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**PROTECTION OF THE RIGHTS OF WOMEN UNDER
THE ISLAMIC LEGAL SYSTEM**

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ABSTRACT

Islam recognizes women as having legal rights similar to those of men although their rights like their duties are not in all cases identical with those of men. The main reason for this is that under Shari'ah, men and women play different roles in life as a result of their biological make up or attributes. As a result of this, the different roles which men and women play in the family and society inform the rights as well as the duties assigned to each under Shari'ah. It is therefore not surprising that under Shari'ah, the different duties as assigned, and the different legally binding rights as recognized and protected, are seen as a part of the balanced system, taking into account the individual, the family and society at large. This paper argues that with the coming of Islam and Islamic Law, women started enjoying a new lease of life and that Islamic Law guarantees and protects the rights of women as against the erroneous conception of the Western countries.

1.0 INTRODUCTION

The position of women in Arabia before the advent of Islam was far less dignifying than that of slaves.¹ At that time, women were regarded as abominable object and innocently subjected to many deplorable treatments and different kinds of tortures. Whenever a female child was born, the anguish and anger on the face of its parents told the story of what awaited the child. Some even buried their female children alive. Women were prevented from inheriting the property of their loved ones. Upon the death of the husband, the widow would be secluded from the public for one year. After one year, the woman would be inherited by one of her husband's male siblings irrespective of her consent.²

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¹The vivid description of the status/position of women before the advent of Shari'ah was extracted from: Abdul-Malik Bappa Muhmud, in Bola Ajibola et al, (eds.) *Protection of Women and Children under the Islamic Law*, Federal Ministry of Justice Law Review Series Vol. 6 (1989), pp. 53 and 54; Abdul Rahamon I. Doi, *Shari'ah: The Islam Way of Life*.

²Badawi, J., *Gender Equity in Islam*, Sollan Publishing Co, IMC USA, 2004, 3rd print, p. 13.

The situation of women was relatively the same all over the world. At that time, Buddhism and Hinduism regarded fire, poison and snake more honourable than women. Idols were therefore fed with their blood. Upon the death of her husband, a woman's life also ended because she would forcefully be put into the fire while the corpse of her husband was being cremated. However, if the woman died before her husband, only her corpse would be cremated.³

Again, the degrading treatment meted out to women in the European countries at that time was no better than what obtained in Arabia. In Greece, for instance, women were regarded as evil creatures turned to human. They were sold and bought as objects or merchandise; not allowed to divorce their husbands.⁴

In 856 AD, a conference was held in France to decide whether or not women were human beings. It was resolved that they were human beings but created purposely to worship men. A similar conference was held in Rome to determine whether women had souls like men, capable of going to Paradise; or whether it was appropriate for them to be taught religion.

In some European countries, women were prohibited from reading religious books because they were not fit to worship. In the dark ages, women were sacrificed to idols in Africa. Among the Jews, female children were treated as house maids.

Having said much about the degrading and dehumanizing way women were treated before the coming of Islam, how then has Islam treated women since its inception? Let us therefore consider what *Shari'ah* or the Islamic legal system entails.⁵

1.1 THE ISLAMIC LEGAL SYSTEM

The Islamic legal system or *Shari'ah* literally means "the way to a watering place." An Islamic scholar defined *Shari'ah* as "a path that leads to where water is fetched."⁶ He added that: "...water no doubt is very important in the life of every living thing. Ambali has defined it as the straight path or path that leads to where the spring water can be found.⁷ According to him,⁸ it is called *Shari'ah* because it can be compared to a source of

³Ibid p. 14.

⁴Ibid p. 15

⁵ Ibrahim Ahmad Aliyu, *Protection of Woman's Right under the Shari'ah* Dakwah Corner Bookstore (M) Sdn Bhd. Holy Makkah. 2010 p 3.

⁶ A. Yassir Anjola Quadri, *Shari'ah, the Islamic Way of Life* (Shebotimo Publications, Ijebu Ode, 2000), p.2.

⁷ M. A. Ambali, *The Practice of Muslim Family Law in Nigeria*. (Tamaza Publishing Company Ltd). 1998, p. 2.

water in the sense that it is the way of life for man for him, just as water is the source of life, so also is Shari'ah.

In the opinion of another Islamic scholar and eminent jurist, *Shari'ah* is the path to the water of life.⁹ Literally then, *Shari'ah* as a legal system is the law of God and His path. In Islam, God alone is the sovereign and it is He who has the right to show the right path for mankind.¹⁰ Thus, *Shari'ah* as a set of laws must be obeyed by every Muslim. Qur'an 65: 18 says: *We made for you a law, so follow it and not the fancies of those who have no knowledge*. It is only *Shari'ah* that liberates man from servitude to no other than Allah with respect to law and obedience and this is the only reason why Muslims are obliged to obey *Shari'ah*¹¹

The fundamental principle on which Islamic law rests are that the Islamic laws are not passed by men who ardently desired the Law for their own selfish gratification. The laws of Islam are firmly based upon the Holy Qur'an and are therefore in the interest of people as a whole. They are not the works of warring politicians, but of sober jurists.¹²

An Islamic legal scholar opined that *Shari'ah* is the institutional protection which enforces the value of liberty and equality, egalitarianism and the rule of law."¹³ As a matter of fact, it is an ideal code of conduct or a pure way of life with a wider scope and purpose than an ordinary legal system in the Western sense of the term. Islamic law seeks to regulate the relationship of man with God and his fellow men in society. In the *Shari'ah* legal system, what is moral or religious is legal and what is legal must necessarily be moral and religious. Thus, by giving religious connotation to all human acts, Islamic law makes the whole of man's life and activities meaningful. Islamic law therefore seeks to ensure justice, fairness, equity and equality; hence, it looks beyond the external manifestations of man's actions. It covers all aspects of human life: moral, religious, social, political and economic aspects. In essence, *Shari'ah* guides all human activities.

⁸ *Ibid.*

⁹ Ahmad O. Belgore, *History of Shari'ah in Nigeria*, Paper delivered at a Conference on the 1999 Constitution and Shari'ah at the College of Arabic and Islamic Legal studies Ilorin (2000), p. 11.

¹⁰ Sayyid Qutb, *Hadha a-Din (This Religion of Islam)* (I. I. F. S. O. Publication, USA, undated), p. 19.

¹¹ Abdul Rahmon I. Doi, op. cit, p. 2.

