

CHAPTER ONE

WOMEN IN THE QUR'ĀN

And if you fear that you will not deal fairly by the orphans, marry of the women, who seem good to you, two or three or four; and if you fear that you cannot do justice (to so many) then one (only) or (the captives) that your right hands possess. Thus it is more likely that you will not do injustice (4:3).

Men are in charge of women, because Allah has made the one of them to excel the other, and because they spend of their property (for the support of women). So good women are the obedient, guarding in secret that which Allah has guarded. As for those from whom you fear rebellion, admonish them and banish them to beds apart, and scourge them. Then, if they obey you, seek not a way against them. Lo! Allah is ever High, Exalted, Great (4:34).

Women who are divorced shall wait, keeping themselves apart, three (monthly) courses. And it is not lawful for them that they should conceal that which Allah has created in their wombs if they are believers in Allah and the Last Day. And their husbands would do better to take them back in that case if they desire a reconciliation. And they (women) have rights similar to those (of men) over them in kindness, and men are a degree above them. Allah is Mighty, Wise (2:228).

These three verses—the first addressed to men planning to marry, the second a statement about relations between husband and wife, and the third about divorce and possible reconciliation—are among those most often cited as emblematic of what the Qur'ān has to say about women in Islamic society. The first is used to show that Islam permits polygamy and the second and third to show the superiority of men over women. These are oversimplifications. In this chapter I shall examine these and other verses concerned with women to provide background for the issues that came to the fore in legal discussions. One of the main difficulties with introducing material from the Qur'ān is that so much of it is open to different interpretations that it is hard to “start” anywhere: it is usually easy to see what it says (although even here there are exceptions), but frequently harder to say what it means. Qur'ān

commentaries are available to interpret every word of the Qurʾān, but they too present problems of understanding.¹

To make my start, therefore, I will discuss a number of verses about women and family life. If the verses can be understood on their own—however superficially—I will merely draw attention to them. If they cannot be understood without some explanation, I will provide a context for them drawn from the *Kitāb asbāb al-nuzūl* (*Book of occasions of revelation*) compiled by Wāḥidī (d. 468/1075).² Collections of occasions of revelation are based on the assumption that particular verses of the Qurʾān were revealed to the Prophet to guide him in response to a particular set of circumstances or events that were part of his life. Each “occasion” is the subject of at least one *ḥadīth* that tells a story, sometimes about the Prophet’s own life, sometimes about the life of a Companion. When the occasion is about the Prophet’s own life, he receives guidance from a revelation that explains to him what he must (or must not) do. When the occasion is about the life of a Companion, that person usually comes to him with a particular problem and asks how to handle it. The Prophet then answers, on the basis of a verse (or verses) of the Qurʾān revealed to guide him in the matter at hand. Sometimes several traditions tell the same story about the occasion, but with different transmitters and different details. Other times entirely different stories are told to explain the same verse.³ Wāḥidī’s work is one of the earliest collections of this kind of material.⁴ One purpose for such collections is that an occasion of revelation is “part of the documentation used by legal scholars to understand how a Qurʾānic law is to be applied.”⁵ In the verses devoted to women, their lawful behavior

¹ See *EQ*, s.v. “Exegesis of the Qurʾān.”

² For occasions of revelation (*asbāb al-nuzūl*), see *EQ*, s.v. “Occasions of revelation.” For Wāḥidī, see *EI*, s.v. “Wāḥidī, Abu’l-Ḥasan ‘Alī b. Aḥmad.”

³ See *EQ*, s.v. “Ḥadīth and the Qurʾān.”

⁴ Some of the translations of the Qurʾān into English include commentary that explains the occasion or purpose of various verses. Pickthall introduces each Sūra with a summary of its contents, which often includes occasions of revelation. Ahmed Ali’s translation includes explanatory material in footnotes, as does the Arabic-English Qurʾān put out by the King Fahd Holy Qurʾān Printing Complex in Medina (1410/1989–90).

