

the same responsibilities in safeguarding equality and justice for all mankind. This understanding is supported by the explicit meaning of the Quranic verses, as discussed in this work, and by the Prophetic attitude towards respectful and equal treatment to all Muslims regardless of their sex, nationality, wealth and social status. Furthermore, it is supported by the implications of the concept of *Riayah*, which is applicable to all Muslims in all walks of life. Extending this interpretation of *Qawamah* to the Muslim family will strengthen the bonds of the marital relationship and further assures both spouses that their rights will be observed. Moreover, the right of children to live in stable families will not be jeopardized.

In this paper I have attempted to look at the concept of *Qawamah* from the perspective of a Muslim female thinker, who works with Converted Muslim women and Muslim youth of both genders. It is vital to review the interpretations held of the concept of *Qawamah* and to try to develop a wider understanding of the role of such vivid concepts in bringing Muslim youth back into their *Ummah* to play their role in preaching Islam as a call of justice for all, and to achieve the establishment of a better understanding of belonging to the Muslim *Ummah*.

accordance with the universal interpretation of the concept. However, the Quran as Qutb⁽¹⁾ and Kamali note sets out many general and specific rulings intended to root out the evil ideas and practices in the treatment of women and other vulnerable groups in the Muslim community.⁽²⁾ By this specific ruling concerning the relationship between men and women, the Quran highlights an extra awareness of the rights of women in Islam over men from the perspective of *qawamah*.

This understanding, gives a positive implementation of the concept of *Qawamah* in the realm of humanity. Transforming the relationship of slavery between husband and wife into a compassionate one, since they were created equal from a single soul keeps the ties of the family strong. Similarly, setting the limits of the concept in *Shariah* so as to secure justice and fairness is the only assurance that keeps the family flourishing in the Muslim community, and the achievement of justice for all mankind, regardless of their sex, nationality, religion, and colour. .

Conclusion

The narrowly held interpretation of the concept creates the impression that Islam contradicts itself when it comes to women's legal rights in general and more specifically their rights under Family Law. This problematic standing affects the image of Muslim women, their social role in Islam and most importantly undermines the sense of equality between men and women in the juridical rulings of Islamic Law. This imposed impression is the obstacle which hinders women –in the present time– who live upon freedom and justice achieved by modern world to consider Islam or Muslims to belong to.

The proposed interpretation of the concept of *Qawamah* accords with the wording of the text and its *Maqasid*. This in turn nullifies the alleged contradiction in Islamic discourse on the issues of women because this interpretation keeps men and women equal and implies that both share

(1) Qutb, *In the Shade of the Qur'an*, (4:325)

(2) Mohamad Hashim Kamali, *Principles of Islamic Jurisprudence*, Islamic Text Society, UK, 1991.p. 32.

Surat al-Nisa', as has been expressed by the Muslim theologians of the past and the Muslim reformers of the present time, reflects upon some widespread traditions which were imposed on women in pre-Islamic cultures. The Quran does not intend, by adding the concept of *Qawamah* (in accordance with the current interpretation) to give legal approval to these practices. *Surat al-Nisa'* explicitly declares the Quranic rejection of the attitudes underlying such practices. Moreover, the Quran issues many rulings for the improvement of the position of women. In this context comes the utterance of the concept of *qawamah*. I assume the concept comes to affirm the rejection of the cultural practices of the time and to establish new rights for women by forming a new foundation for the relationship between men and women. This understanding may be supported by implementing the concept universally, as discussed earlier. Instead of the former ill-treatment and abuse of the social and financial rights of women by their male spouses or guardians, the Quran instructs Muslim men to discharge their universal role by observing justice in their treatment of women.

The above interpretation probably finds support from Islamic law itself, which ruled in the first place that men bear the obligation of providing for the maintenance of women. The bedrock of these laws is the Quran and the authentic *Sunnah*.⁽¹⁾ With this presumption, the concept of *Qawamah* comes to displace the cultural authority of men over women and states the basis on which Islam perceives the essence of a new kind of relationship. On the one hand, instead of taking unwarranted financial advantage of being a woman's husband or guardian, a man is alerted by the Quran to the fact that he must not seize such financial profits, while, on the other hand, a man is primarily entrusted with the duty of looking after women fairly and providing for them.

The point to make here is the Quranic emphasis on repeating the concept of *Qawamah* in the case of women. There is no doubt that women were as entitled as anyone else to receive fair treatment, in

(1) For details on this point see :

- Zaydan, AbdulKarim *Al-Mufassal Fi 'Ahkam Al-Mar'ah Wa Bayt Al-Muslim fi Al-Shari'ah Al-Islamiyyah*, Beirut : Mu'assaasat al-Risalah, 1993, vol.10, p. 170-172.

She argues that this concept is the practical implementation of the real limits of *qawamah*. She concludes that bearing in mind the concept of *ri'ayah* prevents us from misunderstanding and misusing the concept of *qawamah*.⁽¹⁾

Presumably, the dominating ideas of some reformers such as `Abduh and Qutb (who hold the previous interpretation of the concept of *qawamah*, which gives precedence to men over women in the household)⁽²⁾ hinders Hiba Izzat . She remarks earlier in re-establishing the relationship of marriage, by completely implementing the universal meaning of *Qawamah* as presented by the Quran itself. In accordance with Hiba Izzat's representation, *shura* is the key factor which keeps the family in harmony.

3. The possibility of a different interpretation for Qawamah

Reviewing the implications of a previously held interpretation is a major requirement in reforming Islamic thought. However the apparent conflict with the *maqasid* of the *Shariah* and with the social practice of the Prophet regarding the treatment of women highlights the need for a different interpretation of the concept which will influence positively in reviewing some rulings in Islamic Law.

The contextual usage of *qawwamon* in the Quran, in verse 134 of *al-Nisa'* and verse 8 of '*al-Ma'idah*' proposes a universal task for Muslims (men and women), which is to behave justly in the world. However, it may be assumed that taking this interpretation should not exclude verse 34 of *al-Nisa'* " '*al-rijal qawwamon `ala al-nisa'* ."