¹² Pickthal Marmaduke Muhammed, *Cultural Sides of Islam (Professor Lahore Books, 1976)*, p. 181.

¹³ Askari Hassan, *Society and State under Islam (Progressive Books, Lahore, 1979)*, p. 154

1.2 THE POSITION OF WOMEN UNDER SHARI'AH

In Islam, it is said that there is equality of the sexes with regard to their souls and origin. Men and women originated from and would eventually return to the same place. Qur'an 4:1 states:

O Mankind, fear your 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 above verse indicates that it was from the same source that God created Adam and *Hauwa'u*¹⁴ and from whom countless men and women originated.

Shari'ah entitles women to inherit and own property. In Qur'an 4: 32, Almighty Allah warns:

And in no wise covet those things in which God hath bestowed his gifts more freely on some of you than on others: to men is allotted what they earn and to women what they earn.

Furthermore, the equality of men and women with regard to religion and worship of God is confirmed under *Shari'ah*. It also upholds the right of women to be educated. Women are endowed with specific rights under *Shari'ah* which make them to be equal to their male counterparts in status. It is worthwhile to note that *Shari'ah* appears to be the only legal system that accommodates gender equality. A whole chapter is dedicated to women in the Holy Qur'an¹⁵ which is not the same for men.

2.0 THE RIGHTS OF WOMEN AND THEIR PROTECTION UNDER SHARI'AH

Under *Shari'ah*, women are granted some specific rights apart from the rights they share with men. These rights are highlighted below.

2.1 RIGHT TO EQUALITY IN STATUS, WORTH AND VALUE

Under the Islamic legal system, men and women are creatures of God, with equal worth and value. Thus in Qur'an 4: 1, it is stated that men and women are created from a single soul to complement each other. Again, women are equal to men in terms of religious and

¹⁴ Adam and Eve in the Garden of Eden.

¹⁵ The Chapter is Sura Al Nisa'i, Chapter 4 of the Holy Qur'an.

ethical obligations, as each of them shall be rewarded in accordance with such religious and ethical obligations. Qur'an 4: 124 says:

And who so does good works whether male or female and he or she is a believer, such will enter paradise and they will enter paradise and they will not be wronged the dint in a date -stone.

2.2 RIGHT TO OWN AND DISPOSE OF PROPERTY

A Muslim wife may have a career if she so wishes, with the husband's approval. Whatever she earns from such ventures by her own effort is her personal property over which her husband has no claim, although if she wishes to support her family with her earnings she is free to do so. The Holy Qur'an proclaims the right of every woman to buy and sell, to contract and to earn and to hold and manage their own property and money. Qur'an 4: 32 provides thus:

Unto men a fortune from that which they have earned and unto women a fortune from that which they have earned.

2.3 RIGHT TO MAINTENANCE

Shari'ah recognizes the importance of complementary gender roles, thus, it grants a woman the right to maintenance in exchange for her contribution to the physical and emotional well-being of the family and her role in the upbringing of the children.

Under *Shari'ah*, the Muslim wife is fully cared for financially by her husband.¹⁶ This includes, among other things, feeding, clothing and shelter, depending on the husband's means. The right to maintenance is absolute and does not depend on the wife's income. Even if she is the richest woman on earth, her husband must care for her needs. If the husband defaults from this responsibility, it constitutes one of the grounds for divorce.

2.4 RIGHT TO INHERITANCE

Under the *Shari'ah* legal system, a Muslim woman is entitled to inherit property from her husband, parents, brothers, sisters, sons, daughters, etc. upon their demise. This right, under *Shari'ah*, does not depend on any will. The woman's share is normally half of that of her male contemporary in the same degree of relationship.¹⁷ This is due to the weight of responsibility of the male member of a family. The right of the wife to inherit from her husband is well established, such that if, during the husband's terminal illness, he

¹⁶ Qur'an 4:34.

¹⁷ Quran 4: 11 - 12.

divorces his wife in order to deprive her of her inheritance, *Shari'ah* still upholds her right to inherit her appointed share.¹⁸ Again the Holy Qur'an says:

*From what is left by parent and those nearest or related there is a share for man and a share for woman whether the property be small or large, a determined share.*¹⁹

2.5 RIGHT TO EDUCATION

A woman, like a man, is entitled to education under *Shari'ah*. In fact, educating a woman has been likened to educating a nation.

2.6 RIGHT TO NEGOTIATE THE MARRIAGE TERMS OF HER CHOICE

Shari'ah frowns at the act of forcing a woman into marriage either by her parents or her husband to be. A woman's right to enter into marriage is a condition precedent to the validity of the marriage.

2.7 RIGHT TO DIVORCE DUE TO HUSBAND'S MISBEHAVIOUR

The wife has the right to seek divorce from *Shari'ah* court if her husband is not performing his legal duties with regard to companionship and other marital rights. Another ground for divorce centres on the concept of *Idrar*, which means causing bodily harm (to the wife). If the husband is a drunkard or treats his wife without any lawful reason in a manner to cause her physical injury, she is entitled, under *Shari'ah*, to seek divorce. If such divorce is granted, she is not required to return her dowry or the presents given to her by the husband during the marriage.²⁰

2.8 RIGHT TO HOUSING AND MAINTENANCE DURING IDDAH (WAITING PERIOD)

Shari'ah allows for maximum opportunity for reconciliation between the spouses. Efforts at reconciliation should begin before the divorce proceeding commences.²¹ If it fails, the appropriate thing is for the husband to pronounce divorce after the wife has completed her monthly period and before the resumption of sexual intercourse. During the wife's waiting period of three months, the husband will continue to house, clothe and feed her.²² If they are reconciled or resume sexual intercourse during the waiting period the divorce

¹⁸ Aisha B Lemu, "Muslim Women and Marriages under the *Shari'ah* rights and Problem Faced," in Bola Ajibola *et al* (eds.) *Op. cit*, p 108.

¹⁹ Qur'an 4: 7.

²⁰ Quran, 2: 229.

²¹ Quran, 4: 35.

²² Qur'an, 65:6

is revoked and the marriage can continue without a new marriage ceremony. If, however, the waiting period expires without reconciliation, the wife is free, if she wishes to marry someone else.²³ If she and her husband later decide to remarry there must be a new marriage arrangement, as if they have never been married.

If the marriage resumes during or after *iddah* and the husband subsequently divorces her again, the same rules apply.