⁵ See *EQ*, s.v. “Occasions of revelation.” In this article Andrew Rippin says of the genre: “Historically, it is not certain how the compilations of the *asbāb al-nuzūl* occurred. The reports may have originated within the context of the life story of Muḥammad ... they may have been found among the stock of material used by the popular preachers in early Islam ... they may have been part of the documentation used by legal scholars to understand how a qurʾānic law was to be applied ... or they may have been a form of exegesis in and by themselves.”

is almost invariably the main concern, and the traditions Wāḥidī cites focus on changing or correcting pre-Islamic practices. Wāḥidī offers "... material relevant to eighty-five sūras of the Qur'ān."⁶

For the verses I mention that are not covered by Wāḥidī, I rely on the all-inclusive commentary on the Qur'ān by Ṭabarī (d. 310/923).⁷ Ṭabarī's commentary is a vast compendium of traditions, definitions of difficult words and phrases, grammatical analysis, and often, but not always, his own opinion of the best understanding of a verse.⁸ It is noteworthy that Ṭabarī's *Tafsīr* includes the traditions found in Wāḥidī's *Asbāb al-nuzūl*, along with thousands of additional ones. The sheer amount of material in Ṭabarī's commentary makes it hard to select and summarize in the kind of overview I am providing here, so for the most part Wāḥidī's choices seemed a good guide to selecting explanatory traditions. But I will also turn to Ṭabarī at the end of the chapter to illustrate the general character of pre-modern Qur'ān interpretation. I do not include modern approaches to the interpretation of the Qur'ān, for I am seeking only to provide a context for the material I cover in the subsequent chapters of this volume.

Two more points should be noted. I have organized the material in this chapter thematically and have not made an attempt at chronology. In post-Qur'ānic legal development, chronology is important only if a later verse abrogated an earlier one.⁹ Where that is the case, I will mention it. Otherwise, a jurist who bases his discussion of, for example, divorce on relevant verses of the Qur'ān will have all of them in mind. And I quote a number of verses rather than simply referring to them by number. A common problem with modern discussions of the Qur'ān in English is that authors will say something regarding a verse, and readers looking the verse up in a different translation wonder whether they are looking at the same verse. This is, of course, a problem of translation, but it also reflects the difficulty of interpreting the original Arabic. I have relied on Pickthall's translation because it seems to me to remain the one that most accurately reflects the legal content of the verses considered here and

⁶ Ibid.

⁷ For Abū Ja'far Muḥammad b. Jarīr b. Yazīd al-Ṭabarī, see *EI*, s.v. "al-Ṭabarī." For his commentary (*tafsīr*), see *EQ*, s.vv. "Exegesis of the Qur'ān," especially 110–11 and "Ḥadīth and the Qur'ān," especially 388.

⁸ For a description of the contents of Ṭabarī's *tafsīr*, see *EI*, s.v. "Tafsīr."

⁹ See *EQ*, s.v. "Abrogation."

because it is readily available in inexpensive paperback.¹⁰ I have modernized some of Pickthall's vocabulary without changing its meaning, but stayed close enough to his original for a reader to follow both of us.

There is general agreement that the rules and regulations about family life found in the Qur'an reformed many of the social practices of pre-Islamic Arabia that prevailed during the Prophet's lifetime. While there is not complete agreement on what these practices were, Avner Giladi has summed up the current state of our knowledge of this period by saying, "It has been suggested that at the time of the Prophet, the family structure within the Arabian tribal system went through a transition from matrilineal-matrilocal, which was common in central Arabia and influential to a certain degree, during the early Islamic period, to patrilineal-patriarchal-patrilocal, a form dominant in Mecca even before the time of Muḥammad."¹¹ Giladi's is a useful working statement because it explains the fact that the verses in the Qur'an relevant to the position of women in society were meant to maintain a patriarchal family. At the same time they were meant to alter or eliminate those customs current that were deemed detrimental to family stability and to the well-being of women and children. Further, the statement goes some way to explaining the Qur'anic response to the Arabian tribal system of the time. There are other aspects of the environment within which the Prophet guided his community and which we can roughly call the rest of the Near East—the cities and towns, as well as the rural areas adjacent to Arabia. Many Arabs traveled back and forth between the cities and towns of the neighboring countries, and a number of Arabs also lived in them. Thus the understanding that early Muslims had of some of the rules and regulations found in the Qur'an may also be set against customs prevalent outside the Arabian peninsula.¹²

¹⁰ *The Meaning of the Glorious Koran*, translated by Muhammad Marmaduke Pickthall, is available in a number of editions. For a full discussion of Pickthall's, as well as all other translations, see *EQ*, s.v. "Translations of the Qur'an."