﴿الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ﴾ [النساء: 34]

The reason for this assumption is that the absence of any explicit or implied Quranic evidence suggesting otherwise. When the Quran says *al-rijal* (men) in general, it is unacceptable to restrict the word to meaning 'husband' or 'guardian' for no reason.⁽³⁾

(1) Ibid.

(2) Qutb, *In The Shade of Qur'an*, vol. iii, surah 4, pp. 131-132.

(3) Ibn Hazm, `Ali Ibn Ahmad al-Zahiri. *Al-Ihkam fi `Usul Al-Ahkam*, Tahqiq Ahmad Shakir, Dar Al-Hadith, 1404AH vol. 8, p. 309.

The Prophet was stressing the rights of women by reminding Muslim men that they are entrusted by God to treat their women perfectly. They are not to have control or unlimited authority over them, as had been the case before Islam; because free men in the Arab Peninsula used to have unlimited authority as the owners of their slaves. This interpretation is accompanied by other Prophetic sayings which place women in positions of responsibility to look after their children, families and households.

Nevertheless, the manifest intentions of the Quran and the example of the Prophet to change the position of these groups, enshrined in many rulings, succeeded in establishing many rights for slaves, orphans and women which had not existed in *Jahiliyyah*. Notwithstanding the devout efforts of the Muslim theologians and jurists, the unjust hidden attitudes inherited from *Jahiliyyah* are still obvious in some interpretations of the Islamic text. The failure to escape such contradictory interpretations was formerly and still is justified on the grounds of the apparent support of some existent Prophetic sayings. Nonetheless, the reliance on *Aurf* (tradition) is always enough to hold back the proposed changes, but in former days the chance of finding new interpretations was remote.

Alri'ayah (looking after)

Heba Izat Raouf implements the concept of *ri'ayah* (looking after) which is stated in the Prophetic tradition.⁽¹⁾ That says:

"كلكم راع وكلكم مسؤول عن رعيته، فالإمام راع وهو مسؤول عن رعيته، والرجل في أهله راع وهو مسؤول عن رعيته، والمرأة في بيت زوجها راعية وهي مسؤولة عن رعيته."

"Every one of you is a guardian and responsible for what is in his custody. The ruler is a guardian of his subjects and responsible for them; a husband is a guardian of his family and he is responsible for it; a lady is a guardian of her husband's house and is responsible for it."⁽²⁾

(1) Bearing in mind the previous interpretation that men are more appropriate for decision-making.

(2) Al-Bukhari, *Sahih Al-Bukhari* Translated into English by Muhammad Muhsin Khan Ibid., Hadith number (2409), vol. 3, p. 340.

Islamic law (on the level of theory and practice) interacts with socio-historical changes.⁽¹⁾

Apparently, these conclusions underline two factors which are responsible for the imperfect interpretations of the Prophetic will. Firstly, reading the Islamic text isolated from many other relevant texts is in itself a grave mistake. It encourages a narrow and partial reading to conceal a holistic and broad reading of the Islamic text. This would probably present Islam as promulgating misleading concepts and allowing unacceptable rulings. The contradictory images represented in religion can be explained in these terms but I believe they should be totally rejected as applying to the perfect religion of God as expressed in the Quran. Secondly, construing the text literally should not allow one to ignore or be naïve about the noble metaphorical meanings which lie within it. God Himself talks in allegories and coins numerous similitudes for mankind in order to prompt reflection and deeper thinking. The style of the Arabic language allows great play for the metaphorical use of words. This enriches the language and enriches the meanings of the words in various contexts. However, the preference or otherwise for the metaphorical meaning rests upon other factors.⁽²⁾ Taking into consideration these two factors raises the possibility of making a wholly different interpretation, including a more balanced one.

Moreover, many pieces of textual evidence which declare explicitly that *al-Nisa' shaqa'iq al-rijal* (that "women are siblings to men").⁽³⁾ This implies that men and women occupy the same position and enjoy the same rights.

(1) The legal opinion of participating in politics for example is being advanced from nomination to electing. Moreover, the acceptance of women to play more active role in political sphere is expanded by *Fuqaha'* to issue the *fatwa* that gives women the chance to be elected to the presidency of their countries as long as Khilafat is being occupied by a man. See for more details:

– Al-Buti, Mohhamad Sa'id, *Al-Mar'ah Bayn Tughyan Al-Nidham Al-Gharbi wa-Lata'if Al-Tashri al-Rabbani*, Beirut: Dar Al-Fikr, 1996.

(2) Fino, Dua' "*The influence of the concepts of qawamah and Wilayah*, 'Muslim Scholars' Methodology in Interpreting the Islamic Text', chapter one.

(3) Al-Jarud, Abdullh Al-Barudi, *Al-Muntaqa*, Mu'asasat Al-Kitab Al-Thaqafiyah, 1988, (1:33), *Hadith* number (88).

The apparent conclusion is that the commentators of the past used as sources narrations which were not authoritative. In addition, they used authentic narrations to support the detailed explanation presented by the people of the book. In other words, the narrations of the people of the book were witnessed and they were given precedence over the Quranic verses and the Prophetic traditions. This is in stark contrast with what Muslims have been instructed. The Quran says:

﴿ وَأَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ مُصَدِّقًا لِمَا بَيْنَ يَدَيْهِ مِنَ الْكِتَابِ وَمُهَيِّمًا عَلَيْهِ ﴾ [المائدة: 48]

"And to you We have revealed the Book, forth the truth, confirming the Scriptures which had already been revealed before it and superseding them" (5:48).

The other point which may be made in this regard is that evidence of the way in which women were created does not stand in support of the superiority claimed by men over women as it did in the eyes of the 'Ulama' of the past. It does not sustain the idea that women need men to compensate for their own psychological defects owing to the moment when they were alleged to have been created. But it still does not nullify the psychological differences between the two sexes. Nevertheless, being both created from *nafs wahidah* generates feelings of mutual comfort between them. This in turn transforms the foundation for a compassionate relationship between them, as described by the Quran.

The debate between the contemporary Muslim 'Ulama' reviewing this issue and other relevant matters sheds light on the importance of initiating a pure understanding of the Islamic text, free from biased judgments about women in Islam in general.