However, if a husband pronounces divorce a third time, it cannot be revoked. The husband cannot remarry the woman unless she has been married to another man and subsequently divorced.²⁴ This measure under *Shari'ah* is apparently designed to deter men from repeatedly divorcing their wives for their selfish interest and taking them back when they so wish.

In case the woman is pregnant when she is divorced, her waiting period will last till she has the baby. Furthermore, when a man divorces his wife, he is urged to give her conciliatory gifts so as to reduce the bitterness of separation.²⁵

2.9 RIGHT TO CUSTODY OF CHILDREN

Dissolution of marriage usually raises the question of the right to the custody of the minor children of the marriage. Under the *Shari'ah* legal system the wife has right to custody based on certain conditions:

1. That she is mentally and physically capable of taking care of the child,
2. That she is not of bad character.

The husband, however, remains responsible for the children's feeding, clothing and education, and should be allowed to visit them.²⁶ The wife's right to the children's custody remains until puberty for a boy and until marriage for a girl.

If the wife is incapable of taking care of the children or if she dies, then the right is transferred to her mother, and if she is dead, the right goes to her grandmother or other

²³ Qur'an, 2: 231 – 232.

²⁴ Qur'an, 2: 230. See Abdul-Kadir Orire, *Shar'iah: A Misunderstood Legal System* (Sankore Educational Publishers Limited, (2007).p. 48.

²⁵ Qur'an 2: 241.

²⁶ M. T. Ladan, "Woman's Right Access to and Administration of Justice Under the Shari'ah in Nigeria," cited in Joy Ezeilo et al.(eds.), *Shari'ah Implementation in Nigeria: Issues and challenges on Woman's Access to Justice* (Women's and Collective, undated).p. 50.

female relations. It is only if these people are not alive or are incompetent that the husband's female relations are allowed to keep the children.²⁷

2.10 RIGHT TO HAVE CHILDREN²⁸

Under the Islamic law, the wife has a right to have children if she wishes. The husband is not to practice *coitus interruptus* or by implication other methods of birth control without the consent of the wife.²⁹

2.11 RIGHT TO THE HUSBAND'S COMPANY

If the husband deserts the wife or denies her companionship and marital relations over a period of time without any justifiable cause, she is entitled to divorce.³⁰

3.0 BASIC RIGHTS WOMEN SHARED AND ENJOYED WITH MEN

3.1 RIGHT TO BASIC NECESSITY OF LIFE

Women have the right to basic necessity of life the same way men are entitled to it because the authorities on this do not make any distinction between man and woman as it can be seen in the following:-

- (a). Qur'an 51 : 19..... *And in their properties there was the right of Sa'il (the beggar who asks) and the mahrum (the poor who does not ask others)*³¹
- (b). Another Qur'an provision on this is 70:24 – 25: *...And those in whose wealth there is a recognized right. For the beggar who asks and for the unlucky who has lost his property and wealth (and his means of living has been strained).*³²
- (c). In a *hadith* narrated by *al-Bayahaqi*, on the authority of *Ibn Abbas*, the Prophet (S.A.W) was reported to have said (as a warning), "He is not faithful who eats to his fill while his neighbor remains hungry, side by side."³³

²⁷ In the Maliki school of Islamic Jurisprudence, the order of custody is as follows: (1). Wife, (2). Wife's mother, (3). Wife's grandmother (maternal and then paternal), (4). Wife's sister (full, then maternal and then paternal) (5). Grandmother's sister, (6). Wife's aunt, (7). Paternal grandmother (father's mother, or his maternal grandmother or his paternal grandmother), (8). Husband, (9). The child's sister. (10). Husband's mother.

²⁸ It is the opinion of this writer, that the reason why under Islamic Law the husband does not possess the single authority to decide on the use of family planning is that under the Islamic Law, family planning requires the mutual consent of both the husband and wife.

²⁹ *Lemu, op. cit., p. 109*

³⁰ *Ibid.*

³¹ *Al-Hilali and Khan, op. cit p. 710.*

³² *Ibid at p. 789.*

3.2 RIGHT TO HONOUR

There are several provisions in the principal sources of the *Shari'ah* that aim at protecting the right. For instance verse 49:11 – 12 which prevents Muslims from scoffing at or ridiculing one another or defaming one another even by nickname, and enjoin them to avoid suspicion, spying on one another and back biting one another. There is also a *hadith* reported by *Abu-Hurairah* to that effect.³⁴

3.3 RIGHT TO PRIVACY

Every human being, man or woman is entitled to the right to privacy which has been recognized by the *Shari'ah* and for the protection of which certain principles have been set by it. One of the principles has been enunciated in the Qur'anic 24:27 which reads:

*O you who believe! Enter not houses other than your own, until you have asked permission and greeted those in them that is better for you, in order that you may remember.*³⁵

Another principle is proved by Qur'an 49:12... *You should not spy*.....³⁶

It is in consonance with these principles that peering into the houses of other people has been strictly prohibited. Even for someone to read the letters of another person or to listen to some people's conversation, without their permission have been categorically prohibited. Even the state is prohibited to unjustifiably interfere with the private affairs of the citizens.³⁷

With regard to a woman, her privacy in her private and public life are invariably preserved. Thus, at home, nobody has the right to barge in on her. And with the exception of her husband no one, even boys (who are not adult) of her family can enter her apartment without her permission especially during certain hours of the day. But with regard to the grown-ups and mature, even if they are her children, they are supposed to seek her permission to meet her at any time of the day. This has been provided for in the Qur'anic verse 23:58 – 59.

³³ Narrated by al-Bayhaqi and quoted in Asad, M. *The Principles of State and Government in Islam*, op. cit p. 90.

³⁴ This Hadith has been narrated in Sahihul Bukhari, Vol. 8, Hadith No 92 and quoted in al-Hilali and Khan, *The Noble Qur'an* (1996), p. 932.

³⁵ Al-Hilali and Khan (1996) op. cit p.470.

³⁶ Ibid at p. 703.

³⁷ For details see Maududi, *Human Rights in Islam*, The Islamic Foundation, Leicester, (U. K.) (1976) p. 29.

