockage, which prevents fertilization. What they do sometimes is that they try to take the egg from the mother and the sperm from the father and they try to fertilize them outside the uterus and then they implant the fertilized egg inside the mother. The other case is artificial insemination involving the use of the sperm of another man other than the husband's, from the bank. This is usually done in the case where there is a problem with the man. So they take good sperms from another person and they fertilize the egg of the mother. This is a completely different situation in terms of the rules. Then there is the case of surrogate mothers. For example they take the egg from the mother and the sperm from the husband or someone else and they fertilize it then implant it in another woman.

Host: Lets start by assessing the first one you mentioned; how is that regarded?

Jamal Badawi:

The jurists tend to be more lenient in that particular situation because one has the egg from the natural mother and the sperm from the natural father. It is regarded as a treatment and is not done unnecessarily and it does not play around with the natural process. In this case the general tendency is that there is nothing wrong with it. It is a treatment of infertility provided that there is no other, better way. ;

Host: What about artificial insemination of another man's sperm?

Jamal Badawi:

The consensus of Muslim jurists on this topic say that it is unlawful, haram. There are a number of reasons for that: first it is the closest thing to adultery. To have a sperm of another man other than the husband to use to fertilize the egg resembles adultery. Two, it leads to confusion regarding the lineage of the child because it is the egg of the mother but the sperm of another man. How could the husband of the woman claim that this is his child if it comes from the sperm of another man.

Host: How does Islam view having a surrogate mother?

Jamal Badawi:

This is a more complex problem and in a recent book of jurisprudence by Sheik Yusuf Al Qaradawi Contemporary Verdicts he discusses this issue. He says there are a number reasons why we can consider surrogate motherhood incompatible with Islam. One reason is that it destroys the beauty and meaning of motherhood. Because it is the motherhood, suffering through pregnancy, childbirth, feeding the fetus from her own blood that really causes this natural tie between the child and mother. This is why Islam emphasizes kindness to mothers. Another related issue is the question of suckling. The Quran says its the mother who gives birth to the child who can claim to be the mother of the baby and suckling is connected with pregnancy and childbirth. Another aspect is that it reflects an irresponsible attitude towards motherhood as if it is commercializing childbearing. A woman who wants to keep her waist small and doesn't want to suffer in pregnancy hires a poor woman to do that for her. It is just to degrading the natural process of pregnancy. Another reason is that in Islamic law one can try to remove hurt, but one can not remove hurt by creating another hurt. This is considered to be hurtful to the surrogate mother because after pregnancy no matter how much she is paid it is still a hurt that she went through all of it and then the baby is taken away from her. Many times the surrogate mother after the baby is born is not willing to give the baby to the parents. This might raise difficult legal problems. Furthermore if this is done a person can have 500 children in their lifetime. Every month they take the egg from their wife and just hire a new surrogate to carry their child. It opens the door for lots of problems and difficulties and he said that it should not be resorted to unless there is an absolute necessity for it, but even then it is doubtful.

7.39 Social System of Islam- Marital Relations IV (Husband's Rights)

Summary of 7.38 "Marital Relations III (Related Issues)"

We continued the discussion of marital relationships. It was the third program dealing with the subject of the wife's rights. We talked about the obligation of the husband to gratify the instinctive need of his wife in terms of matrimonial relationships and what Islamic Law in terms of enforcement so that she is not deprived of her natural rights. Then we talked about related subjects such as birth control. We indicated that in special individual cases where there is a good reason for it there is no evidence that it is unlawful. We also discussed abortion and that the basic rule is that it is unlawful except in cases where saving the life of the mother or in the case of the deformity of the fetus (as some jurists not all add). We said this unlawfulness becomes greater if the fetus is 4 months or beyond. We answered a few questions regarding test tube babies (used to aid in fertilization). We indicated that there may be cases where there is blockage in the fallopian tube and so they take the sperm from the father and the egg from the mother, they fertilize it in a test tube then they implant it in the mother's uterus and the tendency among jurists is that this is permissible. This is regarded as an aid or treatment of infertility. The other cases were artificial insemination involving a sperm from another man other than the husband, and we said that the

tendency among jurists is that his is unlawful because it is like adultery by proxy and leads to confusion of the true lineage of the child. The final question dealt with surrogate mothers. In this case the egg comes from the real mother and the sperm from the real father and they are fertilized and is implanted in a hired woman who acts as a surrogate. We indicated the reasons why this is considered to be inconsistent with Islamic Law even though some jurists say that this may be considered in some extreme circumstances.

7.39 Marital Relations IV (Husband's Rights)

Host: Can you expand on the issue of when surrogacy is permissible?

Jamal Badawi:

I will quote the jurist who addressed this issue as it is a contemporary issue which we have not heard from other jurists as to whether they agree with it or not. Sheik Yusuf Al Qaradawi in his book Contemporary Verdicts after he mentioned the various reservations that we discussed last time about spoiling the nature of motherhood and leading to confusion he ended by saying that it is rejected from the point of view of Islamic Law and should be forbidden. However, on page 498 of the same book he said that "If the scientists or people working in that field, pertaining to ethics and the natural creation of God, if this happens to be a wide spread means then in order to reduce its evil there must be some control." This gives us that it is highly rejected but should it happen according to the basic rules in Islamic jurisprudence one should try his best to reduce the evil. He said that "The surrogate mother must be a married woman to start with." Because otherwise it might raise a question of the chastity of the surrogate mother. If she is unmarried and gets pregnant then some questions might be raised about her reputation. Second, not only should the surrogate be married she should also have the permission of her husband to act as a surrogate mother. This will effect his rights as a husband. A third is that she can not have this implantation unless roughly 3 months had elapsed between the last time her husband has intimate relations with her or else it would not be certain who the fetus belongs to. Fourthly, in Islamic Law the father of the fetus is totally responsible for the maintenance for the child and for the mother. This means the full responsibility would fall on the real father of the fetus no on the husband of the surrogate mother. Fifthly all the rules that apply to suckling and prohibition in marriage as a result would apply, because the surrogate would be in the position of a mother to the child. The child would not be able to marry her or her children. He concludes that the best thing is not to get into that and that these measures are just mentioned as controls if it is an evil that is present. Again it is inconsistent with the spirit of Islamic Law.

Host: The time may not be distant where the parents can choose the sex of their child, what is the Islamic viewpoint on this?

Jamal Badawi:

To start with, to the best of my knowledge this has not succeeded yet in humans but there is literature on the various experiments made on animals. This is a matter that relates to genetics and genetic engineering. The sex of the fetus is determined largely by the sperm and it is a matter of figuring out what genes (various x y combinations) are present. The theory behind it is that if the nature of the genes can be determined early it may be possible to obtain the sperm from the father and chose the one with the male gene and fertilize the egg and then implant it in the womb of the mother. As such scientists hope to be able to chose the sex of the child. Some questions that people may raise about this from a Muslim point of view: that the Quran indicates that Allah creates whatever he pleases and he gives to some males, females, both or he makes them barren. However, a process like this does not constitute creation because no one is creating anything. The Quran says that the human will not be able to create a fly even if they put all their efforts into it, because creation means making something from nothing. In the case in artificial fertilization we are talking about something that God has already been created. So this may not necessarily contradict it. The Quran indicates that one can not will anything except by the leave or permission from God.

A second point is trying to find out the sex of the baby in the womb of the mother. Some say that this is erroneous because of the verse that says that God knows what every females bears in her womb. Again this may be stretching the meaning of the verse. Knowing whether the fetus in the womb of the mother is male or female does not mean that we have all the knowledge. The verse may actually be referring to the knowledge of God not only regarding the sex of the fetus but the character of the baby, what his life will be like, when he or she is going to die, what their destiny that person will face. This may not be regarded as interference or encroachment on the domain of God. The same jurist Sheik Yusuf Al Qaradawi mentions this also and he says it is not regarded as such however it is more preferable not to do this and leave it to the will of God rather than trying to do so (as if one is shopping for a particular child). There are very serious consequences, if this becomes readily available and lots of abuses could be in store.

Host: Can you give us some ideas about the rights of the husband in Islam?

Jamal Badawi:

One of the most concise sayings of Prophet Muhammad (PBUH) that reflects the husband's rights which is also the wife's obligation is narrated in Al Nassa'i and Ibn Maja "The best of women is the wife if you look at her she pleases you, if you ask her to do something she obeys you and if you are away or absent she safe guards her chastity and your possessions or property."

The first point: when he looks at her she pleases him is simply an echo of a beautiful verse in the Quran which describes believers. It says in (25:74) "Our Lord! Grant unto us wives and offspring who will be the comfort of our eyes, and give us (the grace) to lead the righteous." In other words as we have seen in previous programs dealing with the rights of the wife we indicated that it is an obligation on the Muslim husband according to Islamic Law not to hurt his wife and to respect her and to treat her with love and consideration. She is also required to respect her husband, not to hurt him and to treat him with love and consideration. We have seen that a Muslim husband is asked to do his best to look after the wellbeing and the comfort of his wife. It is only fair to expect that the wife also would do her best to look after his wellbeing and comfort.

In addition to this concept it does not rule out that she should be cheerful and as such achieves soothing, comfort and tranquility in the marriage. This means that the husband doesn't come home to find a grouchy, grim, frowning wife who bombards him with all kinds of problems before he even greets her, rests or has something to eat. It does not preclude that the Muslim wife is encouraged to beautify herself for her husband. She should look her best for her husband. It is not encouraged that she doesn't have her hair combed, wears an apron and smells like onions. In other words she has the obligation to satisfy him and look her best. Now we are not saying that she should always look like a beauty queen nor are we saying that she should violate various Islamic etiquette pertaining to the limit of adornment and with whom and if it is done outside (we covered this in our series on Moral Teachings of Islam). Sometimes in our civilization things are put upside down. In many cases the wife looks her best when she goes out in the company of others (which is against Islam) and in the home she looks her worst. In the Islamic perspective she should look good both ways but adornment and beautification is something that should be reserved for the home and not for the eyes of onlookers. In fact it is not only an obligation on the wife (because Islam does not simply regard the wife as an object of pleasure) but as Ibn Abass one of the companions said "I try to look handsome and my best for my wife as she does for me." Then he sighted a verse in the Quran in (2:228) "And women shall have rights similar to the rights against them, according to what is equitable." So these expectations should be mutual. These all relate to the first portion of the saying: "If he looks at her she pleases him."

Host: Can you give explanation of the basis of the woman obeying her husband?

Jamal Badawi:

This is an interesting and significant area to explore. Many times when one mentions the word obedience, everyone has his own concept of what obedience entails. For some, obedience is total subordination, subjection and for others obedience means unquestioned acceptance of authority and for some it is lack of stubbornness, cooperative attitude. I think it is very important that we understand what is really meant.

A key verse that deals with this subject from the Quran is in (4:34) “Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard.” Obedience here refers to God and their husbands and they guard their chastity and the property of their husband. In fact the portion immediately before that in the same verse says “Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means.” The word qawamoon which appears in this verse is quite significant and sometimes there are difficulty in translation. Qawam means *someone who stand up for something* which can also have a number of meanings. This could mean that the husband is responsible for the maintenance of the family, they are protectors of the wife, they are in charge, they look after the protection and security both in the physical sense as well as psychological security. This also means that he is responsible for the leadership of the family. This means that according to this verse which is regarded by Muslims as a divine command and directive the husband has the ultimate responsibility to be the head of the family unit. Here we are talking about obedience and leadership from the Islamic sense.

Host: Some English translations suggest that men are superior to women?

Jamal Badawi:

Some people translate it this way. This is an erroneous translation. First, it should be made clear that there is not a single Quranic text which categorically says that men are superior to women and not even in the Prophetic tradition. If we translate the English translation back to Arabic it would be totally different than the verse in the Quran. If it is true that the Quranic verse means that men are superior to women and it is translated to Arabic it would read *alrijal afdal min alnisa'* and there is no such verse. Second, the verse did not say that God made men excel over women. Again if you retranslate that to Arabic it would read *bima fadala Allahu alrijala a'la alnisa'* and there is no such verse in the Quran. Both of these translations are obviously erroneous because once they are retranslated into Arabic it gives you something totally different than what is found in the verse. Not only this there is something that is very interesting in the grammatical structure of the verse. It says men are maintainers and responsible for their wives and then it says because God made some

of them excel over the others. The question here is who are “them,” who are the “the others” and they excel in what sense?