The consideration of these circumstances and conditions helps later Muslim generations to form a more precise and comprehensive understanding of those rulings. Moreover, it assists contemporary jurists in reviewing previous interpretations of those narrations and shedding light on possible new ones. This allows us to deduce rulings which are more flexible and suitable for a changing world.

The appearance of new interpretations and new *fatawa* (legal opinions) supporting of women's participation in politics shows that

"Whoever believes in Allah and the Last Day should not harm his neighbor. And I command you to take care of the women, for they are created from a rib and the most crooked portion of the rib is its upper part; if you try to straighten it, you will break it and if you leave it, it will remain crooked, so I command you to take care of the women." (1)

Thus, it is not the authentic narrations which state that the woman was created from the rib of the man. Moreover, the literal meaning does not in this case nullify the possibility of the metaphorical meaning. Overall, the Prophetic saying describes the general character of women. That is, women cannot maintain a constant response over time, due to their fluctuating moods. This metaphorical understanding is supported by the explanation in another authentic version of this narration; it says:

"لن تستقيم لك على طريقة."

"She would not keep her mood." (2)

Nevertheless, the *'Ulama'* associated the understanding of this narration with the narration of the people of the book. For example, Al-Qurtubi reflects upon the narration that because of this, *'Ulama'* conclude that women have unpredictable qualities.⁽³⁾ Ibn Kathir for his part suggests that secluding women and restricting them to their houses is the legal effect. He refers to a saying by Ibn `Abbas: man was created from the soil of the earth; as a result all his desires converge on looking for a living from it, whereas woman was created from man, and thus it is suggested that she is fond of him (!) Hence, she should be secluded.⁽⁴⁾ Regardless of the degree of authenticity of the reference made to Ibn `Abbas, it comes as his personal opinion and thus is not binding. This status of the *'Ulama'*'s personal opinions was established by the companions of the Prophet.

(1) *Al-Bukhari, Sahih Al-Bukhari* Translated into English by Muhammad Muhsin Khan, Riyad: Darussalam, 1997 Kitab al-Nikah, Bab al-Wasat Ninnisa' Hadith no. 1858, p. 897-898.

(2) Muslim, *Sahih Muslim* Riyad: International Ideas Home for Publication 1998, Kitab al-Rada', Bab al-Wasiyatu Binnisa' Hadith no.1468, p. 585.

(3) Al-Qurtubi, *Ibid.* (2:1092).

(4) Al-Bayhaqi, Abu Bakr, Ahmad ibn al-Hasain. *Shu`ab Al-Iman*, Tahqiq Mohammad Basyuni, Beirut: Dar Al-Kutub Al-`Ilmiyyah, 1410, vol.6, p. 165.

The conclusion to be drawn here is that verse 34 of *al-Nisa'* has no authentic instance limiting its broader meaning to a narrow interpretation of the permissibility of beating women. However, the existence of such weak narrations determined the commentators on the *Quran* to abandon the contextual meaning of the verse. This does not allow much focus on the relationship between the Quranic verses which constitutes the unity of the *Surah*. Moreover, it ignores the position of this verse in the light of the *maqasid* of the *Quran* and the practice of the Prophet with regard to women.

Going back to the very beginning of creation, in accordance with the *Quran* (as has been mentioned previously) mankind was created from *nafs wahidah* (a single soul) and *khalaq minha zawjaha* (and from it, or from the same substance, her mate was created), and then *wabatha minhuma rijalan kathiran wa nisa'* (that from the two of them spread abroad so many men and women)" (4:1).

The disagreement in this regard is about the exact meaning of the verse as regards women. In the past the '*Ulama*' tried to clarify whether the first woman was created independently from the same substance as man or whether she was created from his rib. The *Quran* is satisfied by giving the above-mentioned declaration with no further details. However, the thirst for details attracted the '*Ulama*' of the past to fill the gaps of the story by referring to the narrations of the people of the book. Although there is well-known disagreement about this kind of reference, the commentators of the past relied on such narrations, leaving later generations of Muslim readers to struggle. For example, Al-tabari, Al-Qurtubi, and Ibn Kathir rely on the narrations which describe Adam as sleeping when God took out his left rib and created Eve.⁽¹⁾ Later on, this narration was interlined with the authentic narration related by Abu Hurayrah; it says:

"من كان يؤمن بالله واليوم الآخر، فلا يؤذ جاره، واستوصوا بالنساء خيراً، فإنهن خلقن من ضلع وإن أعوج شيء في الضلع أعلاه فإن ذهبت تقيمه كسرته وإن تركته لم يزل أعوج فاستوصوا بالنساء خيراً."

(1) Al-Tabari, *Tafsir*, vol. 4, p. 255. See also :
 - Al-Qurtubi, *Tafsir* vol. 1, p. 301.
 - Ibn Kathir, *Tafsir*, vol. 1, p. 449.

Hiba Izzat has a similar approach: she associates *Qawamah* with *Khilafah* (vicegerency). She highlights the fact that men and women have been honoured by God with this position on earth, making reference to the Quranic usage of the word *insan* which is *mushtarak* (a homonym). However, the Quran adds other precepts to ensure unity and loyalty between men and women, for example, *wilayah* (protection), which makes Muslim men and women responsible for protecting each other from evil by putting men and women on an equal footing under the umbrella of sisterhood/brotherhood which supersedes all other ties in the Muslim community.

She argues that any discussion of the interpretation of *Qawamah* should not be limited to verse 34 of the *al-Nisa'*. The concept must be viewed in the light of all its uses in the Quranic text. She concludes "that *Qawamah* is one of the general qualities of believers in the Muslim community and is associated with their responsibility to bearing witness on behalf of mankind. Accordingly, *Qawamah* means standing up for religion and being committed to justice."⁽¹⁾

It is thus logical to conclude that as regards these Quranic verses *Qawamah* (standing both for God's religion and for justice) is the ultimate definition of the trusteeship conferred by God upon man. In other words, *Qawamah* is in itself a positive perception in the *Quran*. It is an instruction to Muslims by God to be respectful, whereby they are instructed to hold to justice. By doing so they qualify themselves to play their role as witnesses on behalf of mankind and to be the vicegerents of God on earth. This means that their mission is to ensure that individual/collective rights and freedoms are not abused, resulting in a loss of justice, and to guarantee equal treatment to all people, regardless of their differences. To sum up, the *Quran* presents a positive image of *qawamah*, associating it with one of the major *maqasid* of *Shari'ah* namely *al-'adl* (justice). Moreover, the *Quran* does not make in this regard the slightest reference to any particular sex or nationality. In this instruction all Muslims are addressed equally.