O ye who believe! Let those whom your right hands possess, and the (children) among you who have not come of age ask your permission (before intruding upon your privacy) on three occasions; before the prayer of day break (subh), the while you doff your clothes for the noonday heats; and the prayer of nightfall (isha); the three occasions on which your nakedness is likely to be bared. Beyond these (occasions), neither you nor they will incur any sin if they move (freely) about, attending to (the needs) of one another. In this way God makes clear unto you His messages: for God is All-knowing, Wise. But when the children among you come of age, let them ask permission, as do those before them. In this way God makes clear unto you His messages: for God is All-knowing Wise.³⁸

The extent of respect which can be possibly imagined for women's privacy is reflected in the Prophet's own practice of waiting first at mosque upon his return from a journey (during the night), abstaining from going home directly. He would go home only after sending information of his arrival and avoiding any inconvenience to his wives.³⁹

In public, women's privacy has been ensured in a twofold way: firstly, she is absolved from the responsibility of struggling outside for a livelihood. Secondly, she is gifted with *Hijab*, which implies not only outer garment worn outdoors but also a shield. The *Hijab* provides privacy and security for woman and protects her from misuse and exploitation. Thus no wonder when the Qur'an describes it as a mark of modest and elegant women who are recognized from afar as discreet and unapproachable by undesirable elements.⁴⁰ Says the Qur'an 33:59:

O Prophet! Tell thy wives and daughters and the believing women, that they should cast their outer garments over their persons.

3.4 RIGHT TO FREEDOM OF EXPRESSION

Every man and woman, under the *Shari'ah*, is entitled to the freedom of expression which is regarded as a basic human right provided that it is used for the propagation of good virtues and truth and not vices and evils. Another proviso is that, in the exercise of this right, nobody is allowed to use abusive or offensive language in the name of criticism. This freedom includes freedom to hold different opinions and express the same regarding various issues subject to their conformity with the general principles of the *Shari'ah*.

³⁸ Asad, *The Message of the Qur'an* Dr al-Andalus Ltd, Gibraltar, (1980). pp. 545 -546; Anonymous, *The Holy Qur'an: English Translation*.....pp. 1026-27.

³⁹ Iqbal, S., *Woman and Islamic Law*, (2004) at p. 51.

⁴⁰ *Ibid* at p. 54.

Women are not only granted this right by Islam but also their votes of assent and dissent are also accommodated and encouraged. The profusion, with which women used it during the period of the Prophet (S.A.W) and his Companions, proves this. Women participated in discussions with the Prophet (S.A.W). And sometimes he sought the advice of women. For instance, a slave woman *Barirah*, was emancipated and as a result she separated from her husband *Mughith* who was still a slave. *Mughith* loved *Barirah* so much that he started following her along the streets of *Madinah* weeping with his tears flowing down his heard pleading with her to come back to him as his wife. When the Prophet (S.A.W) advised her to return to him she asked, "O Allah's Apostle! Do you order me to do so?" When he replied that he was only interceding for *Mughith*, she said, "I am not in need of him".⁴¹

Another example is what happened during the caliphate of *Umar ibn al-Khattab*, the second Caliph, when he announced his desire to fix the amount of *sadaq* (dower) to 400 *Dirhams* and that any excess amount would be confiscated and put in public treasury. Then a *Qurayshi* woman challenged him on that, arguing that he did not have the right to do that because Allah (S.W.T) says, (in4:20)".....and you have given one of them a *Qintar* (of gold i. e. a great amount of *mahr*....)", *Umar* did not assert himself; he simply said, "Everyone knows more than *Umar*." He then relented on the issue.⁴²

3.5 RIGHT TO INDIVIDUALITY

Every person, man or woman, Muslim or non-Muslim is entitled to a separate identity and individuality. And a person's individuality consists of retention of his original identity and a strong personality which is developed on sound knowledge and actions squaring with this knowledge. It is this distinct individuality that a Muslim woman enjoys. Not only in domestic life but also in social, political and economic life, she retains this distinct individuality. Thus, when *Makkah* was conquered and men and women embraced Islam in thousands voluntarily, the Prophet (S. A. W) took a separate *bay'ah* (allegiance) from women and not along with their men folk, upon the instruction from Allah in the Qur'anic verse 60:12. This was done to establish forever that the identity and individuality of a Muslim woman was distinct and separate from that of a man, whether it be her husband or father or anyone else.⁴³

⁴¹ Khan, M. M., *Sahihul Bukhari* (translated, Dar al-Arabiyyah, Vol. 7, p. 154, see also Khan, M. M. (2001), *Women Between Islam and Western Society*, op. cit., p. 184.

⁴² *Sa'id ibn Mansur and Abu Ya'ala narrated the same incidence as quoted in Sabiq, S. (1977), Fiqhus-Sunnah, Darul-Fi kr, Beirut, Lebanon., Vol. 2, pp. 138.*

⁴³Ibid at p. 32.

Islam ensures this individuality and separate identity of woman by allowing a divorce and widow to decide freely about their future life, i.e. re-marriage and by giving an unmarried girl the right to accept or to reject, according to the majority of the jurists, a man in marriage. She is as much entitled to inherit from the husband's estate as the husband is to her estate while she retains her inheritance rights in her parental family too.⁴⁴

It is in order to preserve and protect this individuality that women are told, in Quran 33:33, to, as a general rule, remain indoors with dignity (and being provided for by man):

*And stay quietly in your houses, and make not a dazzling display, like that of the former times of ignorance....*⁴⁵

Staying indoors by a woman is not only considered a mark of dignity in her but a sure way of thwarting all attempts of exploiting women so long as they are properly provided for by the husbands.

It is pertinent to mention here that the fact that, woman, under the *Shari'ah*, has a separate identity and individuality does not mean that she should seek an independent life, i.e. independent of man because that is even contrary to scientific research and realities of practical life. It is on this that an American lady Mrs. Marabel Morgan who published her book titled "*Total Woman*" in which she divulged to her American sisters how they could be successful in their marital life. She advises women in the book, "Be nice to your husband, stop nagging him and understand his needs." To the writer, the perfection of womanhood lies in the woman's ability to become a good companion of her husband rather than seek an independent life.⁴⁶

3.6 RIGHT TO FREEDOM OF RELIGION

Human beings naturally differ in their religious conviction and belief as it has been categorically explained in the Qur'an (e.g. in 11: 118-119; 43:33-35). That is why every human being, man and woman is entitled to freedom of any religion of his or her choice. Thus even though Muslims have been enjoined to invite non-Muslims to Islam (only through conviction), they are not allowed to compel anybody to accept Islam. This is in accordance with the provision of 2:256 which reads:

⁴⁴Ibid at pp. 32 – 33.

⁴⁵Anonymous. *The Holy Qur'an: English Translation*.....op. cit p. 1251.

⁴⁶ Khan, M. W. *Women between Islam and Western Society*, (2001) op cit p. 77.