¹¹ *EQ*, s.v. "Family." See also, *EQ*, s.vv. "Community and Society"; "Marriage and Divorce"; "Patriarchy."

¹² See for example, Doumato, "Hearing Other Voices: Christian Women and the Coming of Islam," especially, pp. 190–91; Crone, *Roman, Provincial and Islamic Law*, especially Chapter 1.

Marriage

The majority of the verses in the Qur'ān about marriage address the roles men play, as guardians of women or as potential grooms and husbands. To summarize: a woman is given in marriage by her guardian (4:3) to a groom who must provide her with a marriage portion (4:4, 24; 5:5). This is not like a bride price—a payment from the groom to the bride's father—but is a gift to the bride herself.¹³ It remains hers to keep unless she voluntarily remits some of it to her husband (4:4). If a couple divorce before they have had sexual intercourse, the husband owes his wife half the stipulated marriage portion (2:237). If one has not been stipulated, he owes her a divorce gift (*mut'a*, 2:236).

Whom to Marry

Those women a man is permitted to marry and how many women he may marry are described in Sūra 4 (verses 3, 4, 19, 22–24) and in Sūras 2:221 and 5:5. In 4:3 (quoted above), a man is permitted to be married to up to four women at the same time if he is able to treat them equally. If not, he is instructed to marry one woman only or perhaps female slaves.¹⁴ The interpretation of this verse is complicated by the connection

¹³ Again, I use the expression “marriage portion” because I have found in conversations with colleagues in other fields that it accurately expresses the gift in question and is more widely understood than bridal gift. Dowry (and its variant, dower) is not accurate. See *EQ*, s.v. “Bridewealth,” which Motzki considers the most accurate translation of *mahr* or *ṣadāq*, terms used interchangeably in legal texts. See *EI*, s.vv. “Mahr”; “Ṣadāk.”

¹⁴ In the Arabic phrase, *illā mā malakat aimānukum*, or (*the captives*) that your right hands possess, is understood to refer to female slaves, but whether these are slaves captured in battle, household slaves already in the man's possession, or another person's slaves is open to interpretation. So is the question of whether the verse says a man should marry female slaves or take them as concubines instead. Ṭabarī understands the phrase to mean that a man who cannot be just to wives and orphans should take his own slaves as concubines. The Qur'ān commentator Jaṣṣāṣ (d. 370/981), however, understands the phrase to mean that a man lacking the financial resources to marry free women should seek the slaves of others in marriage (*Aḥkām al-Qur'ān*, 2:50–52). The phrase is also used in 4:24. In his article, “Wal-muḥṣanāt mina n-nisā'i illā mā malakat aimānukum (Koran 4:24) und die koranische Sexualethik,” Motzki discusses this phrase. For the second part of 4:3 (*and if you fear that you cannot do justice (to so many) then one (only) or (the captives) that your right hands possess*), he offers the following translation: “If you fear that you cannot be just to several wives, then take one [bride], or [rather than several wives] slave women [as concubines].” My translation of the German. See 210.

it makes between a man's treatment of the orphans in his care and his treatment of potential wives who may or may not be orphans (see below). A girl or a woman is referred to as an orphan if she has neither father nor husband. In that case, a responsible relative is expected to take care of her in her best interests until she has reached puberty or been given in marriage. A number of verses urge guardians to behave responsibly toward their wards and turn over their wealth to them when they reach maturity and can, therefore, be expected to handle it themselves.¹⁵ For example, 4:6 says: *Prove orphans until they reach marriageable age; then if you find them of sound judgment, deliver them their fortune; and devour it not in haste before they grow up.* It then urges those guardians who are rich to abstain from using their wards' wealth to care for them, and those who are poor, to care for them by using it sparingly (*Whoever of the guardians is rich, let him abstain generously from taking the property of orphans; and whoever is poor let him take thereof in reason (for his guardianship).*) It ends by ordering guardians to have witnesses present when they hand over orphans' fortunes (*And when you deliver their fortune to orphans, have (the transaction witnessed in their presence).*)¹⁶

There are two underlying assumptions of 4:3: one, the man in charge of giving a female orphan in marriage is her guardian and she is his ward, and two, a bride receives a marriage portion.¹⁷ If she has wealth of her own, her guardian might wish to marry her himself without giving her a marriage portion, or he might prevent her from marrying so he can keep control of her wealth, but a guardian must not do either of these things.¹⁸ Wāḥidī reports a tradition from 'Ā'isha that this verse was revealed regarding the guardian of a wealthy female orphan who

¹⁵ A person is of marriageable age who has reached physical maturity. For children or minors, see *EI*, s.v. "Şaghīr"; for adults, *EI*, s.v. "Bāligh."