There are two interpretations of this. One interpretation which I do not necessarily agree with, is that the pronoun used in that verse “them” is a masculine pronoun. One can use the masculine pronoun to refer to both men and women, it is not necessarily always used for males. According to a rule in Arabic grammar called *altaghreed* it can still be used to refer to both. This doesn’t mean that men are preferred to women. This could however mean that God made some of them, whether they are men or women, excel in some aspects over others which could be men or women. This explanation is valid grammatically speaking and the verse may be giving a hint at this.

The second opinion which I feel to be the reasonable one is that the context of this verse deals with marital relationships. In fact the immediate portion after this part says because men spend of their sustenance. So it is saying that the overall excellence refers to the leadership of the family and the person shouldering the burden of the financial and emotional needs. Even then this has no connotation with overall superiority.

7.40 Marital Relations V (Husband's Rights)

Summary of 7.39 "Marital Relations IV (Husband’s Rights)"

First we continued some discussion on the issues of surrogate motherhood and the claim that perhaps one day one might be able to select the sex of the fetus. Mostly we focused on the rights of the husband. We indicated that as the wife expects to be treated with love, affection, and respect she should be cheerful and treat her husband in a similar way. Secondly, that she should be cooperative with him. We talked about the concept of obedience and that the wife should be obedient to her husband. We referred to two crucial verses in the Quran one(4:34) and the other in (2:228) which show that while husbands and wives have similar claims over each other, still the role of leadership, provider, maintainer, protector and head of the family has been assigned according to the Quran to the husband. We also discussed from a grammatical point of view the word *fadal* which does not mean superiority as some people misinterpret or mistranslate. It simply means the position of leadership in the family.

7.40 Marital Relations V (Husband’s Rights)

Host: Can you share with us sayings of the Prophet (PBUH) which confirm the obligation of the wife to obey her husband?

Jamal Badawi:

There is one that was narrated in Ahmad and Al Tabarani in which Prophet Muhammad (PBUH) gives four basic criteria for a woman to enter Paradise. “If a woman keeps her five daily prayers, fasts during the month of Ramadan, safeguards her chastity and obeys her husband she will be told on the Day of Judgement “enter any of the doors of Paradise you wish.” This means she is assured to go to paradise.

A Hadith narrated in Abu Dawood, Al Tirmithi, Ibn Maja, and Ibn Habban in which the Prophet says “If I were to command any human being to prostrate before any human being I would the wife to prostrate before her husband, because of his claim on her.” There are three important observations on this Prophetic saying. First of all, he says “If I were” which refers to something impossible because as we know in Islam no human being is supposed to bow or prostrate before any other human being. The only bow before God, because it is an expression of full submission which is due to God alone. In fact in one other version of the same traditions which was narrated in Ahmad he says “It is not appropriate for one human being to bow to another human being and if it were appropriate I would have commanded the wife to bow down before her husband.” Again this indicates an expression of respect and cooperation. One time we were discussing this issue and there was a female physician sitting there and a male physician tried to tease her with this saying by saying “Didn’t the Prophet say that if I were to order anyone to bow down I would have ordered the woman to bow to her husband?” She answered in a very intelligent way “If I had a husband who was truly Muslim husband, who loves me, who cherishes me and respects me and treats me with dignity I would feel like bowing to him. For the reason that is forbidden I would not do it.”

One woman was reported to advise her daughter at the time of marriage “Be to your husband like a slave and he will be to you like your slave.” It should not be taken, from a literal sense as a loss of dignity or position but that if a person really shows this love and affection the other side would automatically reciprocate in the same manner. In any case my third observation is that what is meant here is to dramatize the importance of cooperation, discipline and order within the family circle.

Ibn Abass one of the companions of the Prophet (PBUH) reported that one woman came to him once as a representative of other women and she said to the Prophet “Men go and struggle in the path of God and sometimes they sacrifice their own lives

on the battle field. If they go God will reward them, if they are martyred they go to Paradise. If we simply support them what kind of benefit do we get? Men are taking all the reward.” The Prophet answered her and he said “Tell all the women (who sent you) that the obedience to your husbands and the recognition of his right on you is equivalent to that. It is equivalent to martyrdom and you deserve the same heavenly reward for that. A few of you only do it.”

Several sayings of the Prophet reported in both Bukhari and Muslim indicate that if a woman dies while her husband is pleased with her then she will enter Paradise. In Ibn Maja and Ibn Hibban the Prophet said that certain types of people whose prayer doesn't go beyond their head and one of them is a woman whose husband sleeps while he is really angry with her (for good reason but because of genuine bad character or misbehavior on her part). It is very obvious that Prophetic Tradition is consistent with the verses that we analyzed in the previous program.

The issue here is not an issue of inferiority or superiority or whose the boss in the simplistic sense but it is rather the issue of mutual cooperation, integrity and cohesiveness of the family as a social unit.

Host: How can people then incorrectly interpret the husband's responsibility for the family as somehow reflecting of male superiority? What are the basis for people who hold this view?

Jamal Badawi:

First of all, some point to the fact that in Islamic law a woman inherits half of the share that is assigned to man. They point out that in some cases when a witness is needed that it requires two women and one man to be witnesses or two men and they say that for every man there needs to be two women which again reflects on the worth of a woman. They also say that the Quran emphasizes the leadership of the husband as the head of the family and the obedience of the wife to the husband but not the reverse. These are the basis that are used for these arguments. Many of the people who use these arguments are non-Muslims scholars who fail to understand the depth and the interrelatedness of the various aspects of Islamic Law. Some Muslims may also however fall into the same problem.

Host: How would you explain or refute these points of view?

Jamal Badawi:

To start with it is my understanding that these explanations are contrary to Islamic Law both in letter and spirit. First of all in the Quran in (49:13) it says “Verily the most honored of you in the sight of Allah is (he who is) the most righteous of you.” This is a very clear statement which shows that superiority and inferiority is only by virtue of piety not by gender or any other subsidiary issue. In the beginning of chapter four of the Quran it talks about God creating humans from a single soul; that is the soul of a woman is the same as the soul of a man. So where is the proof that a woman is half of a man? In program 14 we gave sufficient evidence that in Islam there is no such thing as a distinction between men and women in the sight of God in terms of their spiritual and human status. As far as the question of inheritance we discussed this in the 15th program in this series and we showed in some detail how the various forms of inheritance are totally separate and unrelated to the whole notion of the worth of a man or a woman. We also covered how a man is fully responsible for the finances of a family regardless of the wealth of his wife and as such he deserves to get a little more inheritance in consideration of his additional financial burden. This has nothing to do with superiority or inferiority. The question of witnesses was discussed in the 18th and 19th programs in this series in greater detail. We said that the question of witnesses was mentioned in the Quran in the context of financial contracts. The verse seemed to indicate that the main reason behind those rules was that on average women may not be too involved in financial dealings. The purpose was not to put her as half the worth of man but rather to ascertain the facts at the time of contract. We also indicated that in Islamic Law the witness of a woman alone is acceptable in the case of maternal or feminine issues. As far as the question of leadership in the family circle it is a matter that relates to social organization, division of labor or differentiation of roles that does not insist on mathematical equality but rather equity which are not the same thing. If one insists on exact equality on each and every issue one may end up committing injustice. What we are really talking about is equity which is the totality of rights, privileges and obligations of man which would be approximately equivalent to the rights, obligations and privileges of women. The husband may have some additional privileges being the leader of the family but with additional responsibility of providing for the family as the wife can keep her own property. Everything has its side and equity is really what we are discussing here. Finally, that the term fadal which is translated as excel and that God made men head of the family because God made men excel women in certain respects which is them being providers for the family. This same term fadal appears in the Quran in the context of wealth as found in (16:71) “Allah has bestowed His gifts of sustenance more freely on some of you than on others.” Does it mean that a person is better because he is wealthy and the other inferior because he is less wealthy? No, it doesn’t mean that at all.

Host: Why cant the female be the leader of the family?

Jamal Badawi:

This view seems to reflect three common assumptions. Again I will try to reflect how these assumptions are not correct according to my understanding. The first

assumption is that the leadership of the husband to the family constitutes bias for one sex over the other. Second it assumes that the headship of the family means superiority and the absence of it means inferiority and since Islam says the husband should be the leader and the head of the family it means the husband is superior. A third assumption seems to be that the obedience of the wife and her cooperation with her husband as the leader of the family means cancelation of her personality and identity and complete submission and subjection to her husband. All of these assumptions are incorrect from an Islamic point of view.

To start with the teachings of God which are found in the Quran which were revealed to His Prophet Muhammad are definitely free from bias towards male or female because God is neither male nor female. He has no reason to discriminate or make that distinction between his creatures. So when God provides this guidance to establishing an orderly social life on a family level or other levels then it must have some wisdom and reasons whether or not we are able to fully grasp it at one point of time or the other. This dismisses the assumption that God is bias.

Another aspect is that the headship of a family does not mean superiority of men over women. First, in Islamic teaching whenever there is a social unit there must be some form of leadership. Even in the five daily prayers if there are two people praying together one acts as the leader or Imam of the prayer. Prophet Muhammad (PBUH) as narrated in Abu Dawood said that if three of you are traveling together let them select one as Ameer or leader. This has nothing to do with female or male; even if there were three men one would be selected for leadership. The concept of leadership in Islam applies to males alone, females alone or the combination of females and males and it has nothing to do with superiority or inferiority. In a previous session in program 18 we explained in great detail the saying of Prophet Muhammad that "Each one of you is a shepherd and is responsible for their trust." He also included in this that a woman is also a leader or trustee and is responsible for her trust. We tried to show how leadership can be looked at from different aspects. There is no black and white when we talk about leadership as it can be shared.

The third reason why the second assumption is not correct is that centuries after Prophet Muhammad (PBUH) spoke of this broad concept of leadership we find that many sociologists today have come to realize the importance of defining leadership. For example, Zelideth as he wrote in the Handbook of Modern Sociology after studying the patterns of various families throughout history he referred to a distinction that sociologists made between two types of leadership. There is instrumental leadership which focuses more on things which are external to the system (family) and the second type is expressive leadership which works largely within the boundary of the system (family). He said that studies seem to conclude that in all but very few societies (past or present) the instrumental leadership roles seemed to be played largely but not exclusively by the husband or father, and that expressive leadership which focused more closely on the internal affairs of the family seemed to have been played largely but not exclusively by the wife or mother.

As for the third assumption that obedience and acceptance of the leadership of the husband means total submission and lack of dignity or cancelation of her own individuality and personality is absolutely wrong because it is contrary to the limits and boundaries of obedience in Islam. In addition to the erroneous assumption that I just discussed, I should also add that if the husband is the sole provider for the family it would be rather unfair to say that his wife should have the ultimate say and final word as to how to dispose of this property that he earned in order to support his family. She of course has the final say in how she disposes of her own property that she earns or that she had before marriage. But to say that the husband earns and the wife would have the final say is not fair. Of course she has claim on her husband's income by virtue of Islamic Law as we discussed in detail before. She has claim and she should feel like he is giving her charity because there is mutual dependency between husband and wife, but the final say should not be hers. They can consult one another but any reasonable and fair wife would claim that she have the final say in these matters.

Host: What are the limits and boundaries of obedience?

Jamal Badawi:

In Islam there is no such thing as absolute unqualified authority or obedience. The only unqualified and submissive acceptance is to the Creator God alone as the soul Possessor, Owner and Master of the universe. The only absolute Sovereign is God. Absolute obedience is due to God alone. Second, on this basis obedience to any creature whether this creature is a husband, father, a boss or ruler is an obedience which is not absolute but is derived from the obedience to God and within those limits. To clarify we will refer to some of the sayings of the Prophet Muhammad (PBUH) in *Al-Tirmidhi* that there is no obedience is due to any human being if his command is for one to be disobedient to God. Blind obedience and uncritical acceptance of authority is totally contrary to the teachings of Islam. For example if a husband tells his wife not to wear her Islamic dress because he doesn't like it (God says she has to observe that dress code) she doesn't have to obey him! If he tells his wife to drink wine, she has the right to refuse. This does not only apply to a wife; even if a father tells his son not to pray or fast the son does not have to obey this. Any command that is contrary to the teachings of God can be disobeyed even in husband and wife relationships. A third aspect is that obedience of the wife is restricted to things which pertain to his rights or claims over her. A husband, for example, can not tell his wife to dispose of her personal property in a specific way. Her personal property that she acquired before or after marriage is her own and she does not have to obey him because this does not fall within the boundaries of his claims on her. A husband can not force his wife to change her religion or faith, he can not deprive her from expressing her feelings or opinions. A fourth issue is that obedience is required in things which are fair, customary, acceptable or reasonable. The Quran has clear evidence for this even between the believers and the Prophet himself (with all the respect towards him and the fact that he was guided by God). In the Quran in (60:12) where it talks about women coming to the Prophet with their oath of allegiance and

acceptance of leadership and it says “O Prophet! When believing women come to thee to take the oath of fealty to thee, that they will not associate in worship any other thing whatever with Allah, that they will not steal, that they will not commit adultery (or fornication), that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and that they will not disobey thee in any just matter,- then do thou receive their fealty, and pray to Allah for the forgiveness (of their sins): for Allah is Oft-Forgiving, Most Merciful.” In a saying of the Prophet which is narrated in Bukhari and Muslim the Prophet says that there is not obedience in matters that constituted disobedience to God and then he added obedience is only required which are fair, reasonable and customary. This means that obedience that are related to the rights of the husband must be legitimate and fair. Furthermore obedience does not mean dictatorship, capricious orders or abuse of authority. In Islam any type of obedience must be within the boundaries of shurah or mutual consultation. In the Quran (2:233) in the case of divorce when a suckling child is involved it says “If they both decide on weaning, by mutual consent, and after due consultation, there is no blame on them.” Here, even in a hard situations like divorce consultation is required so how should it be when there is affection and a successful marriage? This is basically obedience from the Islamic perspective which is heavily qualified and bound.