(1) Hiba Raouf Izzat. *Al-Qawamah bayn al-Sultah al-Abawiyah wal-Idarah al-Shariyyah*: <http://www.islamonline.net/iol-arabic/dowalia/mafahem-19.asp> (2003)

bilqist is the ideal expression for such occasions in the Quran in emphasizing equality and justice. Rida explains that verse 134 of *al-Nisa'* comes after the command to adhere to justice as far as specific groups are concerned, namely, orphans and women. However, verse 134 draws attention to the need to hold fast to this precious principle (i.e., Justice) in all paths of life. In other words, Rida interprets *qawwam* in its broader meaning. That is, it is an obligation upon every single Muslim to be *qawwam*. This means that the position of *qawamah* in this sense is not qualified with respect to certain entities or a certain sex. It is a duty upon individuals to observe justice in their attitudes towards others, regardless of their religion, sex, status and wealth.⁽¹⁾ This *qawamah* is the general and the collective covenant that God took from the believers; to act with justice in all spheres of life. The observance of this covenant must be carried out with sincerity and the pure intention of pleasing God.⁽²⁾ Absence of this *maqsid* (purpose) affects human welfare therefore under this interpretation of *qawamah*, Muslims are instructed to be the guardians of justice on earth.

Sayyid Qutb explains that the addressing of or the covenant with the Muslim community in the two verses⁽³⁾ reinforces the status which God had previously assigned them. He makes reference to the verse which describes the Muslim community as "the best community ever raised for mankind,"⁽⁴⁾ but, according to him, Muslims are to achieve this status through the process of education. The condition for fulfilling the duties of this role of *Qawamah* (trusteeship) over mankind is that they must uphold absolute justice. "It is a standard of justice which requires the community to deal directly with God, disregarding every emotion, prejudice or interest, including what is often called community or national interest."⁽⁵⁾

(1) Ibid., vol.5, p. 367.

(2) Ibid., vol. 6, page 228, and vol. 5, p. 6.

(3) Verse 134 of *surah al-Nisa'*, and verse 8 in '*al-Ma'idah*'

(4) Qutb, Sayyed. *In the Shade of Qur'an*, Fi Zilal Al-Qur'an, translated and edited by Adil Salahi and Ashur Shamis, Markfield, Licenseseter, UK: The Islamic Foundation, 2001 volume : *iii*, Surah 4, p. 340. vol. 4.

(5) Ibid., vol. 2, page 852.

would help to clear up the ambiguity surrounding the exact meaning of *qawamah*. In both of these verses (verse 134 and verse 8) God instructs the believers to be *qawwamin bilqist*. According to the *jurists*, this conveys the command that Muslims must hold fast to fairness as one of their moral values and must deliver justice and truth whether in the capacity of witnesses or judges, solely for the sake of pleasing God.⁽¹⁾ In accordance with this interpretation both verses are applied only to a specific situation, which is the judicial tribunal.

However, Ibn Ashur draws a distinction between the two verses based on the differences in the order of the words. He says that this difference is associated with the differing contexts of the two chapters, serving two different purposes. The verse in the chapter '*al-Nesa*' comes after rulings regarding the rights of people in general and specific rulings regarding the relationship between men and women. The prior concern is justice and next comes 'bearing witness to the truth and standing up for the truth'. However, in the verse from '*al-Ma'idah*', the word comes after God's reminder that man has a covenant with Him. Thus, the first to mention after *qawwamin* is Allah. The effect is to prompt man to fulfill his covenant. Ibn Ashur suggests that the different structures of the two verses imply two things: the first is the obligation of upholding justice and bearing witness in order to do justice. The second is the obligation of acting as God's vicegerent upon earth and bearing witness for His sake.⁽²⁾

Rida interprets *qawwamun* as 'excessive efforts in standing up for something or doing something' therefore here, *al-qiyyam bilshay'* means to produce something perfectly. Because of this he adds that God instructs believers to perform prayers and many other things using the verb derived from this word '*aqam*'.⁽³⁾ He concludes that *qawwamon*

- (1) Al-Tabari, Ibn Jarir, *Jami' Al-Bayan An Ta'wil Ay Al-Qur'an*, Damascus: Dar Al-Fikr, 1999, vol. 3, p. 124. See also :
 - Ibn Kathir, Imad Al-Din Abi Al-Fida Isma'il, *Tafsir AlQur'an Al-Adhim*, Dar Al-Khayr, first edition, 1990, vol.1, p. 566.
- (2) Ibn Ashur, *Al-Tahrir wa- Al-Tanwir*, vol. 4, p.134ff.
- (3) Rida, Muhammad Rashid, *Tafsir Al-Qu'an Al-Hakim, Al-Manar*, Dar Al-Kutub Al-Ilmiyyah, first Edition, 1999, vol. 5, p. 367.

﴿يَتَأَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ﴾ [المائدة: 8]

"Believers, be steadfast in your devotion to God, bearing witness to the truth in all equity" (5:8).