*There is no compulsion in religion, Verily, the right path has become distinct from the wrong paths.....*⁴⁷

Commenting on this verse, Muhammad Asad has this to say:

On the strength of the above categorical prohibition of coercion (ikrah) in anything that pertains to faith or religion, all Islamic jurists (fuqaha), without any exception hold, that forcible conversion is, under all circumstances, null and void, and that any attempt at coercing a non-believer to accept the faith of Islam is a grievous sin; a verdict which disposes of the widespread fallacy that Islam places to the unbelievers the alternative of "conversion or the sword."⁴⁸

Thus, the claim, that Islam was spread by force is not only false but also malicious for there are many testimonies to the contrary through some historical events cited, even by the non-Muslims who have decided to be objective. For instance, Sir Edward Blyden, a great Christian scholar has this to say: *There is nothing in the original teachings of Mohammedan religion that requires hostility to Christians.....the spirit of the religion as taught in its original records, is tolerant.*

.....Under the Moorish Government of Spain, when Islam enjoyed political ascendancy, the large masses of native Christians were protected by a wide toleration, not as a political expediency, but according to the law of Islam. The Christians were permitted to have their bishops, churches and monasteries and to be judged by their own laws and tribunals whenever the question at issues was one that related only to themselves.⁴⁹

Another Western scholar who explains this fact is T. W. Arnold who says:

When the Muslim army reached the valley of Jordan, Abu Ubaidah pitched his camp. Christian inhabitants of the country wrote to Arabs, "O Muslims! We prefer you to Byzantines though they are of our faith, because you keep better faith with us and more merciful to us and refrain from doing us injustice and your rule over us is better than theirs for they have robbed us of our goods and homes."⁵⁰

⁴⁷ Al-Hilali and Khan. *The Noble Qur'an: English Translation* (1996) op cit p. 58.

⁴⁸ Asad, M., *The Message of the Qur'an*, op. cit. (1980) p. 58.

⁴⁹ Blyden, E., *Christianity, Islam and the Negro Race*, Edinburgh, (1971) p. 254.

⁵⁰ Arnold, T. W., *Preaching of Islam*, London, (1996) p. 55.

He further says:

Of forced conversion or anything like prosecution in the early days of the Arab conquest, we hear nothing. Indeed, it was probably in a great measure their tolerant attitude towards the Christian religion that facilitated their rapid acquisition of the country (Spain).⁵¹

Another Western scholar, on the same topic, says:

Nothing is so common as to hear the Christian priests abuse the religion of Muhammad for its bigotry and intolerance. Wonderful assurance and hypocrisy! Who was it that expelled the Moriscoes from Spain because they would not turn Christians? Who was it that murdered the millions of Mexicans and Peruvians and gave them all away as slaves because they were not Christian? What a contrast have Mohammedans exhibited in Greece! For many centuries, the Christians have been permitted to live in peaceful possession of their properties, their religion, their priests, bishops, patriarch and churches.....⁵²

He further says:

The excessively bigoted character of the Modern Mohammedans may, in a greater measure, be attributed to the attacks made upon them by the Christians Orders of Knighthood, the Crusades, etc and by intolerant spirit of orthodox Christianity which in its turn produces intolerance. I know well that Christians are apt to look down with sovereign contempt upon Mohammedans, and upon everything relating to them and their religion, but let them inquire, and they will find that Mohammedans were soon after the establishment of their religion, the most liberal and enlightened race on earth....⁵³

Furthermore, to protect this freedom of religion and conviction, Islam not only forbids coercion in the matter of faith but also forbids the use of abusive language against the deities of other religions. This has been enunciated in 6:108, which provides thus:

But do not revile those (beings) whom they invoke instead of God, lest they revile God out of spite and in ignorance...⁵⁴

⁵¹ Ibid, at p. 136

⁵² Higgins, G. (1929), *Apology for Muhammad*, Premier Book House, Lahore, pp. 123 – 124.

⁵³ Ibid, at pp. 132-33.

⁵⁴ Asad, M. *The Message of the Qur'an*, (1980) at p. 188.

Commenting on this, Muhammad Assad says:

This prohibition of reviling anything that other people hold sacred even in contravention of the principle of God's oneness – is expressed in the plural and is, therefore, addressed to all believers. Thus while Muslims are expected to argue against the false beliefs of others, they are allowed to abuse the objects of those beliefs and to hurt thereby the feeling of their erring fellow men.⁵⁵

3.7 RIGHT TO FREEDOM OF ASSOCIATION

This right is guaranteed to man as well as woman, provided that it will be exercised for the purpose of propagating and spreading good virtue and righteousness and not spreading evil and mischief. This is in accordance with the following Qur'anic provisions.

Quran 3:104-105 which reads:-

*Let there arise out of you a group of people inviting to all that is good (Islam), enjoying **al-Ma'ruf** (i.e. Islam and monotheism and all that Islam orders one to do) and forbidding **al-munkar** (polytheism and disbelief and all that Islam forbids). And it is they who are successful. And be not as those who divided and differed among themselves after the clear proofs had come to them and it they for whom there is an awful torment.⁵⁶*

Quran 5:2 further provides:

*.....Help you one another in al-birr and **At-Taqwa** (virtue, righteousness and piety); but do not help one another in sin and transgression. And fear Allah. Verily, Allah is severe in punishment.⁵⁷*

The Qur'anic verse 9:71 specifically mentions that the Muslim woman takes part in enjoining *ma'ruf* and forbidding evil. It thus provides:

*The believers, men and women, are **auliya** (helpers, supporters, friends, protectors) of one another; they enjoin (on the people) **al-Mar'ruf** (i. e. Islamic monotheism and all that Islam orders one to do), and forbid (people) from **al-Munkar** (i. e. polytheism and disbelief of all kinds and all that Islam has forbidden); they perform **As-Salat** (*iqmat-as-salat*) and give the **zakat** and obey Allah and His Messenger.*

⁵⁵ Ibid.

⁵⁶ Al-Hilali and Khan, *The Noble Qur'an: English Translation* (1996) at p. 88.

⁵⁷ Ibid at p. 140.