7.41 Social System of Islam- Marital Relations & Children's Rights

Summary of 7.40 Marital Relations V (Husband's Rights)

We continued the rights of the husband last week. More particularly we covered the question of leadership within the family and the “obligation of the wife” towards him and her obedience. We covered this with sayings of the Prophet. We also examined some of the basis with which some people interpreted this obedience on the wife’s part to mean that he is superior and we showed that in accordance with Islamic Law in letter and spirit this is not the case. We also looked into some of the main reasons why this responsibility of leadership and family maintenance is primarily on the husband’s shoulders. The most important thing we tried to emphasis was that obedience in Islam whether it relates to marital relationships or otherwise is not an absolute submissive obedience at all; absolute obedience is only due to God. Any obedience to any human being is only derived from the obedience to God and as such is restricted and limited obedience. It must be obedience in areas which relate directly to the rights of the husband, obedience in things that are equitable, fair and customary. Finally, a good example is that the Quran itself refers to mutual consultation between husband and wife even in matters of suckling after divorce. A saying of the Prophet which shows that rights and responsibilities are there for balance rather than to show superiority or inferiority: the Prophet was once asked as narrated in Alhakim when it was addressed to him “Who among all people have the greatest claim on the woman?” he replied “her husband.” Then he was asked “Who has the greatest claim on the man?” he replied “his mother.” There is a kind of equitability here in the distribution of care, rights and responsibility.

7.41 Marital Relations & Children's Rights

Host: How can we apply all of this in a practical day to day life of a couple?

Jamal Badawi:

Fortunately the teachings of Islam don't just give broad generalizations and motherhood statements and many times we can find explicit clarifications especially for major explicit issues. We have indicated in the previous discussion that a woman is responsible (is the leader) of her household and in Islamic Law it was indicated that Islam exempted the woman from being the provider for the family. It means that she has a similar obligation to be primarily responsible for the household. It follows from this that it would be unreasonable to expect that the wife would leave her home without the permission or knowledge of her husband. This is mentioned specifically in several sayings of the Prophet especially as narrated in Alhakim. Even then there are qualifications for this too. It does not mean that a woman under any circumstances can not leave her home without the consent of her husband. As indicated before the obligation of the individual is to God before it is to a husband, wife or anyone else and Islam requires every Muslim to go to the Pilgrimage once in a lifetime; she can go to the Pilgrimage without his approval. They added that there may be situations where the husband is not helping his wife learn about her faith and since learning is an obligatory duty on every Muslim male and female, if the husband fails to provide that, she may go out of her home and go to (example) Mosque in order to listen and learn. Other circumstances are when the lands of the Muslims are invaded and man, woman and child (or every person who is able to participate in the defense and warding of the invaders) can go without permission. This does not necessarily mean that every time a woman goes out of her house she has to get approval. The spirit of it is not like this. An example is that a woman goes to work regularly and the man consents to this (as there is no negative affect of this on the family) so she does not have to seek permission every-time. If she knows that she has a blanket approval for her to go, shopping, too see her relatives or friends there is no need for her to get his consent every time. The idea here is that there should be some reasonable discipline in the family as the husband is entitled to know where his wife is.

If the greatest claim, in accordance to Prophetic Tradition, on the wife is the claim of the husband it follows that her obligations on her husband supersedes he obligations to relatives including her parents. This does not say that a woman is not obliged to be righteous, kind and considerate to her parents but it simply means that if these rights conflict then the rights of the husband prevail. I personally know of cases of family disputes where the parents would tell either the husband or wife things about their spouse and try to separate them from each other in which case the right of the spouse should supersede any advise from parents which can be detrimental to the family. For example if her parents ask her to go with them for a 2 month trip to the Bahamas or

whatever and the husband says that her children need her. In this case the right of the husband would supersede here.

If the work of the husband requires him to travel she is required to go with him. If he changes residence she has no right to say that she can not move with him. If in the nuptial agreement a condition was put to the effect that she would not leave the country or city then according to many jurists this is enforceable. As we indicated in many previous programs if the residence or dwelling that the husband offers his wife doesn't meet the basic standard in Islamic Law, like lack of safety, security or septic necessities she can refuse to move to it. If the husband, as found in chapter 65 of the Quran, changes residence to deliberately hurt his wife she may not be required to move. Otherwise she has to move with him wherever he goes because after all he is the provider.

A fourth manifestation is that if the wife happens to be working and her husband feels that her full time work is detrimental to the interests of her infant or children and the stability of her family he has the right to ask her to quit unless this was put in the marriage contract as a condition in which case he must accept it. There are some exceptions to this. According to Abu Hanifa, a great jurist, in the Muslim community there is something called fard kifaya which is a collective responsibility. For example if a wife is trained as a midwife and is needed where her expertise are required according to Abu Hanifa she does not necessarily have to obey him. She has to go and work when there is a need for her type of work.

A fifth manifestation is that a wife should not allow or entertain any guests in her husband's house unless she has his consent or permission. There are references to this in Ibn Maja and AlTirmithi. A sixth manifestation is that she can not dispose of his property without his permission except if she has it in order to provide for herself and her children. Finally, a wife should not deny her husband legitimate sexual access.

Host: Could you elaborate on the last point, which is quite delicate, with the basis for it and its limitations?

Jamal Badawi:

One of the main inherent purposes of marriage in Islam is to provide mutual comfort which is physical, psychological and spiritual. Not only according to Islam but according to traditions in any country or culture sociologists tell us that legitimate sexual acts to one's spouse is one of the main purposes of marriage. It follows that it

would be rather unfair for either side to deny the access of intimate relations to his or her spouse. We have seen in previous programs that Islamic Law does not look into things just from one side in the sake of the male or the female gender. One might recall that at one point it was mentioned that one of the main rights of the wife over her husband is to have her instinctive needs to be satisfied. We have seen what Islamic Law has said about that and possible ways of enforcement if that right is not respected. Again by the same token it would be unfair for the wife to deny access to her husband which would lead him to be extremely uncomfortable which is not the purpose of marriage. There are several sayings of Prophet Muhammad as narrated in Abu Dawood, Bukhari, Muslim and Ahmad indicating that when the husband invites his wife for intimate relations she should not refuse without just or reasonable cause. In fact in some acts of worship like voluntary fasting (beyond compulsory fasting of Ramadan) or voluntary pilgrimage that the wife she should not engage in it without the permission of her husband. In Islamic law a husband can not have close relations with his wife when he or she is fasting or doing their pilgrimage. The compulsory fasting and pilgrimage the wife has every right to practice without her husband's permission. But the extras that infringe on his rights must be done with his understanding and consent. This does not mean that the husband should be inconsiderate to the sickness of his wife or the case where she is extremely tired or exhausted and just make unreasonable demands. In fact according to Islamic Law he would be bared from seeking this intimate relationship if his wife is fasting during the compulsory month of Ramadan, during her monthly menstruation or during postpartum recovery are all forbidden regardless of whether he wants it or not. In conclusion Islam which strongly prohibited adultery and fornication in its regard to the nature of the male instinct this kind of teaching is very important not only for the sake of the husband but for the sake of the integrity of the family and in order to prevent temptation to commit evil outside the wholesome boundaries of the family.

Host: What is the obligation of the wife in regards to housework?

Jamal Badawi:

The Quran provides broad guidance to this issue in (2:228) "And women shall have rights similar to the rights against them, according to what is equitable." Strangely enough a great number of Muslim jurists which included touring figures as the leaders of the school of jurisprudence in Islam like Malik, Shaafi, and Abuhanifa that conclude that a woman is not legally required to do the household work because this is not an implicit or explicit part of the marriage contract. However we find that other jurists differ with them. Ahmad says that if we look at it in light of the above verse that women have rights equivalent to the rights of men and if it is the fair and customary (as the Quran says) for the husband (male side of the family) to be the main provider for the family it follows that God has equipped the wife to be more qualified to look after the internal affairs of the household. There is nothing inequitable on each of them which makes this role differentiation makes sense in regards to the welfare of the totality of the family. The additional evidence that some jurists use to say that the wife should be responsible for these household duties is that

in the days of the Prophet (PBUH) as narrated both in Bukhari and Muslim when his own daughter Fatimah came to complain that she and her husband Ali had so much work to do and that her hands were blistering from grinding the grains for food and asked the Prophet to appoint a servant to them. The Prophet (PBUH) despite his ability to do so refused and divided the work between them by telling Ali to look after the work outside of the home and Fatimah to look after the work inside the household. If it is legally forbidden for a woman to do any housework the prophet would have said she doesn't have to do it but that she may if she wants to. A similar narration about Asma'a the daughter of Abu Bakr that she reported that she used to serve her husband and look after his horse and carry grains on her head for quite a distance. Again some jurists say that this was done by way of voluntary action but this was not really required. Other jurists say that this is not so because then the Prophet would have indicated that one is not required to do this but that she could do it, but rather he agreed with this. However we should add that the question of household is not determined by strict legalism and that the whole question of marriage in Islam has shown is mutual love and reciprocity which depends on each case and circumstances. For example it would be rather unfair that the husband works hard all day to provide for his family, and the wife stays home and watches all kinds of shows on TV and he walks in and asks her to cook, do the laundry and clean the house for her to not cooperate in the distribution of duties between husband and wife. It is also unfair that the husband disregard his wife's suffering if she is sick or overburdened for him to say that the work is not within his job specification. Or for him to invite 25 people for dinner and refuse to help with dishwashing or cleaning up. It all depends on the situation and is a matter of cooperation rather than insistence on separation of duties. This provides more of a setting for balanced rights and responsibilities with role differentiations with equity that is not necessarily mathematical, superficial equality.

Host: What are the basic categories of the rights of children? And can we explore each one?

Jamal Badawi:

There are three broad categories of rights of children in Islam. One is the right to life, second is the right to clear lineage and third the right proper care and upbringing.

The life of the child is not granted by the parents but comes from God who gave the life and gave life to that child. No human has the right to tamper with that life without justification. This implies that abortion is prohibited in Islam unless it is for very extenuating circumstances like saving the life of the mother. It also means that one should not take the life of their children. Some may ask if this should even be mentioned but if we look at the historical context we will find that Islam really has added allot to what happened in those days. In the Biblical time according to Wester Mark in his book Origin and Development of Moral Ideas he says that in the Biblical

time there were several narratives that showed that the authority of the father the patriarch over his children included the right of life and death and that he could condemn his child to death. Mark concluded that this doesn't mean that the Hebrew father abused this right but had this authority. In the same reference he mentions Western Europe where he says that up to the year 1000 AD (several hundred after Islam came) infanticide, killing children or selling them into slavery was still accepted and practiced during times of war and famine. Among the pre-Islamic Arabs they practiced female infanticide, or killed their children out of fear of poverty which the Quran forbade and responded that God provides for all. They practiced these things because of bias against girls, for human sacrifice or any other reason which have all been totally forbidden in Islam. Islam established that the right to life even in the embryo stages is something that should not be tampered with.

Legitimacy means that every child should have the inalienable right to have secure identity and to have a known father. Of course historically speaking the lineage is related to the father but there have been instances where the child is related to the mother (if she was famous, out of respect for her, husband died and the mother brings up the child). If the father is not known the child can be related to his mother by way of lineage, if both are not known then according to the Quran (33:5) that a person should be called as a brother of the faithful but not to be given any false identity. Thus, Islam has forbade adoption in the Western sense but it allows fostering and looking after the needs of a fatherless or motherless child but not to give them the name and identity of the adoptive father. There should be no falsification of their real identity.

