

deviation from the truth. This does not mean that they were infallible (as some may understand it) but rather that they did not intentionally deviate from the truth.

Fadl provides a useful principle or tool that can be used in evaluating a particular hadith. This principle is that a higher standard should be employed for traditions that have a strong social impact, transcending a specific legal obligation. If scholars establish some basic overriding principles, not necessarily to automatically reject or accept a particular tradition, but to provide a framework that would cause one to pause when they come across a particular tradition and inquire further, it may control the quick judgment people reach merely by finding a particular hadith in an authentic collection.

Chapter Nine

Post-Divorce Financial Support from the Islamic Perspective (*Mut^ʿat al-Ṭalāq*)

Mohamad Adam El Sheikh

The subject examined in what follows is post-divorce financial support and its affinity to *mut^ʿat al-ṭalāq*, as we know it in Islamic jurisprudence. Predominant scholastic understanding and prevailing judicial applications in the Muslim world today indicate that women are not entitled to any post-divorce financial support (*mut^ʿat al-ṭalāq*), property settlement, or indeed any wealth of their household accumulated during the course of their marital life. The pretext is that the shelter, food and clothing provided by husbands during marriage fully exhausts any share ex-wives can expect to receive post-marriage. This understanding considers women as being only entitled to three months of spousal support during the religiously prescribed waiting period known as *ʿiddat al-ṭalāq*.

As a former judge of Shariʿah courts in Sudan, former resident imam of one of the largest Islamic centers in the U.S., and as an Islamic adjudicator and arbitrator for the Muslim community for more than twenty years in North America, I have encountered and been involved in numerous cases of this nature. I have witnessed the injustices imposed against divorced women and their suffering due to the neglect of Islamic rules of post-divorce financial support. This un-Islamic and inhumane treatment of divorced Muslim women affected me deeply,

motivating a desire to study the issue for myself in the interests of women and to examine the correct Islamic position with regards to compensation.

One of the oldest Qur'anic commentators, Imam al-Ṭabarī, in his commentary on the Qur'anic verses related to divorce, strongly advocated the rights of women with regards to the *mut'ah* (post-divorce financial support, or post-divorce payment, made by a divorcer to a divorcee). He said:

It is my conviction that post-divorce *Mut'ah* is an obligatory payment on the husband who divorced his wife, and he is liable to pay her *mut'at al-ṭalāq* just like he is liable to pay her due dowry, and he will never be exonerated from such obligation until he pays her or her proxies or heirs, and that *mut'at al-ṭalāq* is like other debts that are due to her, and the husband is subject to incarceration and his property can be sold for not paying his divorced wife her post-divorce due *mut'ah*.³⁸

Abū al-Fidā' Ismā'īl Ibn Kathīr defined *mut'at al-ṭalāq* by saying that *mut'ah* was something paid by the husband to his divorced wife, according to the husband's means, so as to compensate the divorced wife for what she lost due to the divorce. Imam Fakhr al-Dīn al-Rāzī, one of the most prominent jurists of his time, was in favor of the opinion of jurists who believed that *mut'at al-ṭalāq* was not an optional matter but fittingly mandatory. Al-Zamakhsharī, among the most famous jurists and scholars of Islam, believed post-divorce support to be mandatory only for women divorced before the consummation of marriage, and only recommendable for other divorcees.³⁹ Shaykh Rashid Rida supported scholars who endorsed the eligibility and the right of divorced women to post divorce support as a mandatory duty upon the divorcing husband.⁴⁰

The Prophet was married to a woman known as 'Umrah, daughter of Yazīd, son of John, from the tribe of Kilāb, but due to an uncertain reason the marriage was not consummated. Upon divorcing her, the Prophet paid her what was due according to her post-divorce right and sent her back to her family. In this Prophetic practice, we learn that despite the short time she spent in the Prophet's house, when he pronounced an irrevocable divorce upon her, he granted her post-divorce *mut'ah*.⁴¹

Muslim jurists hold two different opinions on post-divorce financial support. Some jurists regard it as mandatory (*wājib*), in the first category of Islamic rulings; and some as *mundūb* (recommendable), in the second category of rulings. However, in terms of practicality, Muslim jurists do not hold post-divorce support as obligatory. Even those who believe it to be a mandatory command from Allah do not advocate it, much less apply it. The principle is almost totally ignored, and buried under the prevailing rubble of custom. In today's society, many women have to fend for themselves and earn an income to support themselves and their children. In circumstances such as these compensation for divorce becomes even more important because the safety net of extended family systems is fast eroding. Today, in many cases, divorced women do not have places of refuge and no financial means to support themselves or their children.

Regrettably, our predecessor jurists left us with a very limited legacy on the subject of assessment for post-divorce financial support, and almost nothing on property settlement. Most assessments were reported from either the Companions of the Prophet, such as ʿAbd Allāh ibn ʿAbbās and al-Ḥasan ibn ʿAlī, or there is the incident of the Prophet himself when he divorced one of his wives before consummation of the marriage, gave her *mutʿah* and asked Abū Usayd to take her to her family.

Muslim jurists need to take a proactive role in reviving the application of post-divorce support (*mutʿat al-talāq*) as it has been clearly decided by the Qur'an and the Sunnah. There are numerous reasons for reinforcing the application of post-divorce support in our modern time. It is a command of Allah as reported in a number of verses in the Scripture. It has been supported and illustrated by the Sunnah, the Companions of the Prophet, and the Successors. It is a manifestation of the profoundly rooted Islamic principle of justice and fairness for all in general and towards women in particular. It is in the best interests of minor children, largely the first victims of arbitrary subjective divorces.

Furthermore, it serves as a means of deterring all kinds of harm that divorced women may fall victim to, women who today are crying out for help, but receiving none. Finally, it is an implementation of the Prophet's recommendation (*waṣīyyah*) made to his Ummah on the Day of ʿArafah during the Prophet's Ceremonial Declaration known as the farewell Pilgrimage Sermon.⁴² These issues are fundamental and critical

and they impact on human lives and have far reaching consequences. As such, I urge Muslim jurists to face this emerging challenge fully, to apply the fairness and justice of Islamic Shari'ah law in all matters, and to protect all the rights of women.

Chapter Ten

A Muslim Approach to Western Studies of Islam

Khaleel Mohammed

Especially with the September 11, 2001 events, as one of the most horrific manifestations of terrorism falsely committed in the name of religion, Islamophobia in the West has seen an increase not only in the media and academe but also in the increase of threat to the personal safety of Muslims. Given a calamitous connection between the popular news media and the academic world, in an America that is beset by a zealous nationalism characterized by the most insidious Islamophobia, it is easy to understand the gross generalizations and simplifications about Islam. By not developing a foundation in religious studies and the ability to structure adequate terminology, media and academe often fall prey to the use of non-Muslim-designed, derogatory, political coinages in a religious setting, thereby reinforcing negative images of Islam. Following are some examples of the problem as it applies to the Qur'an. By focusing on narratological analyses, Muslim researchers can refute some of the wrong ideas and play a meaningful role in removing negative images of their religion.

There is a vast disconnect between Islamic and religious studies. Many "Islamicists" who are employed in the various departments of religion are not religious specialists, and, as such, they are not generally familiar with religious theory and terminology. Some Muslim professors are not even trained in Islamic studies; they have become lecturers on the subject either because they are Arabs or claim they can teach Islam. In many instances, they do not even know Arabic. One of the most pressing problems is that many Muslim professors bring either their sectarian or faith-based prejudices, and do not objectively approach their subjects. Also, there is a great need for improvement in Islamic studies as a discipline within religion, and several studies have been conducted on the issue.