*Allah will have His mercy on them. Surely Allah is All Might, All Wise*⁵⁸

There are many incidents in the *hadith* and historical happenings⁵⁹ that show that there is no opposition to the formation of women's separate organizations. On the contrary, they give support to the idea of women's associations. Thus women can form various organizations for the solution of their individual and social problems. And the members of these social institutions can enjoy freedom to do various kinds of activities to enhance the education, training, welfare and rights of women generally.⁶⁰

3.8 RIGHT TO FREE AND COMPULSORY EDUCATION

It is the citizen's right, under the *Shari'ah*, against the government, to have a system of education which would make knowledge freely accessible to every individual in the state, male and female.⁶¹ Education or knowledge, as far as the *Shari'ah* is concerned is not merely a right: it is also a duty enjoined upon every Muslim. *Anas* narrated that the Prophet (S. A. W) said, "Search for knowledge is a sacred duty (*faridah*) imposed on every Muslim"⁶²(which includes both gender). The Prophet (S. A. W) devoted special attention to the teaching and training of women. He is reported to have said, "Whoever brings up three daughters, teaches them good manners and skill, marries them (to good men) and treats them well, for him (is promised) Paradise.⁶³ The Prophet (S. A. W) used to give them special time during which he taught them the principles of Islam.⁶⁴ Some Muslim scholars are of the view that it is obligatory upon women to migrate in order to seek knowledge in case of need. In this respect *Ibn Hasam* said:

Women, like men, are obliged to travel to seek knowledge in religious matters. They are all obliged to know the rulings pertaining to ritual bathing, prayer, fasting, lawful and unlawful drinks, food and clothing. There is no difference between men and women in

⁵⁸ Ibid at p. 256-257

⁵⁹ For detailed instances of such happenings see Aflalur-Rahman, *Encyclopedia of Seerah*, Seerah Foundation, London, (1997) Vol. 5, pp. 192-193.

⁶⁰ Umri, J. A. *Woman in Islamic Society (Arabic text)* quoted in Aflalur-Rahman (1997). *Encyclopedia of Seerah*, op cit pp. 193 -194.

⁶¹ Asad, M., *The Principles of State and Government in Islam*, (1980) p. 87.

⁶² Narrated by Ibn Majah and quoted in Asad, M. *The Principle of State and Government in Islam*, (1980)op cit p.87.

⁶³ Narrated by Abu Dawud and quoted in Aflatur-Rahman, *Encyclopedia of Seerah*, Seerah Foundation, London, (1997) Vol. V. pp. 192 and 497.

⁶⁴ Narrated by Abu Dawud and quoted in Aflatur-Rahman, *Encyclopedia of Seerah*, Seerah Foundation, London, (1997) Vol. V. pp. 192 and 497.

this respect. Women should know the lawful words and deeds by either depending on themselves or by going to seek knowledge from scholars.⁶⁵

On this also *Ibnul-Hajj*, a *Maliki* jurist, said:

If a woman demands her rights with respect to knowledge of Din from her husband, and refers the matter to the ruler (i. e. the law) and insists on religious education, for it is her right that either the husband should teach her himself or allow her to acquire education outside the house, it is obligatory for the ruler to force the husband to fulfil this right, as he does in respect of secular rights, for religious rights are more certain and more important than the latter.⁶⁶ This right to education must be exercised with due consideration to the natural differences between male and female both physiological and psychological which make their primary functions different.

This is even what Prof. Alexis Carriell, a Nobel Prize winner, points out, after giving an extensive exposition of the differences between the two sexes where he said:

The same intellectual and physical training and the same ambitions, should not be given to young girls as to boys. Education should pay very close attention to the organic and mental peculiarities of the male and the female, and to their natural functions.⁶⁷

3.9 RIGHT TO CHOOSE MARITAL PARTNER

Man and woman have the right to accept or reject marriage proposals. Their consent is a prerequisite to the validity of the marital contract according to the Prophet's teachings. Thus whatever juristic differences are there, on this issue, the over-weighting view is that it is obligatory upon the guardian of a woman to seek her consent to and agreement with the marriage. This is because marriage is a companionship between a man and a woman. And companionship cannot be harmonious and affectionate unless the marriage is contracted on the agreement of the marital partners. That is why the *Shari'ah* objects to marrying a woman forcefully to a man she does not like. And makes a marriage contracted without her consent void (or at least voidable). Thus, she is entitled to seek for the termination of the marriage. This is in accordance with following authorities:-

⁶⁵ *Ibn Hazm al-Ihkam Fi Usulil-Ahkam*, (1983) Vol. 1, p. 413.

⁶⁶ *Ibnul-Hajj*, *Al-Madkal*, Vol. 2. p. 277 quoted in *Afzalur-Rahman Encyclopedia of Seerah*, (1997) op cit p 207.

⁶⁷ Carriell, A., *Man the Unknown*, Hamish Hamilton, London, (1948) p. 95.

- (a). It was narrated that the Prophet (S. A. W.) said, "Matron (*Thayyib*) is more entitled regarding herself than her guardian and the consent of virgin (*bikr*) should be sought (by her guardian) and her consent is her silence."⁶⁸
- (b). It was reported that *Khansa bint Khaddam al-Ansariyyah* was married by her father against her wish while she was a matron, so she came to the Prophet (S. A. W.) and (complained and) and Prophet (S. A. W.) repudiated the marriage.⁶⁹
- (c). It was narrated that a virgin girl came to the Prophet (S. A. W.) and told him that her father had married her (to a man) against her wish and the Prophet (S. A. W.) gave her option (to ratify or to repudiate the marriage).⁷⁰
- (d). It was reported that a young lady came to the Prophet (S. A. W.) and said, "My father married me to his brother's son in order to raise up his low status." The Prophet (S. A. W.) authorized her (to ratify or repudiate the marriage). But she said, "I have approved of what my father had done. I only want to let (other) women to know that fathers have no right whatsoever (to marry their daughters without their consent)."⁷¹

On these *hadith* Sheikh Yusuf al-Qardawi said;

These hadith obviously imply that seeking the consent of virgin and matron (with the marriage) is a condition for the validity of the contract. Thus, if a father or guardian marries a matron without her consent, the contract is void and rejected, as in the case of Khansa bin Khaddam. And in the case of virgin, she has a choice: she can ratify (the contract) if she wishes, and she can reject (it) if she so wishes, and if she rejects it, the contract will be void, as in the case of the virgin (who complained to the Prophet (S. A. W.) that her father compelled her to marry).⁷²

⁶⁸ It was narrated by al-Jama'ah (i. e. the group of narrators)), except al-Bukhari. It was quoted in Sabiq, S. *Fiqhus-Sunnah, Darul Fikr*, Beirut, Lebanon, (1977) Vol. 2, p. 115.