When it comes to proper upbringing they should first be received with joy and happiness and not to behave like ignorant people in the pre-Islamic era where if they receive the news of the birth of a boy they are happy and if they get the news of a girl they feel sad and disappointed. The Quran actually condemns this kind of feeling and one should feel that whatever they have the child is a blessing from God. Second, a person should express thanks to God for this blessing by having a festive occasion by the seventh day and he should be given a name and hair should be shaved and the weight of his hair paid in gold or silver in charity. Also, on the seventh, fourteenth, twenty first day or any other day the father should sacrifice a lamb and offer it by way in a festival. The Prophet was narrated to have done one lamb for his grandchildren. The other right is the right of suckling which in accordance to the Quran could go as far as two years. It includes the complete care of the physical needs of the child which is mentioned in the Quran and in several sayings of the Prophet which say that this is the responsibility of the father except in the case that the child has their own property and the father is not too well off. This includes the right of the child to receive proper learning in manners and about his faith. According to the saying of the Prophet in Alhakim one should teach his child the testimony of faith (there is no god but one God). According to the Quran one has to prevent his children from falling into disbelief "Protect yourself and your family from the Hell Fire" until at least the child grows up and can decide on matters of faith. This information and religious orientation should be given to the child which is a

responsibility that one can not shun. According to a saying in Abu Dawood the Prophet says that one has to teach their child the prayers when they are 7 so that they can get used to it. And finally to be just and equitable in the treatment of children. The prophet repeatedly said that one should be just with their children whether they are males or females.

7.42 Social System of Islam- Rights of Parents

Summary of 7.41 "Marital Relations and Children's Rights

Last week we mainly covered two major areas. One was a continuation of the discussion of the rights of the husband as they manifest in day to day life and the obligations of the wife towards the husband. The major of the program dealt with the rights of children. Basically we talked about three basic areas of their rights. One is the right to life and we mentioned that this is why Islam prohibits abortion, infanticide and killing children for any reason. The second right was the right of legitimacy and that every person is entitled to an inalienable right to a known lineage. This right is not something that is give, taken away or masked. A third right is to have proper care which includes being joyful when the child is born, celebration of the child's birth on the 7th, 14th or 21st day after birth, acts of charity, the right of child to suckle, to be maintained, to a proper education (includes spiritual guidance) and the right just and equitable treatment between different children and not to favor male over female or vice versa.

7.42 Rights of Parents

Host: What does the Quran say about one's relationship to his or her parents?

Jamal Badawi:

The kindness and good treatment of parents is mentioned in the Quran second to the supreme value and worship of God. Immediately after the worship of God comes being kind to parents. We find it in the Quran in (4:36), (6:151) and in (2:83). In all of these verses of the Quran it says worship God alone and then it immediately says and be kind to your parents. In one place in the Quran kindness and good treatment of parents comes as a decree or command from God. There is a beautiful passage in the Quran which says in (17:23-24) "Your Lord has decreed that you worship none but him and that you be kind to parents, whether one or both of them attain old age in your life, say not to them a word of contempt nor repel them but address them in terms of honor. And, out of kindness, lower to them the wing of humility, and say: "My Lord! bestow on them thy Mercy even as they cherished me in childhood." First it says don't say words of contempt to them. The original words of the Quran say "don't say to them uffin" which is not just contempt but an expression of impatience, lack of

respect and even the word uff should not said to them. Second when the verse says lower to them the wing of humility which a beautiful metaphor because it reminds us how birds lower their wings for their offspring out of tenderness and gentleness. A third remark reminds us of what parents suffered for us in our own childhood to bring us up when we were weak, totally dependent on them and at times utterly helpless. The Question of kindness to parents is placed as a very praiseworthy act. For example in chapter 19 which is called Marry after the mother of Jesus (PBUH) it describes in more than one place the characteristics of the great Prophets was their kindness to their mothers. It talks about Yahya (John the Baptist) in verse 14 and about Jesus (PBUH) in verse 32 and in both cases it says that one of their main characteristics was that they were kind and compassionate to their parents. In addition to these broad commandments to be kind to one's parents the Quran singles out the mother for extra kindness and affection as is found in (46:15) "We have enjoined on man kindness to his parents: In pain did his mother bear him, and in pain did she give him birth. The carrying of the (child) to his weaning is (a period of) thirty months."

Host: What was Prophet Muhammad (PBUH) attitude on this matter of the rights of parents?

Jamal Badawi:

His attitude was the translation of the Quranic teachings. What he said and did were just an elaboration and explanation in real terms what the Quran refers too. In one of his sayings as narrated in Bukhari, Muslim, Altirmithi and Alnasa'ai he was asked "What deeds are best in the Sight of God?" and he replied "First to keep your daily prayers on time, second to be good and kind to your parents and three jihad (struggle on the path of God)." He put kindness to parents in-between prayer which is the most important religious duty to the Muslim and self sacrifice or struggle on the path of God. In another beautiful saying which was narrated by Aldilamy in his book Musnad Alfirmouse the prophet was quoted as saying "alamd muti liwalidyih" which is the servant who is obedient to his parents and to his Lord, the Lord of the universe is in the highest of high in Paradise. In another saying he equated kindness to parents with one of the great values in Islam, Jihad (struggle in the path of God).

In a Hadith narrated in Altabrani a man came to the Prophet and said "I would really like to struggle and sacrifice myself for the sake of truth but I can't and am not able to." So the Prophet asked him if any of his parents are alive and he said "Yes, my mother." So the Prophet replied "Go and be good to her and you will get the reward of those who do pilgrimage and fight in the path of God." In another situation when a person asked the Prophet this question he asked him if his mother was alive and the man said yes so the Prophet said "keep close to her feet, that is where Paradise is." This is a nice metaphor of humility and humbleness for one to keep serving her as if one is always at her feet

which would then lead them to Paradise. This is also consistent with a saying of the Prophet that we quoted in several programs in the past that “Paradise is under the feet of mothers.”

In another saying of the Prophet he shows how pleasuring or pleasing parents is like pleasing God. For example in Al-Tirmithi the Prophet said that “the pleasure of God comes from the pleasure of parents and the anger or rath of God comes the anger of parents.” So if one pleases his parents he is pleasing God and if one displeases them he are displeasing God.

We find in other sayings of the Prophet that he ties between kindness to parents and deserving the forgiveness of God as in sayings narrated in Tirmithi, Al-Hakim, Ibn Hiban. In the collection by Ahmad the Prophet connected kindness to parents to being blessed in one’s own life. In another saying narrated in Ahmad, Tirmithi and Ibn Maja the Prophet indicated that God accepts the prayers of parents making prayers for or against their children (if he is really cruel to them). Finally, Prophet Muhammad (PBUH) draws our attention to the fact that the reward for being kind to parents may not wait till The Day of Judgement and that we may see the results in our own life. In a saying narrated in Al-Tabrani he said “be kind and good to your parents so that God may make your children good to you, and be chaste and your women will be chaste as well.”

Host: What does being ‘good’ to ones parents actually mean or entail?

Jamal Badawi:

I had difficulty translating the meaning from Arabic to English. Many of these quotations use the Arabic word *birr* which we loosely described as being good. But being good is only one aspect of the word *birr*. There is no single English word that expresses the meaning of the Arabic term *birr*. The term *birr* means more than being good or kind but is a term that denotes righteousness, being good, kind, compassion, reverence, respect, obedience, patience which are all aspects of the broader term. It also includes mercy or compassion. In a saying of the Prophet in Al-Bihakhi it says that if you look compassionately to your parents you will get the reward as if you went to the pilgrimage. In another saying it says if you look to your parents with a bad look that this is not of the application. So *birr* is good treatment which also includes not raising one’s voice. The Prophet is quoted to have said not to raise your voice in your parent’s presence in Ibn Maja. *Birr* also includes showing them compassion and love. An example of this is what was narrated on the behavior of the Prophet and his daughter Fatimah as is narrated in Abu Dawood, Al-Nassai’ and Tirmithi. Whenever Fatimah, the daughter of the Prophet came he stood up to welcome her, kiss her and seat her in his place. She also was a good daughter

(according to Islamic teachings) and whenever the Prophet came to her she stood up, kissed him and seated him in her place. This again is not just being kind in providing what they want but also in actual love and treatment. Birr also includes maintenance to parents when they are old and in need.

Host: What are the circumstances under which one must provide for his parents, is there are limit to this obligation, is the nature of this obligation moral or legal or both?

Jamal Badawi:

To start with the conditions for being responsible for the maintenance of one's parents are three: the parents are destitute (do not have enough for their basic needs), second that they are not able to earn a living (because age or disability) and the third is that the son who is obliged to take care of these things is able too and has enough to provide for himself and his family as well as for his parents. What determines ability is not that he has got all the luxuries and then whatever remains goes to his parents. Some jurists said that he has enough if he has more than his basic needs for one day and one night. So if he has enough food for one day and one night and his parents are in need then he is able to look after them. This maintenance or care includes all basic needs such as food, lodging, clothing and general comforts. Some jurists ad that you must also look after dependents who are living with their parent as well.

This obligation is both legal and moral. Once a person came to the Prophet and told the Prophet that his father wants to take from his money and the Prophet answer was beautiful "You and your property belong to your father." He of course did not mean that one does not own any property but he meant that he should not be so stingy with his parents who sacrificed all of their lives for him. Some jurists (majority of them) say that the same entitlement which is both moral and legal also applies to grandparents (who have the same status as parents).

Host: If the parents are not Muslim are they still entitled to the same support?

Jamal Badawi:

They are entitled to good treatment as well as support. Similar problems came up during the time of the Prophet Muhammad (PBUH) when people embraced Islam while their mothers, fathers or both remained non-Muslim. There is a famous story of a companion of the Prophet (PBUH) by the name of Sa'ad Ibn Abi Wakhas who embraced Islam but who's mother threatened him to fast, abstain from any food or drink till she died unless he rejected Islam and went back to their ways and if that

happened everyone would have considered him responsible for her death (which was regarded as something very bad among the Arabs). This fellow was very compliant with Islam and after a day and night of her not eating he went to her and said “If you have a hundred souls and each goes after the other in front of me I will never reject God again and will never deviate from the path of truth.” Once she learned of his determination she went back on her word and accepted the situation. It is mentioned by some jurists that as a result of this a verse was revealed in the Quran (31:14-15) “And We have enjoined on man (to be good) to his parents: in travail upon travail did his mother bear him, and in years twain was his weaning: (hear the command), Show gratitude to Me and to thy parents: to Me is (thy final) Goal. But if they strive to make thee join in worship with Me things of which thou hast no knowledge, obey them not; yet bear them company in this life with justice (and consideration), and follow the way of those who turn to me (in love): in the end the return of you all is to Me, and I will tell you the truth (and meaning) of all that ye did.” In this particular passage there are a couple points that one has to remember. First of all, obedience to parents in general is required but if this obedience conflicts one’s obedience to God then obedience to God comes first. This applies to all kinds of relationships whether it is a ruler, husband, wife, bosses obedience to God supersedes obedience to any human being. In fact the Quran, in many places, blames those who keep following the footsteps of their parents and rejecting the truth simply because it is unfamiliar or uncustomary. In Islam this is no excuse as one must use their mind and spirit that God has endowed one with. This is related to a basic principle in Islam of individual responsibility before God on The Day of Judgement. In one conclusive passage in the Quran in (31:33) “O mankind! do your duty to your Lord, and fear (the coming of) a Day when no father can avail aught for his son, nor a son avail aught for his father.” Ultimately, we have to stand up for our responsibility before God. I can not reject the truth simply because my parents do not approve of it. The Quran mentions that to blindly follow things that are customary does not mean that this is the right thing to do. The other thing is that even if parents try to divert the individual from the path of truth, even though one is not required to obey them, one is required to be kind to them. Give them good company so long as they are not trying to prevent you from obeying God by force. There is a famous story about the daughter of one of the prophet’s companions, Asma’a the daughter of Abu Bakr, who went to the Prophet (PBUH) and said that her mother came to her and asked her to be of some help and support and that she was still not a Muslim and what should she do. The Prophet said “You should still be kind to her, provide any help you can.” Then he recited a verse from the Quran which said that God does not prohibit one from being kind, equitable, just and compassionate to non-Muslims as long as they are not fighting you in order to suppress your faith, driving you out of your homes or helping others drive you out of your homes. These people should be treated with kindness and compassion especially if they are parents.