The Quran uses different forms of *Qama*, the root verb of the word *qawwamon*. Most often the meaning is to perform or to stand in prayer or to devote oneself to religion. In other places it conveys the advent of the Day of Judgment and standing as witness of that day. The word *aqwam* is used to refer to the right path. However, the verbal noun is *maqam*, which is used to show the position, the status or the abode of the believers and the non-believers. From the same verb two different forms are derived, *qayyim* and *Qayyam*. While the former means *al-mustaqim* (the straight), its origin comes from the latter (*qayyum*).⁽¹⁾ The latter is one of the Glorious Names of God. As Al-Qurtubi says, the ultimate meaning of this name goes back to the meaning of *al-qayyim* as the one who protects everything, sustains it, manages it and distributes from it as He wills.⁽²⁾

Ibn Ashur defines *qawwam* as a person who stands accountable and responsible for his concerns; someone who is willing to make amends. In accordance with this, Arabic has the forms *qawwam*, *qayyim*, *qa'im*, and *qayyum*. All of these words are derived from the metaphorical sense of the word rather than the literal meaning. This is because anyone who cares for a matter makes the utmost efforts to deal with it. Accordingly such a person is called *al-qayyim*.⁽³⁾

As the above verses illustrate, the word *qawwam* in its singular masculine form does not appear in the Quran but only in its plural form. Therefore, it is important to determine the exact meaning of this form of the word and for this clarification from the textual evidence. Because of the similarity between verse 134 of the chapter on "al-Nisa'" and verse 8 of 'al-Mai'dah, it might be possible to find evidence which

(1) Qurtubi, Abu Abdillah Muhammad ibn Ahmad Al-Ansari. *Tafsir, Al-Jami' liahkam Al-Qur'an*, Beirut: Dar Al-Kutub Al-Ilmiyyah, first Edition 2000, vol.8, p. 134.

(2) Qurtubi, *Tafsir*, Ibid., (3:164).

(3) Ibn Ashur. Muhammad Al-Tahir. *Al-Tahrir wa Al-Tanwir*, Tunis: Dar Sahnun, vol. 3, p. 38.

"According to Arabic lexicography it is extracted from *qama ala ashay yaqomu qiyama*, (which metaphorically means to keep somebody/something and to observe its interests). And from this meaning of the word, *al-qayyim* (the person who looks after the state of something/somebody) is to act as the guardian. *Al-qawam* is derived from the verbal pattern *fa'al*, which is used for emphasis. In accordance with this pattern, *qawwam* means the excessive observance of something or someone by considering their interests; that is by putting the utmost efforts in this cause". Al-Baghawi adds that the phrase also means 'to manage' and to 'discipline'.⁽¹⁾

The Quranic use of the word

The importance of the Quranic use of the Arabic words should not be forgotten. Specifying a restricted set of meanings of a word and stripping away the other possibilities is in accordance with Arab usage. This in turn lifts the language of the holy book to a superior rank and raises its status as a book of guidance. Accordingly, the usage of the Quran and the selectivity of the Arabic words used must be observed in interpreting its verses. However, the reader must rely on the analysis of the text and the contextual function of the word when considering *qawamah*, like any other word in the Quran.

Qawamah occurs twice in surat al-Nisa' and once in surat al-Maidah:

﴿الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ﴾

[النساء: 34].

"Men shall take full care of women with the bounties with which God has favoured some of them more abundantly than others, and with what they may spend of their own wealth" (4:34).

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ بِالْقِسْطِ شُهَدَاءَ لِلَّهِ﴾ [النساء: 135].

"Believers! Be ever steadfast in upholding equity, bearing witness to the truth for the sake of God" (4:135).

(1) Wazaratu Al-Awqaf wa-Al-Shu'n Al-Islamiyyah, *Al-Mawsu'ah al-Fiqhiyyah*, Kuwait: Dar Al-Salasil. Second edition, 1404-1427, Vol. 34, p. 75.

to isolation, a real lack of social reform (a duty upon every Muslim community) and poverty due to insufficient and/or malignant male practices. I have firsthand knowledge of an American Muslim woman who was murdered by her husband because she showered without his permission and he felt he had the right to discipline her until she passed from this world; all due to the perceived concept of *qawama*. May Allah have mercy upon her soul."

"More recently, I speak with Muslim women, old and young, who have been so dejected and dismayed by this detrimental preaching of the concept of *qawama* that they turn to the liberal/modern West for their freedom and rights; feminism contrasting Islam. No longer is the *hijab* seen as a mode of humbleness and *taqwa*, but is viewed as male domination and honor. Society has too many dangers for the participation of *our* women and if she participates to a minimal limit she is considered on the edge of rebellion. Again, this causes her to turn away from the *Ummah*. She is subject to the dictates or preferences of her husband and if she would just submit then she will find a soft hearted male, who does not oppress her; placing her position to chance and not her God given right. And worse yet, those Muslims, male or female, who do not feel that the concept of *qawama* institutes any of these above discussed issues, fail tremendously in providing Islamic injunctions to the contrary or cause these practices to lessen or dissolve. These practices and interpretations hold firm in Islamic rulings, *fatawa*, and in common understandings causing much harm, deepening stereotypes and disheartening our women. Our women, whom Allah has commanded all men to **stand up** for their rights, to defend their dignity and their God given role as full-fledged honorable partners in social reform and participation. "*Al rejaalu qawamoona 'ala annisa'*"

C. The Islamic concepts which propose to form and strengthen the idea of belonging to the Muslim Ummah: al-qawameh (maintaining a just authority), and al riayah (looking after).

1. The Concept of *Qawamah* in the Arabic language

Al-Mawsu'a Al-Fiqhiyah defines *Alqawamah* as follows:

and the female was to be identified in his shadow until after nearly two years of personal reading of the Qur'an, which guided me toward social activism; the Qur'anic injunctions of forbidding evil and establishing the good. It was then I became influenced by a primarily Arab Muslim community. I never had an inkling that a woman's role was to take on an interior environment (homemaker first) nor that a man's role take on an exterior social personification, which is what the immersing into a primarily Arab Muslim community began to impose upon me."

"At first, the concept, as interpreted and practiced by this primarily Arab Muslim community was rather easily adaptable for me, as well as accepted due to the fact that I was reared in a semi-dysfunctional American society. Prior to knowing Islam, I was an adventurer, a spiritual seeker and the ills of society have always had me wanting to bring change and reform to better our environment. Homemaking was not on my top to-do list. So this initial focus on homemaking was a needed venue for me to bring about balance and I did little contemplation as to why "Islam"/Muslims were instituting these practices until I began leading *dars deen* (class on faith issues) for English speaking Muslim women. The investigations I did into the status and role of Muslim women left me confused and to say the least, argumentative. Practically every aspect of a woman's life, as was suggested, would be regulated by her husband or nearest male relative; her ambition to education, work, wealth, social involvement to name a few; all in the name of *qawama*. A somewhat intense peer pressure began unfolding for me. Some to a lesser extreme while others, what I thought, quite radical; from 'a woman's voice is *aoura*' (something that needs to be masked or hidden) to 'a woman must absolutely obey her husband' (basically cannot make decisions or commitments without the distinct permission from her husband or nearest male relative). I was told that it is wrong for me to speak publically or teach that a woman should be educated or earn her own wealth unless at her husband's approval. I bought into it for a while but eventually I became so disenfranchised. Just when will these men speak up, rise up, pay up? Too many issues not being addressed because of these practices, such as depression due

"This portrays how much culture, ignorance, and self serving interests played into the interpretation of Islam".