⁶⁹ Narrated by al-Jama'ah, except Muslim. It was quoted in S. Sabiq, *Fiqhus-Sunnah*, (1977) *ibid* at p. 115 and in Al-Qardawi Y., *Malamihul-Mujtama'il-Muslim Al-Ladhi Nunshiduh*, Wahbah Publisher, Cairo, (2001) p. 336.

⁷⁰ Narrated by Ahmad, Abu Dawud, Ibn Majah and ad-Dar Qutni of the authority of Ibn Abbas (R. A). it has been quoted in Sabiq, S., *Fiqhus-Sunnah*, (1977) *Ibid* at p. 115; and Al-Qardawi, Y., *Malamihul-Mujtama'il Muslim* (2001) *op cit* p. 336.

⁷¹ Narrated by Nisa'i in "*The Book of Marriage*" (Kitabun-Nikkah) in is (collection) As-Sunan, quoted in Sabiq (1977), *op cit* p. 115 and Al-Qardawi, (2001), *Ibid* at p. 336.

⁷² Al-Qardawi *op cit*, at p. 336. See also *ash-Shawkani, Naylul-Awtar*, Darul Jil, (2001) Vol. 6, pp. 254 -256.

However, the fact that a father or any other guardian is not entitled to marrying his ward without her consent does not mean that she can do anything regarding her marriage without restriction, because she cannot marry without the consent of her guardian. This is by virtue of the following authorities:-

- (a). Qur'an 24:32 which provides:-*And marry those among you who are single.....and (also marry) the sibling (pious, fit and capable ones) of your (male) slaves and maid servants.....*⁷³
- (b). 2:221 which provides....*And give not (your daughters) in marriage to Al-Mushrikun⁷⁴ till they believe (in Allah alone)....*⁷⁵

The point regarding these two verses is that, it is the guardians that have been addressed, regarding the marriage of their wards, which means that the wards (i.e. the women) cannot give themselves in marriages. Thus, consent of the guardian is necessary.

- (a). It was reported that *al-Hasan* said that *Mu'aqqil ibn Yassar* said:

*I married a sister of mine to a man and he divorced her, (She waited until her iddah⁷⁶ expired and then he came to betroth her, so I said to him "I married her to you and you divorced her, and then you have now come to betroth her! No, by God! You cannot go back to her (as her husband). He is a man who is fairly good and the woman wanted to go back to him. Hence Allah (S.W.T.) revealed this verse (2:232)...Do not prevent them from marrying their (former) husband...."*⁷⁷

Here, too, it is the guardians that are addressed in the verse, which shows that they are indispensable in contracting the marriage of their wards; otherwise there would not have been anything from preventing their wards from marriage. Had it been it is legally possible for *Mu'aqqil's* sister, to contract her marriage with her former husband without his approval, she would not have needed her brother to do so and he would not have been able to prevent her from doing so.

⁷³Al-Halili and Khan (1996), op cit at p. 471.

⁷⁴Al-Mushrikun means polytheists, pagans, idolaters, atheists and any kafir (disbeliever) who does not believe in the oneness of Allah. Moreover, all Muslim jurists agree that a Muslim woman is not allowed to marry a Christian man and a Jew.

⁷⁵Al-Hilali and Khan (1996), op cit p. 74.

⁷⁶Iddah: This is a period after divorce or death of a husband within which a woman waits before she can re-marry to, inter alia, ensure that there is no any confusion about the paternity of a possible child.

⁷⁷ Anonymous The Holy Quran: English Translation op cit pp. 102.

- (a). The Prophet (S. A. W.) was reported to have said, “There is no (valid) marriage without a guardian.”⁷⁸
- (b). He was also reported to have said, “Any woman that married without the consent of her guardian, her marriage is void.” He repeated this three times.⁷⁹

The justification of this decision is that marriage has a number of objectives for which it has been institutionalized or even prescribed. And many a times, woman follows her emotion and sentiments in choosing her partner in marriage as a result of which she makes a wrong choice and consequently, misses or loses the opportunity of attaining these objectives. It is for this reason that she is prevented to pursue her own marriage directly but instead it is entrusted to her guardian so as to be able to achieve the objectives sufficiently and effectively.

It is pertinent here to explain that the fact that a guardian’s consent must be sought in the marriage of his ward does not mean that the mother (of the girl or woman) has no say in it that the Prophet (S.A.W.) said, “Seek women’s permission regarding (the marriage of) their daughters.”⁸⁰

Imam Abu Sulaiman-Kahattabi, on this *hadith*, has the following valuable comments in his *Ma’alimus-Sunan*:

The counsel of mothers in the marital affairs of their daughters is not (just) because they have a say in the marriage; rather it is just to make them happy and show them kindness, and because this is a better way of maintaining a better relationship with them. And it is more effective in bringing their daughters and their (daughters) husbands together where the contract is based on mutual satisfaction and desire of the mothers and the daughters. Where it is contrary to that, there is a fear that they may instigate the daughters against their husbands and this may be a potential cause of adversity. This is because daughters incline more to their mothers than to their fathers and they listen more to them.

⁷⁸ Narrated by Ahmad, Abu Dawud, at-Tirmidhi, Ibn Hibban and Al-Hakim on the authority of Abu Musa and quoted in Sabiq, S. (1977), op. cit. p. 112.

⁷⁹ Narrated by Ahmad, Abu Dawud, Tirmidhi, Ibn Majah and al-Hakim on the authority of A’ishah (R. A.) and quoted in Sabiq, S. (1977), op. cit. p. 112.

⁸⁰ Narrated by Ahmad and Abu Dawud and quoted in al-Qardawi Y., *Markazul Mar’ah Fil Hayatil Islamiyyah, al-Mgaktabul Islamiya*, (1988) p. 77.

For all these reasons their consultation regarding the marriage of their daughters is recommendable.⁸¹

4.0 PROTECTION OF WOMEN'S RIGHTS

This work focuses on the ideal or the normative relating to the rights of women under the *Shar'iah* which, it is hoped, should serve as a yardstick against which the reality of the contemporary Muslims should be evaluated.

The question of the equality of genders, not only in the Muslim society, but in other societies has been extensively dealt with, with a view to showing how the term, (which has become the bias for misleading people), has been deliberately distorted by the West to mean absolute equality in each and every item of comparison rather than overall equality in the totality of rights and duties of both genders.

It has been seen how quest for this wrong notion of equality has enslaved women to the system in the Western society. Nevertheless, the issue continues to be brushed aside and it yields degrading and even dangerous results to women in particular and the family and the society in general.