Host: What about the circumstance where the parents are not very compassionate and don’t treat you well? Are they still expected to get good treatment from you?

Jamal Badawi:

When one studies the history of Islam, especially the Prophetic period, and the kinds of questions that were directed to him one would find that amazingly enough the questions raised are very common. There is a very similar incident when the Prophet (PBUH) was sitting with his companions and he said whoever obeys God by being compassionate to his parents, God will open two doors to Paradise for him and if only one parent God will open one door to Paradise for him. Of course one only needs one door in order to enter Paradise. Whoever ends his day displeasing God because he displeases his parents God will open two doors for him to enter Hell fire and if he has one parent who he has displeased God will open one door to Hell fire. The interesting thing is that one person who was sitting there asked “Oh Prophet even if his parents are unfair and unjust to him.” And he replied “Even if they are unfair, even if they are unfair, even if they are unfair.” This saying was narrated in Alhakim and Albahaqi.

Also, one has to add that one has to keep in mind what happens when one gets a bit older. I am not saying that parents start becoming unfair when they get old but rather that when parents are old they grow feeble in their health, mental capacity which may cause them to be impatient, over sensitive and having poor behavior. We are not saying that one should listen to their parents no matter what, as we have indicated before. What we are saying is that one should be cognizant of this fact and to try to the best possible extent to be kind and obey their parents. The opposite of that is called ‘ookook’ being rebellious and is very strongly condemned. In one Tradition in Bukhari, Muslim and Tirmithi it says that among the greatest sins is rebellion against parents which puts it in the same category as murder. In Altabarani it regards disobedience and rebellion against parents without good cause as something that could cause the person to be cursed. In Ahmad and Alnassa’i it could prevent the person from entering Paradise. In Al Tabarani it may be a cause for the rejection of one’s good deeds. The worst of all as narrated in Albihaqi is that if a person beats his parents he would be among the first to enter into the Hell fire.

7.43 Social System of Islam- Rights of Relatives

Summary of 7.42 "Rights of Parents"

In last week’s program we discussed what is mentioned in the Quran and Prophetic Tradition concerning the rights of parents and their treatment. We indicated that the Arabic word birr which translates to kind treatment, respect, obedience and financial help. We indicated that these elements are applicable and still hold true even if the parents were not Muslim and if they were not fair especially when they attain old age and are impatient and irritable. We indicated that there are several Prophetic tradition which warn us against being disobedient and inconsiderate towards our parents. The only case when a person can disobey their parents is when they command him to do something which is contrary to the commands and teachings of God.

7.43 Rights of Relatives

Host: Is there anything that can be done or should be done for one's parents after their death?

Jamal Badawi:

There are Prophetic Traditions which teach us that there are certain obligations that should be done even if one's parents are dead. In one narrated in Altabarani a person is obliged to try his best to fulfill their parent's oath or commitment that they could not fulfill during their lifetime. To pray for them, to pay off their debts, not to expose them to any curses by engaging with someone who may curse them. If the person does these things he would be regarded as someone who was kind to them even though during his lifetime he may not have been kind to his parents (God would forgive them). In another saying narrated in Al Tabarani and Albihaqi the Prophet recommended that one should make prayers for their parents souls after their deaths and if possible visit their graves and make prayers there. In one very interesting saying of Prophet Muhammad narrated in Bukhari, Muslim and Abu Dawood he says that when a person dies everything is finished for him and he can not get anymore good deeds to his credit except in three cases: if he leaves behind charity which is constant, if he leaves behind him useful knowledge and thirdly if the person leaves behind pious children who keep praying for him. In other words the father or mother would still benefit from the prayers of their pious children after their death. One of the very moving prayers which is recommended in the Quran (recommended to be recited after every one of the five daily prayers) in (14:40-41) "O my Lord! make me one who establishes regular Prayer, and also (raise such) among my offspring O our Lord! and accept Thou my Prayer. O our Lord! cover (us) with Thy Forgiveness - me, my parents, and (all) Believers, on the Day that the Reckoning will be established!"

Host: In addition of a Muslim towards his wife, kids and parents are there any obligation towards other relatives?

Jamal Badawi:

In the Quran as well as in the Prophetic tradition there is emphasis on being kind to one's kin or relatives and to keep one's ties with them. In chapter 4 it discusses this issue and encourages the believer to keep good relationships with their relatives. In (47:22) there is warning against breaking ties with relatives analogous with making corruption on earth. In one of the sayings narrated in Bukhari or Muslim he says "He or she who believes in God or the hereafter should be: generous and hospitable to his guests, to say useful and good things or to keep quiet and last to keep kind cordial ties with kin and relatives.

Host: What about the situation where one has relatives who are not kind?

Jamal Badawi:

Yes, it is consistently analogous to what we discussed before and in fact reciprocity is not a necessary condition for the person to be kind to his relatives. There is an interesting exhortation that Prophet Muhammad was telling Ali which was narrated in Al Tabarani, Al Bazar and Alhakim. But basically he said to Ali “Should I tell you Ali about the most noble of characters in this life and in the here after? It is to be kind and to keep cordial contact with kins and relatives or with anyone who breaks his ties with you, give he who deprived you and forgive he who oppressed or had been unjust to you. In Bukhari and Abu Dawood the Prophet even more explicitly said that a person who keeps his cordial ties with his relatives is not the one who simply reciprocates, because they are doing the same, but the true person is one who keeps the ties even though they try to break those ties.

Host: Are these teachings a question of moral or legal obligations?

Jamal Badawi:

There is no difference in accordance to Muslim Jurists. The minimum is that they are religious moral teachings. In terms of translating this broad obligation into a sort of financial responsibility for maintenance we find there are differences of opinion. The category of parents, children and spouses have no dispute because the obligation is moral, religious and financial. In terms of financial obligations towards relative we find that there are two basic interpretations. Among the Shafi’i, Maliki and Ja’fari Muslim jurists they interpreted this text to mean a general concern for the welfare of relatives from a moral/religious obligation but not a fixed legal financial responsibility towards relatives. The ultimate responsibility in this case for poor relatives is not on one specific individual but on the collective society. They are not denying it but they say it is a shared responsibility. The Hanbali and Hanafi jurists view this obligation to be more than moral and religious but that the person is obliged legally to financially support relatives other than parents, children or spouses. They indicated that the extent of this responsibility could be determined by the potential share of inheritance if you die or you take from them if they die. Hanafi says it depends on the degree of mahramiah (marriageable eligibility). Whatever the basis they all say there is a criteria that determines to what extent one is responsible for needy relatives.

Host: If one were to take the second opinion that one is responsible legally for taking care of needy relatives, what kind of conditions are required for such an obligation?

Jamal Badawi:

For relatives who are not parents, children or spouses there are broadly five basic conditions. One they should be a relative. Second that relative should really be in need. Third, he should be unable to earn on his own (not because of laziness). Fourth that you should have the ability to provide that help (you have beyond the basic needs of your own family). Fifth condition is that they should also be Muslim. Most of these conditions, especially the last three, are waived in the case of parents, children and spouses. If a wife is not Muslim the husband is still responsible for her financially. A person is responsible for his daughters even if they are adults and not married, Islam does not require a woman to work against her will and should always be taken care of. It applies to sons if they are minors, but an able bodied son could be asked to support himself. It applies to parents even if they are not Muslims. Even for other relatives where difference of religion may bar the legal obligation to support it does not bar the moral obligation to support them if the person is able to provide help and support.

Host: What is Islam's views of divorce compared to other religious and legal systems?

Jamal Badawi:

In any society we are told by sociologists there must be some kind of mechanism to end marriage which is not successful, a marriage which is no longer achieving its purposes. However in societies past and present with many religious doctrines and legal systems we find that the difference is not the basic principle but rather in the extent to which divorce may become permissible and differences to the mechanism or procedure through which divorce may be sought. Among those societies, religious doctrines and legal systems there were those who narrowed down divorce and made it very restrictive where it was only permissible in the case of death and adultery. In some cases even if a couple was separated because of adultery they would not be permitted to remarry.

There were those who liberalized divorce to an extent that made it very easy and simple to perform without any procedures or precautions. This included people in the past and the present. People before Islam in Jahiliya used to look at things very lightly: a matter based on whims. In the present time we read about what happens in some states like Nevada where one could theoretically marry and divorce many times in one day. It is treated in these cases as a simple civil contract. Neither of these approaches seem to succeed in addressing the practical and difficult problems faced in human societies. On the other hand the over restriction of divorce regardless of the reason leads to many difficulties. It is very good if there is no divorce at all but it is too idealistic and knowing human nature with their shortcomings it is just something beyond human ability. The result of over restriction is that people abuse the rule,

ignore the rule or defy the rule. We also find that too much liberalization also results in chaos, disintegration of the family and as such disintegration of society (the family is the corner stone of society).

Islam has a moderate position compared to these two extremes. First, Islam emphasizes the importance and sanctity of marriage. There is no question about that whatsoever. We several programs in the past we have discussed the position of marriage in Islam, what was mentioned about it in the Quran and Prophetic Tradition and it suffices to recall in the Quran (4:21) where marriage is described as “a solemn covenant.” In Islam the ideal is not to have divorce but to have continuity and permanency of marriage. The second point is that taking into account human nature we can not expect a hundred percent of marriages to be successful. There may be marriages that are unsuccessful and miserable for both sides and if there is no way out of this situation after trying to resolve the problems it may result in permanent suffering for the rest of one’s life which is beyond tolerance for most people. As a result of this there must be some recognition of divorce, a last resort, to solve these types of problems. It is better not to put ones head in the sands but rather to face the problems head on and try to regulate the, rather than to ignore them. Fourth, while Islam acknowledges the permissibility and legitimacy of divorce in some cases does not encourage divorce. In fact, Islam discourages divorce. One of the most eloquent sayings about divorce by the Prophet Mohammad (PBUH) found in Abu Dawood and Alhakim in which he says “the most repugnant act that God has allowed is divorce.” This does not mean that any divorce is detestable but this saying is interpreted to refer to divorce when there is no good reason for it. One of the great Muslim jurists, Amad Ibn Hanbal, put it very nicely he said “divorce like many other acts in Islam could fall into the category of obligatory, commendable, permissible or forbidden.” To give examples he said “Divorce may even be obligatory or almost obligatory in the case where no chance for reconciliation is there despite several attempts to reconcile husband and wife. It could be a commendable act if the wife neglects her religious duties and there is fear that their children would grow up irreligious and all attempts to help her become a true believer did not succeed. Divorce could be permissible if there is good grounds for it. Divorce could be in the category of forbidden if there is no good reason for it.” He refers to a saying of the Prophet (PBUH) narrated in Al Tirmithi that if a woman asks her husband or pushes him to divorce her without good reason then she will not smell Paradise. In Abu Dawood and Nassa’i the Prophet (PBUH) says he is not one of us he who tries to ruin a relationship between a wife and her husband. Seeking divorce without a strong and good reason without exhausting other options is something that would not be acceptable in Islam.

Host: Some say that divorce in Islam is much to easy because by simply saying “I divorce you” three times and it is over, how would you respond to this?

Jamal Badawi:

This is a myth. I used an analogy once about women in Islam and marriage and I said that some people may claim that marriage is so easy, all you have to do is to simply say "I do." We all know that the words 'I do' in marriage are the climax of so many things that have taken place prior to the utterance of this statement. We know that first there is the search for the proper spouse, the engagement, negotiations, discussion, getting to know each other, basic commitment and then finally when the contract is negotiated they say 'I do.' Some people may abuse divorce by taking it to lightly, but so is the case when someone takes marriage lightly also. It is as if someone meets someone for the first time says hello I like you, lets get married and 'I do.' This is rather silly and takes something that is serious and treating it lightly. There are definitely some individuals who may be so unscrupulous and not God fearing and treat divorce lightly as some people may treat marriage. These people could be Muslim or non-Muslim, it doesn't matter, it is abhorred either way. It is important to make a distinction between what people do by way of abuse and between what Islam teaches. Unfortunately, many writers over emphasize the cases that abuse divorce and they really concentrate on it and present it to Western readers as if this were the ideal Muslim society or as if it were the manifestation of the teachings of Islam. As one sociologist put it "You can not fairly compare the professed moral values of one system with the behavioral practices of another system." Either you compare the professed moral teachings of both or you compare the behavior of both but to compare the professed teachings with actual behaviors with some other society is unfair and bias.