2 – Marie Martin wrote: "If you are interested in how Qawamah has applied to me personally I have a couple of instances that stick out in my mind – When we first moved to Jordan we did not have a car and my husband would not let me ride in a taxi alone or with only my children. He explained to me that not all taxi drivers are nice people and my not having Arabic might encourage them to do something that they would not normally have tried doing. He also told me that there was no way he was going to make a call to my father telling him that something (that he – my husband – could have prevented) happened to his daughter. At the time it seemed unreasonable to me, but in retrospect I can see the wisdom. I have, sadly, heard stories about the abuses committed by taxi drivers against women and children in this country. At the time we moved here I was under the illusion that because this was a Muslim country all would be practicing their Islam. Whenever I wanted to go somewhere he would drive me himself, using one of his brother's cars, or he would have my father-in-law drive me. Alhumdulillah we were able to buy a car after some time and I had it whenever I wanted it – until he got his own car and we didn't have to share anymore."

"The second instance happened years ago when I was interested in attending a women's health club/fitness center and my husband told me that I couldn't go, his reasoning was that I did not know these women and they might be the type to talk about other women to their husbands/brothers/fathers. I understood that and accepted it. But he made it very easy for me, because whatever equipment I wanted he bought for me, Alhumdulillah".

Karen Danielson wrote: "Since coming into the fold of Islam, some 28years ago, through the reading of the meaning of the Qur'an, my experiences with the concept of *qawama* have been multi-layered and at some stages, quite difficult. It has never been my personal understanding that the Qur'an has laid two distinct or differing paths for the lives of Muslims based on gender. Nor did I ever find that the standard was male

became part and parcel with my attaining Jennah. Even before I married, I strove to marry for my *deen* (faith) and when I was presented with someone who had a degree in Shariah, I accepted. In my naïveté and trust, I believed I would learn the true Islam, and subsequently, live it too, because this man was a student of Shariah. Little did I realize how much culture and (sorry to say) ignorance played into the interpretation of Islam by my now ex-husband."

"However, I could not reconcile or understand the idea that Allah subhana wa Ta'ala had given women all of these wonderful rights in Islam and yet, somehow my husband had the authority to override those rights according to his whim or judgment. Was it the right to work outside of the home? Or the right to further my education? Or some other right? Ultimately, he had control over them all. I now believe, unfortunately, that by denying a person from these rights, whether having a job or studying, was a way to control, to keep one ignorant, or even isolate one to keep them away from any outside influence which might instigate the questioning of that dominance."

"Even though, I was never prohibited from attending any Islamic lessons or Arabic classes. However, if any of those classes posed a threat to him, I'm sure that he would have forbid my attendance. Likewise, any other studies beyond Islamic studies were not even up for discussion. Did he know that all of the classes would instill the same teachings he was living by? Was not advocating any kind of further education on my part a way of psychological dominance? In asking this question, I mean, was this his way of making me feel inferior and unable to survive or make decisions without him? This would lead to a wife's lack of self confidence and low self esteem (or even the loss of one's identity) which also provides the husband with more authority, control and domineering attitudes."

"In looking back and assessing those years, I can clearly see how many comments made in 'jest' actually played into his thinking. "If a woman says turn right, you turn left," "I bought you," (in regards to Mahr) or even the idea of "letting your wife study and then using that education to usurp the authority of her husband."

interpretations that keeps circulating⁽¹⁾) apparently shapes the status of Muslim women within all spheres of life, according to many Muslim preachers (*duaa*) in the media in the present time.⁽²⁾

However, I propose a different interpretation of the concept. The legal implications of the concept must not be applied to the specifications of the realm of marriage. Taking this concept out of its context and generalizing its affects to many other issues in the past creates unsteadiness and forms the basis for conjecturing an unjust relationship between men and women in Islam. This in turn contradicts the ultimate *maqasid* of *Shariah*, and makes Islamic attitudes toward women, youth, and vulnerable groups an unwelcome source for respectful life, that does not offer equal rights for its followers.

Living upon the stereotyping held interpretation:

By reading some essays wrote by some converted American ladies explain how the concept of *Qawamah* been introduced to them, and I put it here to speak as self-experiences:

1 – Um Sajdeh wrote: "After becoming Muslim in 1982, I obviously didn't know enough Arabic to understand the meaning of *qiwama*. At the same time, I was always attending classes on Islam, both in Arabic and English. We were always taught that we had to obey our husbands and in turn that obedience would help us gain blessings which would be in our account towards attaining our highest goal of heaven. With this understanding I worked and strived to maintain my household, raise my family, and submit myself to my husband within the bounds of Islam that I was taught. This was my indoctrination. It was not an initial teaching but an ongoing theme throughout all the classes that I attended whenever husband/wife relationships were discussed. If I disobeyed my husband, I was in a way disobeying Allah; and if I was disobeying Allah then obviously, I was a bad *Muslima*. So the equation was clear: obeying one's husband = obeying Allah = *Jannah*. Obeying one's husband

(1) This is observed in satellite channels everytime the issue of women, and the relation of husband and wife in Islam discussed.