¹⁶ See *EQ*, s.vv. "Guardianship"; "Orphans," for reference to verses, both from the Meccan and Medinan periods, that exhort believers to treat orphans ethically. See also *EI*, s.v. "Yatim."

¹⁷ See Chapter 2 and references there for discussion of the extent of a guardian's authority over the marriage of his ward. See also Stern, *Marriage in Early Islam*, Chapters VI and VII; and Watt, *Muḥammad at Medina*, Excursus J, "Marriage and Family in Pre-Islamic Times" for a discussion of women in the pre-Islamic period arranging their own marriages.

¹⁸ See also 4:127, which reinforces the prohibition against withholding the marriage portions of female wards: *They consult you concerning women. Say: Allah gives you decree concerning them, and the Scripture which has been recited to you (gives decree), concerning female orphans to whom you give not that which is ordained for them though you desire to marry them ...*

might not have anyone else to represent her rights or to make sure that her guardian did not marry her [solely] for her wealth and then beat her and treat her with cruelty. This verse orders guardians not to marry these orphans, but to marry instead other women who are lawful to them.¹⁹ In a second interpretation that Wāḥidī attributes to Ibn 'Abbās, men might shun the wealth of orphans, but allow themselves license regarding wives and marry whomever they wished. The verse means that a man's concern for his wives should parallel his concern for the orphans in his care. Therefore, he should marry only as many women as he is capable of treating justly, because wives are as vulnerable as orphans.²⁰ In the context of concluding a marriage contract either with a woman or on her behalf, to *do justice* means to provide her with her full marriage portion, which is hers to keep, unless she freely makes her husband a gift of part of it: *And give to the women, (whom you marry) free gift of their marriage portions; but if they of their own accord remit to you a part thereof, then you are welcome to absorb it (into your wealth) (4:4).*²¹ Ṭabarī mentions three other interpretations of 4:3, which I will discuss below.

A man is permitted to marry Jewish and Christian women in 5:5: *the virtuous women of those who received the Scripture before you*. He is also permitted to marry female slaves if he cannot afford to marry free women: *And whoso is not able to afford to marry free, believing women, let them marry from the believing maids whom your right hands possess (4:25).*²² However, even though they may not require as large a marriage portion as a free wife, slave wives are to be treated with equal consideration: *so wed them by permission of their folk and give them their marriage portions in kindness, they being honest, not debauched or of loose conduct (4:25).*

Whom Not to Marry

In 4:19, a man is forbidden to inherit the widows of deceased kinsmen along with the rest of their estates, either by claiming the right to marry

¹⁹ Wāḥidī, 95. See also Ṭabarī's discussion at the end of this chapter. This is one of the best-known verses of the Qur'ān and remains one of the most difficult to interpret. See EQ, s.v. "Guardianship" and Motzki, "Wa'l muḥṣanāt mina n-nisā'i."

²⁰ See Wāḥidī, 95.

²¹ For fuller discussion of this verse, see EQ, s.v. "Guardianship."

²² See also 24:32 and EQ, s.vv. "Concubine"; "Slaves and Slavery."

these widows himself or by preventing them from remarrying and taking their wealth with them into new marriages: *It is not lawful for you forcibly to inherit the women (of your deceased kinsmen), nor (that) you should put constraint upon them that you may take away a part of that which you have given them. . . .* Wāḥidī says that a number of Qurʾān commentators report that among the Medinese, in pre-Islamic times and in the early period of Islam, when a woman's husband died, his son or another of the deceased's agnate relatives would throw a cloak over her and thereby claim a right to be her guardian. He could then marry her himself for no marriage portion, marry her off to someone else without securing a marriage portion for her, or, if she had money or property, prevent her from remarrying unless she ransomed herself from him.²³