It is true that the procedures for the procedures in Islam may be relatively simpler, less bureaucratic than we find in other legal systems but this does not mean that they are taken lightly. The procedure for marriage in Islam are relatively simpler in Islam too. The procedure for revocation of divorce (reconciling) in Islam is also simple and informal. It follows that the procedure for divorce is consistent with this overall approach of Islam of reducing bureaucracy and publication of something that pertains to private aspects of family life. To say that it is less bureaucratic and less complex is one thing and to say it is taken lightly is another.

Host: Are there any specific measures placed to avoid abuse or haste of divorce?

Jamal Badawi:

There are measures taken in the initial selection of one's future spouse to avoid problems from arising. There are teachings pertaining to what to do when problems arise between husband and wife. There are certain measures to be taken when the wife is at fault and what to follow before getting to the point of divorce. There are measures to be taken when the husband is at fault before getting to the point of divorce. There are regulations that prevent divorce from being effective immediately, there are certain procedures and waiting periods that may allow for a possibility of reconciliation between the two parties involved.

7.44 Social System of Islam- Marital Problems

Summary of 7.43 "Rights of Relatives"

Last week we continued our discussion on the rights of parents and relatives and the remaining part of the program focussed on the question of resolution of marriage or divorce. Three major points were made: first from the comparative standpoint Islam takes a moderate position in regards to divorce without accepting the idea of near prohibition of divorce or liberalization of divorce but rather something in between. Second, Islam urges continuity of the family and its preservation but also discourages divorce. It does not prohibit ending a marriage that is unsuccessful, unhappy with no way of reconciling it. Finally, we indicated that the lack of complexity or bureaucracy in divorce in Islam doesn't mean that divorce is a matter that should be taken lightly as there are conditions that prevent the abuse of divorce.

7.44 Marital Problems

Host: What are some of the conditions placed on divorce and what can be done to minimize the need for divorce?

Jamal Badawi

There are three basic areas that could prevent divorce. First of all caution and care should be taken in the selection of one's spouse. Again this would ascertain religiosity, character and compatibility. If these things are done it would minimize disputes at a later time. Second, Islam urges both husband and wife to try to follow the path of God with its directives in conducting their family life in establishing their relationship to each other, their treatment of each other and in accepting their roles, rights and responsibilities. Third, even if some dislikes develop between husband and wife, as we have seen in the Quran and saying of the Prophet Muhammad (PBUH) a person should not be too hasty in judging their spouse. One should not expect the ideal and not to judge the person as a total person with his or her positive or negative points. This appeal is made in order to bring our expectation to a realistic level. In addition to this there are many checks and measures which may be resorted to if everything else did not work.

Host: What is the husband permitted to do in the case that the wife is at fault?

Jamal Badawi:

In case the fault is the wife's fault, not a slight mistake or error because we all commit mistakes but if she does something serious that might threaten the family or her relationship with the husband it is called nushuz. This is again a word that doesn't have a single descriptive word in English. Nushuz relates rebelliousness and lack of harmony and it refers to a wife who is too defiant and does not respect or care about her husband, is inconsiderate and is irresponsive to reasoning. We are not talking about anything minor; if this is the cause of the problem we find a divine directive on how to deal with this situation in the Quran in (4:34-35) "Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) beat them (lightly); but if they return to obedience, seek not against them Means (of annoyance): For Allah is Most High, great (above you all). If ye fear a breach between them twain, appoint (two) arbiters, one from his family, and the other from hers; if they wish for peace, Allah will cause their reconciliation: For Allah hath full knowledge, and is acquainted with all things."

In this passage we find a number of points. The first part of the passage establishes the authority and responsibility of the husband for the maintenance and protection of his family. This includes material maintenance, psychological support and maintaining some reasonable measure of discipline and order within the household. We have indicated in previous programs also that the responsibility of the husband toward his family is not a dictatorship or a role of superiority but rather a matter of role differentiation. A second observation on the passage is that it says that a wife (it says women but it means wife) is praised who is reasonable, God fearing, pious, respect themselves, respect their husbands and try to live in harmony and peace with their husbands. The third observation is that it does not always assume a realistic situation and how to deal with that; people also like to know what actions are to be taken when the situation is not ideal or it would not provide comprehensive guidance to life.

There are cases where women may not be that good in character and attitude just like men also as we can not expect every man to be a good husband. In case of persistent defiance or lack of cooperation on the part of the wife in a way that threatens the integrity of the family there are measures that can be taken which are like phased disciplinary measures. The first thing the verse mentions is kind exhortation. If the wife is really at fault the husband could go to her, appeal to his intimate relationship with her, appeal to love and affection, appeal to the fear of God and being God conscious, remind her of her duty and the need to protect her future and the future of the family, to keep in mind the best interest of the family and to try to reason and to respond to reasonable requests and reasonable exhortations. Needless to say any woman or wife who is reasonably decent to respond to this kind approach. But again we know that not every woman will be that sensitive or decent just like every man won't be as well. The second measure that the passage mentions is to suspend

intimate relationship with the wife; not for him to leave the home or (as some jurists say) the bed but simply not to share in intimate relationship. The idea is to try to bring the arrogance down to a reasonable level by showing that despite all of the beauty and charm one doesn't accept this kind of treatment. Some jurists say that by keeping apart in bed it may also test the relationship and the real love between the two parties. How long can they really keep away from each-other and if the problem is not resolved mutually and divorce is the outcome they got a taste of what will happen to them. If this doesn't work there is one more thing which may be resorted to as a last resort, under the private relationship of husband and wife used to avert from the possibility of divorce. It need not be useful in all cases but maybe in some and it is a light and symbolical chastisement. Even if this extreme situation arises and the woman is so insensitive that no appeal to reason works, even this measure is permitted reluctantly with a great deal of restrictions and limitations in order to prevent its abuse.

Host: What are the nature of these restrictions?

Jamal Badawi:

To start with this measure can not be implemented without good reason and it can not be just because he got angry or had a bad day. It really deals with the situation of serious refraction, breaking of order and discipline within the family. Like some jurists indicated a case of nushuz is if a wife just leaves her husband's house, refuses to respond to requests or reasonable or fair demand on his part. A second requirement is that it can not be used without first trying the first two steps: exhortation and keeping apart in bed. Many jurists add that enough time should be allowed in each of these measures for the refractory wife to gracefully mend her ways and to try to avoid breaking up the marriage.

A third requirement is that even if that is resorted to the mode of chastisement is subject to a number of severe restrictions which are just as important as the measure itself. To start with according to a saying of Prophet Muhammad as reported in Abu Dawood "A person should never slap another on the face." It is not a punishment or chastisement to slap another on the face whether a wife, child or anyone else. In the same Prophetic tradition it says that even if there is discipline a person should never swear at his wife or use profanities against her which are insults rather than corrections. A second restriction is that chastisement should be such that it can never lead to injury or even leave a mark on the body which is documented in both the Prophetic Tradition by Muslim and Al Tirmithi. In that sense when the face is eliminated, eliminate parts of the body that may cause injury or damage, when one avoids areas which may leave a mark (when chastisement may be resorted to) what else is left in the body? Even then a great companion of the Prophet (PBUH) Ibn Abass was once asked by Atta'a "chastisement with what?" and he Ibn Abass replied that a chastisement with a miswak. A miswak is like a toothbrush. This is the reason why it is called a symbolical show of displeasure and maybe shock that may awaken a her to the realities of what she is doing and it may lead the wife to throw herself in her husband's arms and cry and may mend the situation rather than going through a drastic situation like divorce. Some scholars after reviewing all the restrictions and

qualifications said that this kind of chastisement is closer to affectionate spank than it is to a punishment, harshness or cruel. Even if it is not described in favorable terms, one can look at it as the least of two evils. If the next step in a family dispute is divorce which this light and symbolical chastisement may avert then it is the lesser of two evils. It may be resorted to instead of something more unpleasant and more lasting happens.

Also, if resorting light chastisement, in one particular case with one particular woman is not useful and would not give positive results or could backfire into more aggravation then it should not be resorted to on the basis of this rule. The rule is not a blanket rule to be implemented under all circumstances with any person. Al Shafi'i (one of the leaders of the four schools of jurisprudence) who indicated that avoiding the last step is preferable. In most cases however one can say that in the great majority of cases with minimum degree of decency on the part of the wife I think this measure may not work. I might only work with certain groups of people, certain individuals or personalities to listen to reason or to sensitive enough to try to mend. A point should be added is that the passage ends with the statement that if the wife becomes cooperative and reasonable one should never seek any excuse to chastise her because God is above you all. This reminds the person that one should never abuse any power or authority because God is above everyone. All of these measures are reluctantly allowed but are better than resorting to divorce but is also discouraged despite all of those restrictions.

Host: Can you develop the analogy between divorce and chastisement?

Jamal Badawi:

Divorce is permitted in most cases but is discouraged as the prophet said “abghadu al halal” the most hated of permissible acts. Some of the Prophetic Traditions shed some light on this. It is narrated in Al Tirmithi that in the fair-well pilgrimage of the Prophet Muhammad (PBUH) one of the things that he repeated and emphasizes was “istawso bi al nisa’i khairan.” This translates to I commend you to be kind to women. In fact in dealing with wives in particular he said: you are taking them as a trust from God don’t betray that trust and be careful and considerate to that trust. In another saying narrated in Ahmad and Bukhari he says ‘Wouldn’t one of you feel ashamed chastising his wife or beating her like an animal is beaten during the day and at night embracing her and sleeping with her?’ In a third occasion there were some women who went to the wives of the Prophet to complain that their husbands chastise them physically. As narrated in Ahmad, Dawood, Al Nassa’i, Ibn Maja and Al Hakim he says “these husbands are not from the best among you.” In another saying narrated in Ahmad the Prophet indicated that “the best of you is the best to his family and I am the best of you to my family.” In his own behavior as narrated in Al Nassa’i the Prophet never beat a wife, servant or used his hand to punish anyone physically except in the case of fighting in the path of God or implementation of Islamic Law but not for any personal reasons. This shows that the norm in Islam is

not to resort to this measure and if it is resorted to reluctantly it may be used to avoid a greater evil.

Host: What happens in the situation where the man is at fault is she permitted to chastise him?

Jamal Badawi:

If one considers the natural differences between a man and a woman, if the woman tries to use the same thing if the man is at fault she will end up being the one to get it. It would not make sense to insist on an exact analogy between husband and wife. Aside from the physical question which is for the protection of the wife, even if the husband is wrong, the position as the husband as the head of the family makes this particular measure of chastisement rather impractical in this case. Most males would probably retaliate by simply divorcing their wife. This however does not mean that if the husband is at fault that he is not subject to any correction. In the opinion of some Muslim jurists the husband can be chastised but not through his wife. If the husband is unreasonable or cruel the first thing to do is the same as what the husband would do with the wife. After all the Quran indicates in (9:71) that believing men and women are supporters, helpers of each other in goodness and they have to exhort each other for what is right and prevent each other from what is wrong. So the wife could appeal to her husband, remind him of his duties and responsibilities which may lead him to be reasonable with her. The Quran refers to this type of situation where other measures can be taken(4:128) "If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves." Again a woman with her intelligence and sensitivity might be able to discover why her husband is averted from her or starting to dislike her. She or he may make concessions in order to make life livable and compromise in order to keep the family intact. All of these measures do not prejudice the wife's right to initiate divorce because of a just and good reason. The Maliki jurists say that if the husband is at fault and the wife makes a complaint the judge can exhort the person to correct himself, if he refuses a judge may order a temporary separation but not a divorce and if this doesn't work then the judge could order that the husband be physically chastised or jailed until he agrees to be fair, reasonable and kind to his wife.

Host: What if both the husband and wife are equally at fault?

Jamal Badawi:

This is mentioned in (4:35) the transliteration of the meaning is that if one feels that the discord between husband and wife then you should send arbitrator from her family and one from his family and if these people are really interested in making peace God will facilitate their effort. The arbitrators can be selected using a variety of means

which the Quran did not specify. It would be like a nomination where the wife selects someone from her family and the husband from his family.

Do these people have to be relatives? It is preferable but is not necessary. The reason why the Quran mentions relatives is that they would be interested in the welfare of the family, may know more about the background of the relationship between husband and wife and may be more effective in reconciling their difficulties. Many Muslim jurists say this is not an absolute requirement that they are relatives. Some Muslims who reside far from family may choose friends or people they trust who might be able to reconcile those differences. As far as who the arbitrators can be there has been a difference of opinion on that. The Hanafis and Shaafi'i say that their authority is simply to recommend resolution of the problem but it is up to the husband and wife to accept or reject. Ibn Abass says that they should be able to judge that the couple should be separated which gives them judicial power. The more appropriate interpretation is the one suggested by Hassan Albasri and Qatada where they suggested that the verse in the Quran does not mention anything about divorce but only about reconciliation and they say their authority is only to recommend means of compromise in order to bring harmony to the family.