(2) See for example Jordan Times, Nermeen Murad, Preaching on the airwaves, Tuesday, January 25th, 2011

managing the affairs of their families and playing a more active role in public affairs. (Evidently the Quranic concept of *Qawamah* does not apply to particular social matters). But this only succeeded by suppressing the textual evidence and its context, in which *Qawamah* implies a universal message for all believers to safeguard equality, fairness and justice. This universal task accords with the mission of *vicegerency (khalifah)*. *Qawamah* for women and orphans is consistent with this understanding: to instruct believers to be vigilant in ensuring that these two vulnerable groups will not suffer miscarriages of justice or ill-treatment. Moreover, the interpretations of the Prophetic narrations were affected by the prejudiced, inherited image of women before Islam. In accordance with this readiness, the great jurists such as Al-Shafie" and Ibn Taymiyyah put married women in a similar position to that of slaves in *Jahiliyyah*. This kind of analogy clearly has no basis in evidence when the *Maqasid* of the Quran on women and slaves and the *Maqasid* behind marriage in Islam are recalled."⁽¹⁾

B. The held interpretation of the concept of Qawamah affects the belonging of women to Islam and to Muslim Ummah

The implication of the traditional interpretation of the concept of *Qawamah* causes great confusion over the position of Islam towards women. It affects the consistency of the religion in this regard. On the one hand, it presents Quranic verses which declare a woman a full legal entity equal to her male siblings and enjoying the same status and rights in the sight of God while on the other hand the believer is unexpectedly faced with many contradictory views attributed to the Quran which amount to casting a shadow over the brightness of this picture and withdrawing entirely or partially the rights which it preserves. In the first place, the interpretation of some Prophetic sayings and example are problematic as far as the issues of women in Islamic discourse are concerned.

It is important to shed light on the interpretation of the concept of *Qawamah* in Islam, and to highlight what its limits seem to be in the Islamic text, since the function of *Qawamah* (according to current

(1) Ibid, p.292.

which involve the social status of women, allowing the withdrawal of their legal rights which the Quranic wordings had preserved.

There was strong evidence of the held stereotyping interpretation of concept of *Qawamah* as a core justification for giving Muslim women inferior status to men.⁽¹⁾ Reviewing the actual meanings and implications of these two major concepts in this regard was essential. This work has attempted to overcome individual and cultural assumptions so as to approach the Quran objectively. Thus, it was decided to use several ancillary skills, mainly, Quranic ‘science’, the science of *Hadith*, the principles of Islamic jurisprudence and most importantly tracing the Quranic usage of many key words in the Quranic text and the practical interpretation of the Prophet and His Companions in pursuit of this objectivity.

Seeking to clarify the exact meaning and implications of the Quranic words is not a unique approach. It was the Muslim theologians of the past who drew attention to its importance. The Quran clarifies the ambiguity surrounding many of its verses by other detailed verses on the same issue there or elsewhere. The language of the Quran has been dealt with by the jurists, primarily, because they relied upon the cultural use of the language and paid little attention to the fact that the Quran selected from the language those words which express its universal message. This in turn makes the language of the Quran superior to Arabic. Furthermore, imposing a cultural usage of the Arabic words without bearing this factor in mind hides the Quranic purposes and implementation of these concepts. In other words, the Quranic usage of the words gives place to the cultural usage of these concepts which is not intended by the text. This defect of reading the words of the Quran without admitting their peculiarity results in confusion in implementing these concepts in Muslim life.

The concept of *Qawamah* was taken by people to stand firm as the moral, social and legal justification for the unequal status of Muslim women and their husbands in marriage. The jurists and commentators make reference to verse 34:4 and to different Prophetic narrations which imply the intellectual defects of the women as a whole and accordingly their lack of competence which entitles men to act on women’s behalf,

(1) Ibid., p.291.

interpretations of fundamental concepts ascribed to the Islamic texts, which have been accepted, although not discussed, to a certain level by Muslims in the past. These do not seem to suit the Muslims of our own day nor acknowledge the changed times. In addition, relying on these traditional interpretations lead to the establishment of a contradictory image of Islam as a religion and amounted to a marked contrast with the wording of the text. Moreover, the existence of many other defects in Islamic jurisprudence, together with the sectarian attitudes of the followers of the Schools of Islamic Law and the claimed closure of the gate of *ijtihad*, leaves Muslims to live in intolerable historical disagreement upon many issues, including the issue of women.

Seeking the *Maqasid* of the *shariah*, as presented clearly by *Al-Shatibi* seems to be the only hope for reformers at the present time. Reviewing the rulings of Islamic law and assisting them to conform to the essence and the expressed or implicit purposes of *shariah* is an urgent task. The interpretations of the jurists of the past are not binding, provided they have no absolute evidence in the main sources of Islam or so long as the *maqasid* of *Shariah* can be established by them. The text is sacred but the interpretations of the text are open to *ijtihad*.⁽¹⁾

Islam offers itself as a religion which takes equality and justice as deep-seated *maqasid* in its main text. Indeed, the present study rests on this assumption in reviewing the Quranic position concerning women by referring to these embodied *maqasid*. Evidently, changing the inherited and traditional image of the women in *Jahiliyyah* was and will be a difficult process; however Islam undertakes this purpose in gradual steps, like its handling of other cultural issues, for example, the issue of slaves in the new Islamic community. However, the seeds of a new image, a new position and status for women are scattered throughout the Quran and the practice of the Prophet. Unfortunately, the partial readings of the Muslim theologians and jurists of the past were followed without being reviewed in accordance with the ultimate *maqasid* of the Quran. In addition, the traditional image of women in pre-Islamic days crept into the interpretation of the Quran and prevented reflection upon those *maqasid*

(1) Ibid, p.290.

is not merely a series of ritual acts, but presents a comprehensive corpus of laws to govern human activities, so that no act falls outside the Islamic legal system. This assumption does not reject the human contribution, the authentic resources in Islam deal with the basic principles governing humankind, acknowledging that there are no boundaries of time and place. This preserves space for people to make a bridge between the heavenly basis of the *Maqasid* for conduct and the requirements of varying circumstances.

A. The Held Interpretation of the Concept of Qawamah: A call for proper understanding

In my PhD thesis⁽¹⁾ I tackled the issue of *Qawamah* as forming the status of women in Arab societies. The purpose behind the research was to review previously held interpretations of the major concepts *Qawamah* and *Wilayah* which form women's image in Islam and to examine the possibility of introducing a different interpretation. In concluding my research, I sum up the results and outline the benefits of the methodology, perspective and the possible implications, which say:

"Muslim jurists (*Fuqaha'*) rest on the methods presented under the banner of the science of *Fiqh* (Islamic jurisprudence) as the justification for the interpretations which they reach of the main sources of Islam, the Quran and the *Sunnah*. However, the nature of the Arabic language and the existence of different approaches to these jurists in interpreting the text reflect the manifold disagreements upon many rulings in different areas of Islamic Law. There is no evidence that either Muslim theologians or the great jurists of the Four *Sunni* Schools of Islamic Law claimed the infallibility or the finality of their views.