The further regulation of forbidden marriages deals with relationship by birth (uterine, consanguine, and germane siblings)²⁴ and with a category referred to as "foster" relationships. These are created by suckling: a man and a woman suckled by the same wet nurse are "milk" siblings.²⁵ In pre-Islamic Arabia the only female relatives a man was forbidden to marry were his mother and sister, both consanguine and foster. The Qurʾān considerably extended those forbidden in the maternal line, and it added women forbidden in the paternal line.²⁶ These categories include women a man's father has previously married (*and marry not those women whom your fathers married* [4:22]), and women too closely related to him by consanguinity, foster relationship, or marriage. Those related by consanguinity include a man's mother, daughters, sisters, and maternal and paternal aunts and nieces: *Forbidden to you are your mothers, and your daughters, and your sisters, and your father's sisters, and your mother's sisters, and your brother's daughters and your sisters daughters* (4:23). Those related to a man by foster

²³ Wāḥidī mentions a specific woman by name (Kabīsha bt. Maʿn al-Anṣārī) and also says that several women went to the Prophet to complain of their treatment, and this verse was revealed in response. See 97–98. Ṭabarī mentions Kabīsha bt. Maʿn al-Anṣārī in connection with this verse. See Ṭabarī, *Tafsīr*, 8:106 and the editor's note.

²⁴ Uterine siblings have the same mother; consanguine, the same father; germane, the same parents.

²⁵ See EQ, s.vv. "Fosterage"; "Wet-nursing"; EI, s.v. "Raḍāʾ."

²⁶ See references in previous note, as well as EQ, s.vv. "Lactation"; "Prohibited Degrees." See also Watt, *Muḥammad at Medina*, 280–81. See Bell, *Commentary*, 1:113 where he compares the Qurʾānic regulations to the Mosaic code. See also Lev. 18:6–18.

relationship are those related through suckling—his wet nurse and any women also nursed by her, who thereby become his foster sisters. So 4:23 continues: *and your foster-mothers, and your foster-sisters. ...* Women too closely related to a man by marriage are his mothers-in-law, daughters-in-law, and stepdaughters of wives with whom he has had sexual intercourse. Again 4:23 continues: *and your mothers-in-law, and your step-daughters who are under your protection (born) of your women to whom you have gone in—but if you have not gone in to them, then it is no sin for you (to marry their daughters)—and the wives of your sons. ...*²⁷ Finally, in 4:23, a man must no longer be married to two sisters at the same time: *And (it is forbidden to you) that you should have two sisters together, except what hath already happened (of that nature) in the past.*

In 4:24 a man is forbidden to wed married women, with the exception of slave captives (*And all married women are forbidden to you save those captives whom your right hands possess*).²⁸ After the Battle of Ḥunayn in 8/630, the Muslims pursued the enemy to Awṭās, where they were victorious and took a number of prisoners. Some of the Muslim fighters were worried that the female prisoners they enslaved had husbands. This verse (*save those captives whom your right hands possess*) gave the Muslims license to assume that captivity ended the women's marriages, and therefore it would be licit to consider them slave concubines.²⁹ Then the verse emphasizes again (as in 4:3 and 4:4) that in a lawful marriage, women are to be given their full marriage portions: *Lawful to you are all beyond those mentioned, so that you seek them with your wealth in honest wedlock, not debauchery. And those of whom you seek content (by marrying them), give to them their portions as a duty.*

²⁷ If a man concludes a marriage contract with a woman, but divorce takes place before consummation, her daughters have not become his stepdaughters, and he may lawfully marry them.

²⁸ The term *muḥṣanāt* is translated here as “married women.” A person who possesses the quality of *iḥṣān* is *muḥṣan* (fem. *muḥṣana*) and thus is morally respectable, either because he (or she) is lawfully married or has never committed unlawful intercourse. See Schacht, *Introduction*, 125 and Burton, “The Meaning of ‘Iḥṣān.’”