It is clear from what has been explained that the full equality of all human beings before Allah irrespective of gender-based differences is beyond any doubt. However, equality is confused by the Western system and its blind followers, with role differentiation in the spirit of cooperation and complementarities.

4.1 PROBLEMS OF PROTECTING THE RIGHTS

There are many problems that become real obstacles in trying to protect women's rights. The first problem is trying to justify the injustices done to most Muslim women and the violation of some of their rights by religiously flavoured arguments and the assumption that the traditional and cultural practices and attitudes which are commonly used in the violation of the rights are correct and are usually followed by a selective search for endorsement in the primary sources of the *Shar'iah*.

The second problem is the failure to see the numerous positive aspects in the Muslim societies, such as family stability and cohesiveness, the respect for mothers, and sense of self fulfillment of women who are not frequently seen in public, painting a stereotypical

⁸¹ See: *al-Mundhir, Mukhtasarus Sunnah*,; *al-Khitabi, Ma'alimus-Sunan and Ibnul-Qayyim, at-Tahdhib*, Vol. 3, P. 39 reviewed by Ahmad Shakir and Muhammad Hamid al-Faruqi and quoted in *Al-Qardawi, Y., Markazul Mar'ah (1998) op cit p. 77.*

picture of Muslim women as ignorant, submissive, oppressed and almost totally enslaved by women hating chauvinist men. And according to Dr. Jamal Badawi:-

*"The focus of injustices and on magnifying them is sometimes partly based on questionable interpretations of outsiders' observations. For example, the smaller percentage of career women in many Muslim societies is interpreted in a Western framework and is seen as an indication of Muslims' oppressing women and depriving them of job opportunities. Little attention, if any, is given to the personal choices of Muslim women and their concepts of family happiness, which may or may not be the same choices or concepts of their non-Muslim sisters."*⁸²

The third problem is in relation to the non-governmental Organizations, International bodies and movements always established or assisted by the so called Super Powers, or international communities, especially Women's Rights Organizations. These bodies tend to erroneously consider International Conventions and Resolution, Programmes of Action or Platforms for Actions, and other documents passed in conferences organized by the United Nation and International Communities as the ultimate base and standards expected of all diverse peoples, cultures and religions, including the Muslims. The worst part of it is that whenever they proffer solutions to the problem of the violation of not only women's rights (including children's rights) but of human rights generally, they arrogantly portray that there are not provisions in Islam regarding these rights or even if there are, they are disregarded for being outdated or non-implementable or unenforceable for not going with the modern time. Even those who work for these International Communities tend to accept this attitude, especially because what bother most of them, in most cases, is the material gains they get from them. But as Weeramantry, a former Justice of the Supreme Country of Sri Lanka, a former Professor of Law in Melbourne, Australia and Vice President of International Court of Justice at the Hague says, Islam being one of the most powerful social, cultural, religious, and legal forces the world has ever seen, cannot be lightly passed over in any jurisdiction, to him, "an important barrier to international understanding is the widespread lack of information regarding Islam which leads to misunderstanding and prejudices which in turn lead to bitterness and out of bitterness comes tension, national and international"⁸³

⁸²Ibid at p. 44.

⁸³Weeramantry. C. G., *Islamic Jurisprudence. An International Perspective*, Kuala Lumpur, (2001) pp. xv - xvi.

5.0 RECOMMENDATIONS

- (a) Muslim society should spread the view of the noble and natural Islamic concept of woman's equality to man in her free will, nature, spiritual responsibility and ability to raise herself to high planes of virtue, consciousness of Allah (*taqwa*) and honour, as stressed in many verses of the Holy Qur'an, as well as *hadith* of the Prophet (P. B. U.H).
- (b) The Muslim *ummah* should teach and enforce the status quo about the role of men and women in relation to equality, which is an established Islamic fact. Although this equality does not mean that she is identical to man. Allah gave man and woman different physiques because He intended them to perform different roles.
- (c) There should be continuous remembrance of the honour and integrity of a woman as mentioned in many verses of the Qur'an and the *hadith* of the Prophet (P.B.U.H) and hence the severe punishment prescribed by the Qur'an for those who falsely accuse chaste and pure women of sexual immorality (Q24:2). This will help in preventing unhealthy and irresponsible propaganda by unscrupulous men against chaste women and keep society free from scandals.
- (d) There should be preservation of the principle of Islam which forbids the hateful female infanticide which used to be practiced by the pagan Arabs thus preserving the female life and dignity. Female children should be received with gratitude and joy as boons from Allah to be loved and cherished.
- (e) Mankind must ensure that the highest regard and consideration is given to motherhood. The Prophet (P.B.U.H) said, "*Paradise lies under the mother's feet*". And the Qur'an recommends good treatment and kindness to the mother for: "*.....she carries the strain upon strain*" (Q14"31) and because she nursed him when he was helpless infant. A man's obligation towards his mother is far greater than his obligation to his father according to the teachings of Holy Prophet (P.B.U.H).
- (f) Women should be encouraged to study and acquire learning. All women and men are alike in this regard. Both should acquire education "*from the cradle to the grave*". In short, Islam should make more adequate provision for preparing women as equal partners of men.
- (g) There should be establishment of Islamic schools to give our children, mostly the females the most thorough we can in Qur'an, the traditions of the Holy Prophet

(P.B.U.H), the lives of Muslim heroes of the past and present and the rudiments of the Arabic language.

- (h). If Muslims were taught not only to recite the Holy Qur'an merely as a ritual but to understand what they are reading rather than regarding the sacred book as a practice manual of everyday conduct to be acted upon but, to translate what they recite and understand into action, the world would experience a veritable revolution which would put all previous revolution to sham.
- (i). What is most urgently needed in all Muslim communities is for all intelligent, capable, energetic and active sincere sisters in faith to organize an effective and active Islamic movement for women and to enlist their female children in the same. Efforts of individual mother's to give their children training in the Islamic ways to confront the dreadful evils, right outside the doors of even the most pious homes.

6.0 CONCLUSION

The paper has delved into the primary sources of *Shariah*, the Holy Qur'an and the *Hadith*, to examine the rights of women within the purview of their roles in the family and society. It should be noted that most of these rights are either nonexistent under some legal systems or where they exist, are limited or seriously belittled. It is therefore the opinion of this writer that these rights are adequately protected under the Islamic Legal System more than under any other legal system.