7.45 Dissolution of Marriage I

Summary of 7.44 "Marital Problems"

The main issue that was raised is that divorce in Islam is not as easy as some may think. There are preventative measures that may take place like the careful selection of one's spouse and trying to live by Islamic Law with each other. Also, there are measures that can be taken in case there are disputes that would help contain it. There are certain measures that can be taken between husband and wife and if they do not work they can bring relatives in some sort of arbitration. In no case should swearing or cruelty be resorted to. All of these measures preventative or otherwise do not prejudice the right of the woman to seek divorce or otherwise.

7.45 Dissolution of Marriage I

Host: The common notion is that divorce is the exclusive right of the husband; can you clarify this?

Jamal Badawi

This is the common but is not true. In fact this is one of four forms of dissolution of marriage in Islam. In fact in terms of tradition the most common is that the husband unilaterally divorces the wife. But there are cases in Islamic law where the wife unilaterally can divorce her husband. Third, there are cases where the wife can initiate and obtain divorce through an Islamic court. Fourth, there are cases that can be obtained by mutual agreement. To say that divorce is the exclusive right of the

husband is a common mistake. The right to seek an end to an unhappy and unsuccessful marriage is established and applies to both husband and wife.

Host: Under what conditions can the wife unilaterally divorce her husband?

Jamal Badawi:

There are two basic cases where the wife can unilaterally use that right. One is called delegated repudiation called *ismah*. If the wife at the time of marriage or afterwards agrees with the husband that the right to divorce is transferred to her then if and when she desires she can divorce him unilaterally. This however has to be part of the nuptial contract. The second case is called conditional repudiation. This means that at the time of negotiating the marriage contract the wife could stipulate that the husband is obliged to fulfill certain duties or if the husband commits certain acts against her then she would have the right to divorce him. Marriage contracts are both religious and civil contracts where conditions which are not contrary to Islamic Law must be implemented and enforced. There may be differences between the different jurists as to the nature and format of these two types but there is a basis for unilateral divorce by the wife.

Host: How can she seek divorce through the judicial process?

Jamal Badawi:

There are several grounds for divorce through the judicial process. I will cover seven. First is the inability or refusal for the husband to provide for his wife, even if his wife is rich. In Islam it is the full responsibility of the husband to maintain his wife. This is the opinion of the majority of jurists such as Malik, Shafi'i and Ahmad. Hanafi said that if it is temporary poverty and he is still able to maintain his family to the best of his ability the marriage can not be dissolved. The second basis is abuse or mistreatment such as cruel or severe beating (wife battering to which 10% of women in North America seem to be subjected to). This is completely forbidden in Islam. Likewise cursing or swearing at one's wife or forcing her to do something to do something that is wrong from the Islamic point of view. A third case can be impotence on the part of the husband which recognizes the natural instinctive right of the wife as is recognized for the husband as well. A fourth ground could be a serious or incurable disease or insanity. Fifth an extended absence or desertion of the husband. There are two cases for this. One where the whereabouts of the husband is known in which case the judge can give him a time frame in which to come back to his wife or she would be granted divorce. Second is if the whereabouts of the husband are not known the judge can give a specific waiting period and then divorce the wife after that. Some say that six months (Malik) and others say one year (Ahmad). Sixth the long imprisonment of the husband whether it is interpreted as divorce (Malik) or annulment (Ahmad) she has the right to get out of the marriage. There are cases of

annulment such as deception at the time of marriage by giving false information or concealing important information in which case the wife is entitled to seek divorce.

Host: When is mutual consent divorce applicable?

Jamal Badawi:

there are two basic cases when this is applicable. One is known as mubara'a or mutual agreement to release each other from the vow of marriage. In which case they can agree among themselves as to what the conditions are for the divorce. Second, is the case of khulu' which some translate as self redemption. This would be the case of a wife who is unhappy with her husband but she can not fault him in any legal sense (he is fulfilling his duties and responsibilities) and she fears that if this relationship continues she may be tempted to fall into error. In this case they could agree among themselves that she can return to him any financial privilege that she obtained from him by way of marital gifts in return for the dissolution of the marriage. There is a reference to khulu' in the Quran in (2:29) but there are two observations about that form. One that a wife should not ask for khulu' unless there is good reason. As the Prophet indicated in Ahmad and Alnasa'i it is not proper for a woman to seek this kind of desolation if there is not good reason behind it. Second, even if the husband refuses the dissolution it must be imposed on him. In fact there is a story at the time of the Prophet narrated in Bukhari and Al Nassa'i where a man by the name of Thabit Ibnu Khais whose wife wanted to use the right of khulu' and he loved her and did not want to do it but the Prophet instructed him to take back his orchard (which she offered to give back) and divorce her. A third observation in Islam is prohibited from trying to oppress or pressure his wife so that she offers the marital gift in order for her to get out of the relationship. This is not regarded as fair and in (4:19) there is mention of this. In this particular type of dissolution of marriage could take place at any time.

Host: Why can't the wife have the right to a unilateral divorce under any circumstance?

Jamal Badawi:

We must distinguish between two things. One is the principle established in Islamic Law for the right of either husband or wife to seek an end to a miserable or difficult unsuccessful marriage. First of all to say that the wife should have the same right to divorce her husband unilaterally, with no reason, except for the cases that were outlined may not be to the best interest of the family or the wife herself. Aside from the fact that this reduces the chances for dissolution of marriages, we can also remember four points. First of all, the purpose of marriage in Islam is continuation and not divorce. While the man is capable of being emotional and making compulsive decisions to divorce his wife it is fair to say that a woman on the average is more emotional than a man. This is not a deficiency but part of her function as a wife and more importantly as a mother. It is not a deficiency to be emotional. The danger of

this is that she may destroy her family and future and then regret it when it is too late to correct. Second, while there is no winner in the case of divorce, everyone loses at least psychologically, the man or husband in Islamic Law stands to lose much more in the case of divorce. If he initiates divorce the wife is entitled to the entire marital gift whether the part that she received or that is due to her (it becomes due to her immediately). She is entitled to full maintenance during the waiting period which could be 3 months or if she is pregnant 9 months. Third, she would be entitled to child support if she has the custody of the child which is usually the case when the child is young. Fourth, according to some jurists she is also entitled to a consolation payment in the case of divorce: some say that she should get one year of maintenance at the expense of the husband.

When we look at it the other way around we find that the wife does not suffer financial losses as a result of divorce. Her property before marriage remains intact and does not transfer to her husband whether she is married or divorced. She does not have to pay a penny of anything that she earns on her property to her husband or her household. This shows that in the case of divorce it is the man who stands to lose a lot more financially based on Islamic Law. This may act as a natural deterrent on the husband taking compulsive actions when it comes to divorce because he stands to lose a great deal more than the wife does. On the other hand it would be unfair with all the financial security and privileges given to the wife and not the husband that she could at any time divorce her husband and still keep all the gifts and property that he has given her whether or not she has a good reason for divorce. A third point is that if Islamic Law did not provide some control on this any unscrupulous woman could get married and divorced as she wishes and every time she would get the marital gift (which can be substantial) and perhaps exploit him. Islamic Law does not only protect the wife but also protects the husband who is also entitled to some protection against possible exploitation. The fourth point is that with all of these controls as indicated before if the woman has a genuine reason to ask for divorce the avenues are open in the variety of ways we have already described.

Host: Why aren't both sides required to seek divorce only by the court of law? With no unilateral rights for either sides?

Jamal Badawi:

First, if there is an agreement between both sides and they find that this is beneficial to them as in the cases we described earlier (Mubara'a or Khulu'); why should the court impose its own will on them? I am not saying that society has no say but this agreement may be mutually advantageous to both of them. More importantly to have divorce through courts result in lots of delays (as any family judge can tell you) and during this period a wife is prohibited from remarrying and sometimes it takes years in litigation. Secondly, to go to court for a family problem without strong justification generates a situation where every side would have to justify to the judge that his or her spouse is at fault while trying to reveal all weaknesses. This is not a very pleasant situation. This bitterness that results in legal litigation could destroy any opportunity

for future reconciliation. Another reason is that divorce and marriage are very personal; there could be a very personal and private reasons for people to seek divorce. People who are not involved directly in the marital relationship might have difficulty appreciating and evaluating this situation. There are however cases where injustice is inflicted unless the Islamic Court of Law can step in. In this case Islam has an open door. But Islam does not encourage every case to be presented before a court of law. We have seen in the previous program that family arbitration could solve the problem or private arrangement between husband and wife might save the marriage without undue interference on the part of others. Even in the case where the husband uses the unilateral right to divorce it is not something that takes place spur of the moment but has certain restrictions and conditions in order to be valid.

Host: What are some of the conditions which are necessary for the validity of divorce?

Jamal Badawi:

In order for divorce to be valid the husband must be sane, conscious, under no compulsion (example: his father telling him to divorce his wife) and he should mean what he says when he utters divorce. Second, the words used for divorce should be clear and unequivocal, whether it is said directly or indirectly in writing, in person or through a messenger. Third, a person can not divorce his wife at any time, there are restrictions regarding certain periods where divorce is forbidden. Fourth, it should be noted that the first three conditions eliminate a person who is under the influence of drugs or alcohol, intoxicated. It also excludes people who utter divorce without being serious. In certain cultures people say ‘oh you must do this or that or I’ll divorce my wife.’ This is regarded as laghoo, vein talk which is not to be taken seriously and some jurists say that atonement for uttering this would be to feed 10 poor people or to fast three days but divorce will not take place. This precludes the case of divorce under certain states of anger.

Host: Almost all divorce occurs with some anger: how do we distinguish between the different states of anger which may result in the validation or invalidation of divorce?

Jamal Badawi:

A very nice subdivision was suggested by one of the great jurists Ibn Alkaim and he said there are three possible degrees of anger. There is the case which is so extreme to the point where the person does not really want to say what he is saying, does not appreciate or understand what he is uttering. This is an extreme case. He said that the consensus of Muslim jurists is that this type of divorce is invalid. This is analogous to

a person who is out of his mind and does not result in automatic disillusion of the family. The second case is a case where the person has a moderate degree of anger and of course no one divorces unless there is some anger. There is a type of anger where the person fully understands what he says and has premeditated intention to end the marital relationship. The consensus among Muslim jurists is that this is a valid divorce. The one that is rather controversial is what may be called a medium degree of anger, where the person is not totally out of his mind but he utters divorce without appreciating the consequences of this utterance. And as soon as he utters the divorcee he starts regretting it and wondering why he did it. On this case the jurists differed some say it is valid and others say it is invalid. The opinion that seems to be more consistent with various facets of Islamic Law is that it does't validate divorce. There are a number of reasons behind giving more credence to this interpretation, first there are several sayings of the Prophet (PBUH) narrated in Ahmad, Abu Dawood, Alhakim and Ibn Maja in which the Prophet says that there is no divorce in the case of ikhlak which is the case when the person is in a strong state of anger. In fact in another saying of the Prophet (PBUH) narrated in Bukhari he said Divorce is only when there is deliberate intention, not something casual or that happens spur of the moment or an outburst of emotions. Secondly, in the Quran a principle is established in terms of an oath which could be analogous in (2:225) "Allah will not call you to account for thoughtlessness in your oaths, but for the intention in your hearts; and He is Oft-forgiving, Most Forbearing." A third point is that at a medium degree of anger where a person doesn't appreciate the consequences of utterance he may be analogous to a person who is intoxicated which we indicated would invalidate the pronouncement of divorce. Finally, the lack of accepting this as a base for divorce seems to be consistent with the main purpose of Islamic Law which is to protect the family and maintain its integrity as much as possible.

Host: When is divorce not permissible?