Historically, Islamic jurisprudence presents a record of the huge and respectful efforts of Muslim jurists, moderate scholars and reformers stress the need to review many of the rulings reached by these methods. This need is urgent for two fundamental reasons: the finding of traditional

(1) Fino, Dua' "*The influence of the concepts of qawamah and wilayah in the formation of the status of Muslim women*. A thesis submitted, for the degree of Doctor of Philosophy, at Theology Department, University of Birmingham, UK, June 2004.

Globalization. The threat on the cultural boundaries of Muslim countries leaves little choice for the youth but to question their own legacy, regardless of its historical origins. It is important to stress here that the space controlled by science, technology and intellects must be saturated with Muslim thinkers in order to re-establish the Islamic vision and mission to re-define what the true meaning of "*Ummah*" is. The qualities needed to revive the true meaning of belonging to the Muslim *Ummah* are dependent upon the uncovering of the historical legacy of Islamic thought which is suitable for such challenging, contemporary times.

Objectives and methodology

This paper is an attempt to implement the different interpretations of the major concepts in Islam. This has been discussed in previous research; where instead of the generally held interpretations of the concept that is repeatedly mentioned to justify and to maintain the claimed inferior status of Muslim women that underestimates them, and may hinder their belonging to their nation, other interpretation shows otherwise. I will do this by examining the generally held interpretations of the textual evidence from three core areas:

1 – The language of the text that is the superiority of the Quranic language to the Arabic. In principle the Quran does not use all the Arabic words, nor does it use all the potential meanings of the words within it. Being selective and choosing one of several possible meanings, as the Quran itself does, is a key task in interpreting it.

2 – The authenticity of the Prophetic sayings and practices is a fundamental assumption in this work. Counting on the Prophetic Tradition as the second main source of Islamic discourse gives authenticity to the narrations under scrutiny. If we adhere to what is authentically the Prophetic text then we cannot be accused of putting our own interests first and we can concentrate on the exact and practical interpretation of the Quran as presented by the Prophet Himself.

3 – The context of what is revealed and the Prophet's actions.

In this research I will assume that Islam is a divine legislation, which

سنة الرسول عليه الصلاة والسلام، إضافة إلى ما تهدي إليه أسباب نزول القرآن، وأسباب ورود الحديث، والثابت والمتغير في تناول نصوص الشريعة. يفهم كل ذلك بما يتناسب مع صلوحية الشريعة لكل زمان ومكان، وبما يحفظ مقاصد الشريعة في مراعاة تغير أحوال العباد.

وخلصت الباحثة إلى أن القوامة هي القيام بتحقيق العدالة ومقاومة الظلم، وهو تكليف موجه إلى الجنسين. وعليه فإن قوامة الرجل على المرأة جاءت مخالفة لطريقة أهل الجاهلية في استضعاف النساء. وأضيف إليه في الخطاب النبوي مفهوم الرعاية توضيحا لآليته في صيانة للأسرة، وحفظ المجتمع من الظلم والعنف الأسري.

Introduction

This paper aims to develop a better understanding of belonging to a Muslim *ummah* by depending on the implication of contextual concepts that exist in Islamic texts. The interpretation of these concepts from this scope tends to help the Muslim individual to view his role in the big picture, which extends beyond regional boundaries. With this knowledge in mind, a Muslim can hope to re-establish a strong alliance within his Muslim *ummah* again. The role of the Muslim *Ulama* can be paved among ordinary Muslims by preaching for a better and wider understanding of these key concepts: to initiate new and practical projects which can reinstate the pride of being a Muslim. To fulfill this objective they need to convey these contextual concepts to the younger generation of Muslims and nurture their growth with these "new" concepts. Currently, this young generation is being targeted by an immoral industry, and they have begun to display a lack of confidence and ignominy with regard to their Islamic heritage. In other words, they don't trust their traditional sources or the presentation of Islam in their own regions. This condition is attributed to various differing factors, internally and externally, in which a deeper exploration into this research is needed.

This article also finds that, a "need" to belong to some nation is relatively recent and it may be directly attributed to the outcomes of

Chapter 2

Mind The Steps

Obstacles in Belonging Process. Reviewing «Qawamah» as the key concept influences the Belonging of the Muslim Women

Dr. Dua Fino⁽¹⁾

ملخص البحث باللغة العربية

معوقات عملية الانتماء، مراجعة مفهوم القوامة بوصفه مفهوماً
مفتاحياً يؤثر في انتماء المرأة المسلمة لأمتها.

يناقش هذا البحث مفهوماً أساسياً ومحورياً من منظومة المفاهيم الإسلامية المفتاحية التي تشكل صورة المرأة في الخطاب الإسلامي، وهو مفهوم القوامة، وما يعكسه هذا المفهوم من علاقة بين الجنسين، وفقاً للتأويل المتداول في المجتمعات الإسلامية. وتفترض الباحثة أن التأويل المتداول للقوامة ينقل المفهوم من دلالاته الإيجابية والفاعلة في النص القرآني، والأنموذج النبوي الأمثل إلى تفسير مخصوص مغلق ومشوب بتأويلات مغلوبة تؤثر على انتماء المرأة المسلمة إلى أمتها الإسلامية، وفقاً لشهادات وتجارب نسوية.

وتعرض الباحثة دلالة المفهوم بالاستناد إلى لغة النص القرآني، التي تمثل المستوى المعجز في انتقاء مفردات اللغة العربية وصياغتها، وإلى حجية ما ثبت من

(1) Ph.D in Islamic studies, University of Bermingham, UK, 2004.
Jordanian Researcher, specialized in islamic studies and women issues, part time lecturer at
Jordanania Universities, Chairwoman of Mithaq Associated for the empowerment of women.
E-mail: duafino@yahoo.co.uk