Jamal Badawi:

A husband can not divorce a wife during her monthly cycle except in the case of khulu' or self redemption which we talked about before which could take place anytime. Second, even if she is going through her monthly cycle which one person called "fresh purity" after the cycle is finished, he can not divorce her during this period if intimate matrimonial relations took place. In this case he has to wait till the following cycle then he can pronounce divorce. A husband in Islam can not divorce his wife during the postnatal recovery period after childbirth. Divorce under these circumstances or in these periods is regarded as contra-Sunna divorce, it is divorce that is contrary to the path of the Prophet. Some jurists go to the point of saying it is invalid and the husband is required to repeal it and then utter it in the permissible times. Of course if divorce has taken place and the required waiting period has elapsed a husband has no right to force his wife to stay without releasing her as is found in the Quran in (2:230) "When ye divorce women, and they fulfil the term of their (Iddat), either take them back on equitable terms or set them free on equitable terms; but do not take them back to injure them, (or) to take undue advantage; if any one does that; He wrongs his own soul. Do not treat Allah's Signs as a jest, but solemnly rehearse Allah's favours on you, and the fact that He sent down to you the

Book and Wisdom, for your instruction. And fear Allah, and know that Allah is well acquainted with all things.” This shows that one should not hold his wife just for the purpose of hurting her, oppressing her or pressuring her once the various requirements had elapsed.

7.46 Social System of Islam- Dissolution of Marriage II

Summary of 7.45 Dissolution of Marriage I

First, we emphasized that the right to seek divorce in an unsuccessful and unhappy marriage is a principle which applies in Islam to both wife and husband. Divorce is not the exclusive right of the husband and we talked about the four different cases. Second, we said that the mechanism and procedure of divorce may vary in the case of a husband than the in the case of the wife. They may be similar in some cases but are not necessarily identical and we discussed the reasoning for these variations and that it basically relates to the question of equity. Third, we started discussion some of the main conditions and restrictions that Islam imposes on the process of divorce, some of which relate to divorce under the stat of anger and to what extent that can be valid. We also talked about the prohibition of divorce under certain periods of time: monthly cycle, postpartum (up to 40 days) or even divorcing her right after she ends her cycle if intimate relations took place during this fresher purity.

7.46 Dissolution of Marriage II

Host: Why is divorce prohibited during these times?

Jamal Badawi

First, prohibition of divorce during the feminine monthly cycle has good reason. It is because during the cycle the woman is likely to be in a state of fatigue, irritation, some degree of tension and this is why the Quran calls the cycle as athan or hurt which appears in (2:222). In addition to the hurt, irritation and possible tension on the part of the wife during this cycle in Islam it is prohibited for the husband to have any matrimonial/intimate relationship with his wife and this may generate tension from his side too. Under these circumstances it is quite possible that misjudgment or haste may take place and one or the other or both rush into a rash decision to end their marital relationship and destroy the family unit. In Islamic Law this mandatory requirement that one should not divorce during this period gives a chance to overcome this period and see if one of the sides or both sides is serious about divorce. The reason for prohibition for divorce during the postpartum period is similar to the cycle. During this time intimate matrimonial relationship is not

permissible and a woman has even more need for care both physically and psychologically and the last thing she wants in this circumstance is divorce. When a woman is pregnant divorce can be uttered but it does not become effective till the child is born. The third prohibition of divorce is after the monthly cycle during fresh purity if matrimonial relationship takes place. In this case it would be wise to find out if the wife is pregnant or not which is important for two reasons. One is to make sure of the lineal identity of the child. A husband who was planning to divorce his wife discovers that she is pregnant and gets excited about the birth of a new baby may have a change of mind or heart and this may change things on his part or her part. This is why a beautiful reference is made in (65:1) where it says that this waiting period should be given because maybe God will bring about a new situation. This possibly means reconciliation.

Host: If all of the rules that you just mentioned are observed does the divorce become effective immediately?

Jamal Badawi:

Not necessarily, even here there is a certain waiting period. In Islamic terminology this is called idah which is referred to in chapter 65 of the Quran. This waiting period is after the divorce is uttered and before it becomes effective. This period is most commonly three months. It is defined in the Quran in (2:228) "Divorced women shall wait concerning themselves for three monthly periods." Whether this is interpreted as the beginning or ending of three monthly cycles it amounts in most cases to about three months. This period however, could be longer as indicated in the answer to the previous question. If a person divorces his wife while she is pregnant then the waiting period extends till after she delivers the baby which could extend up to nine months. This is indicated in the Quran in (65:4). However the waiting period could be less than three months. If a person divorces his wife during the end of "fresh purity" a day before the new cycle starts the waiting period can be reduced to two months or less depending on the natural cycle for every woman (which is different from woman to woman). In some rare cases like khulu' or self redemption which we discussed in a previous program some jurists like Ibn Abass, Ahmad and Ibn Tymia based on the saying of the Prophet narrated in Al Nassai says that the period in this case could be reduced to one cycle or one month. The waiting period presumes that marriage has been consummated, however if marriage has not been consummated and divorce took place then there is no waiting period. The Quran is clear on this in (33:49) which says that if this kind of divorce takes place then there is no mandatory waiting period. In Islamic Law during the waiting period (after the utterance of divorce and before it becomes effective) intimate relationships are forbidden. If intimate relations take place it would be tantamount to reconciliation and revocation of the divorce.

Host: In the instances where there is a waiting period, where would the wife stay and who would be responsible for her upkeep and living expenses?

Jamal Badawi:

The answer is clearly found in the Quran in chapter 65 where it says that during the waiting period the woman is entitled to remain in her own household, as if divorce did not take place, and she should not be forced out of her house nor should she even leave unless there is a necessity but she is still part of the household. The responsibility for full maintenance during this period falls on the husband's shoulders. In chapter 65 it makes it clear that not only is the divorce wife entitled to financial support but also to good treatment. In (65:6) it says that the husband should provide them housing, they should not be annoyed or restricted. So she is entitled to both kindness as well as provisions. There are good reasons behind that. First the wife during the waiting period will be closest to her husband and if she is close to him in the same household it might act as a test of love. If there is true love between both of them and this was a matter of them getting angry with one another or a result of a rash decision this waiting period could be a chance for reconciliation. Reconciliation can occur through verbal statement that the divorce is revoked, a tender touch, a nice word or if intimate relations take place during the waiting period it would be regarded as revocation of the divorce. If revocation takes place there is no need for a new marriage contract. No court is involved in this even though some jurists say that it is desirable to have witnesses if this revocation takes place. One should also add that a wife who is divorced according to this method then the divorce is revoked would be deemed as having used up one of the two revokable divorces. Even though the husband goes back to his wife during the waiting period he is deemed as having used up one of the two revokable divorces.

Another possible reason for this waiting period is to make sure whether the wife is pregnant which would then establish the lineage of the child. A third reason is that if after the waiting period if both parties are determined to end the marital relationship the waiting period can serve as a transitional period in which both sides get ready and adjust to the kind of situation that they are bound to face after their marriage ends. As indicated earlier during the waiting period the wife is technically regarded as a wife. Jurists say that if the husband or wife die during this period they would be treated as husband and wife in terms of inheritance.

Host: After a wife is divorced is remarriage permissible or is it a sin?

Jamal Badawi:

It is not regarded as a sin in Islam to remarry because divorce can not automatically be presumed to be her error. It could be her fault, her husband's fault, both their faults or it could not be a fault of either of them but simply a mismatch. This is why the Quran in (4:130) says "But if they disagree (and must part), Allah will provide abundance for all from His all-reaching bounty: for Allah is He that careth for all and is Wise." This means that in the case of divorce God may provide each of them from His bounty and give them a new life with a new spouse where they end up with a happy marital life. If we assume that divorce is mainly her fault the Islamic attitude is that she should be given another chance. Also, marriage is very much encouraged in Islam and it doesn't encourage people to remain unmarried for the rest of their lives. What happens to a woman who is divorced when she is 22 years old? Why should she be condemned to live alone for the rest of her life? In Islam there is no stigma attached to the question of remarriage. There may be some cultures, Muslim or non Muslim, which regard with suspicion or stigma a divorced woman or man but this has nothing to do with Islam. Islam looks at it as a simple matter of mismatch without implying that remarriage is sinful. Remarriage is not only permissible to a new husband but also to the ex-husband. In other words after the laps of the waiting period and there is no conciliation and the first divorce became effective she would be permitted to marry her ex for a second and a third and final time. The Quran in (2:232) prohibits anyone from trying to prevent the wife from reconciling with her old husband of course within the limits of second or third time. No one should stop her if they decide to get back together and start a new life. In any case if divorce takes place and the waiting period has already elapsed and they want to reconcile it must be with a new contract, new marital gift and possibly new conditions.

Host: Can you comment about a woman who has been divorced by the same husband for the third time? Can there be no reconciliation in this case?

Jamal Badawi:

If divorce has already taken place twice between the same husband and wife. So they got divorced reconciled, divorced again and reconciled again and then divorce takes place for the third time, this is evidence of one of two things: there is a serious problem or that one or both of them is not serious, has no respect for the marital relationship and takes it to lightly. Whatever reason is behind it restoration and respect for marriage is needed and that is why under Islamic Law if a person divorces the same wife for the third time it becomes an irrevocable divorce. There is only one rare case when they may get back together. This is specified in the Quran that if after the third divorce the wife gets married to another person for the purpose of permanence (not to get around the law) and it so happens, without premeditated or deliberate intentions, that the second husband divorced her or died then she would be entitled to remarry her ex. Islam made it clear that it should never be done for the purpose of tahlil just having a formal contract for the purpose of letting the wife go back to her original husband. If one follows Islamic Law in this case it would be a very rare case that this happens. If the husband divorces his wife three times in one time (by saying it three times) does it become irrevocable or is it counted as one

divorce? There was a weak interpretation after the one of the great Caliph Omar that in order to punish people he said that if one says it three times it becomes irrevocable. Many other jurists like Ibn Alkayim did not agree with him. They referred to a variety of sayings for Prophet Muhammad (PBUH) as narrated in Ahmad and Abu Dawood of a man who divorced his wife three times in the same breath and he came to the Prophet and said that he loves her and could he revoke it. The Prophet asked him if he said it in the same time and the man answered in the affirmative and the Prophet said that he could revoke it if he wished. They conclude from this that even if one says it a hundred time in the same time it would still be counted as one. It makes sense because the purpose of Islamic Law is to provide opportunity for reconciliation. Even jurists like Abut Hanifa say that there should be a one month period between each divorce. So if a man divorces his wife and returns her, he should wait a month before divorcing her again, there should be time between them. One should not reconcile one day and divorce his wife again the next day. The wisdom of legislation here is to give a chance for reconciliation.

Host: What happens with financial matters and custody after divorce?

Jamal Badawi:

If divorce takes place before marriage is consummated the answer is in the Quran in (2:237) and it says if you divorce your wife before touching her (a symbol of consummating the marriage) then she would be entitled to half of the marital gift. For example if the marital gift they agreed on was \$5000 she is entitled to \$2500 unless she forgives it. This is a kind of consolation to her. If divorce takes place after marriage is consummated then the wife is entitled to a number of things. First, she would be entitled to the entire marital gift (whether she has received part of it or not- whatever she did not receive would become due). Second, she would be entitled to keep all gifts given during engagement or afterwards. Third, she is entitled for full maintenance for the whole waiting period which is usually 3-9 months. Fourth, if she has a suckling baby (they agree to suckle the baby) she would be entitled to payment for providing this for her child. Even though this is an instinctive thing if she is divorced the husband would be responsible to provide for her so she can stay in good health and look after the baby. Fifth, if she has custody of the baby or small child which is usually the case she is entitled to child support for all the needs of the child. Sixth, some jurists believe that she is entitled to some kind of divorce consolation gift. This is mentioned in the Quran in (2:231 and 236). Some interpret that giving some sort of consolation as being highly desirable, highly encouraged and others understand it as being a requirement. Some laws provide (I read about the law in Syria) up to one year of maintenance even after she has taken all the other financial privileges.

In the matter of custody the rule is that the mother is more entitled to the custody of a small child. The age vary depending on the opinion. Some say that the mother is

more entitled till the age of 7. Some say that in the case of a daughter the mother is entitled to keep her till she becomes an adolescent and some say till she gets married (because she needs guidance as a wife and mother). There are two basic conditions for this: first that the mother be fit (both in terms of her mental capacity and reputation). If the mother has mental illnesses then she would not get custody of the child. Fitness could refer to good reputation; a divorce's reputation which is in question would not automatically be entitled to the custody of a child because again it may effect his or her moral upbringing. A second major point is that according to one saying of the Prophet (PBUH) is that she is entitled to the custody as long as she does not remarry. For her to remarry endangers the interest of the child as the man may be dominant and may not care or treat well a child of another person. This of course applies to the other side but in the case of a wife the danger might be greater for the child. If we study Islamic Law and the question of custody we find that there is more bias towards the female side. Even though the responsibility for custody is both for husband and wife but it is stronger towards the female side of the wife before it passes on to the female side of the husband's family. If no female is available then perhaps custody could pass to the male side of the family. The idea here is that the female has more compassion towards the child.