²⁹ See Wāḥidī, 98–9. See also Wensinck, *Concordance*, vol. 8, “Awṭās” for references in *ḥadīth* collections to this event. The explanation that this part of 4:24 was revealed in response to the Muslims' question about whether sexual intercourse with the pagan women taken prisoner at Awṭās was licit is always attributed to the Companion Abū Sa'īd al-Khudrī (d. 74/693). In accordance with 2:221, they were forbidden to marry them: *Wed not idolatresses til they believe. ...*

Slave Concubines

In general, in addition to marrying slaves, a man is permitted to own slave concubines.³⁰ However, he is not allowed to force his female slaves into prostitution: *Force not your slavegirls to whoredom that you may seek enjoyment of the life of the world, if they would preserve their chastity* (24:33). Wāḥidī gives several possible occasions for the revelation of this verse. They involve one or more female slaves belonging to ‘Abd Allāh b. Ubayy, who seems for a while to have controlled a number of prostitutes.³¹ Once they converted to Islam, these women refused to continue working on his behalf.³²

Marriage Portion

In pre-Islamic Arabia the dowry (*mahr*) was a payment given to the bride’s father or to her guardian.³³ The Qur’ān reformed this practice, and several verses stress that the bride receives and keeps her own marriage portion: in 4:4 (also quoted above), we find: *And give to the women (whom you marry) free gift of their marriage portions*; then in 4:24: *And those of whom you seek content (by marrying them), give to them their portions as a duty*; and in 5:5: *And so are the virtuous women of the believers and the virtuous women of those who received the Scripture before you (lawful for you) when you give them their marriage portions and live with them in honor. . .*

In cases of divorce the bride retains her marriage portion: *And if you wish to exchange one wife for another and you have given to one of them a sum of money (however great) take nothing from it* (4:20). In cases of divorce before intercourse, the bride retains only half her marriage portion: *If you divorce them before you have touched them and you have appointed to them a portion, then (pay the) half of that which you*

³⁰ See *EQ*, s.v. “Concubines,” where Jonathan Brockopp, points out that 4:3 (*those whom your right hands possess*) is understood by commentators to refer either to marriage with slaves or concubinage. Further, 23:5-6 and 70:29-30 accept the presence of concubines in a man’s household, since they urge men to hide their private parts from all except their wives and “those their right hands own.”

³¹ ‘Abd Allāh b. Ubayy (d. 9/631) was a member of the Khazraj tribe of Medina and one of the “hypocrites” who intrigued against Muḥammad for a number of years. See *EI*, “‘Abd Allāh b. Ubayy” and references there.

³² Wāḥidī, 219–21.

³³ In addition, a gift, usually of less value, was sometimes given to the bride herself. This was a *ṣadāq*. See *EI*, s.v. “Mahr.”

*appointed, unless they (the women) agree to forgo it, or he agrees to forgo it in whose hand is the marriage tie (2:237³⁴). If a fixed amount has not been decided upon, when a husband divorces a wife before intercourse, he provides her with a divorce gift (mut'a), ... the rich according to his means, and the straitened according to his means, a fair provision (2:236).*³⁵

Husband and Wife

A number of verses deal particularly with relations between husband and wife. Some are of greater moral than legal interest; 30:21 for example, says: *He created for you mates from your selves that you might find rest in them, and He ordained between you love and mercy.* In 2:187 sexual intercourse is permitted in the month of Ramaḍān after the daily fast has ended: *They [your wives] are raiment for you and you are raiment for them.* Wāḥidī relates several stories of Companions who found it a hardship to refrain from having intercourse with their wives for a whole month and of others who forgot they were not supposed to and told the Prophet that they had had intercourse the previous night. This verse was revealed to clarify the regulations for fasting in Ramaḍān.³⁶

In 2:223 we read: *Your women are a tilth for you (to cultivate), so go to your tilth as you will.* ... To explain this verse, Wāḥidī reports that the Companion Jābir [b. 'Abd Allāh] said that the Jews [of Medina] and the women of the Anṣār used to say that if a man was behind a woman during sexual intercourse, the child would be born cross-eyed, and this verse was revealed to assure the Muslims that this was not the case. Wāḥidī adds that vaginal intercourse in any position is not harmful for a potential child.³⁷

Two verses quoted at the beginning of this chapter (4:34 and 2:228) point to the dominance of a husband over his wife. In 4:34, we find

³⁴ The phrase, *in whose hand is the marriage tie* means either the bride's guardian or her husband. It can be understood to mean the bride's guardian because he is the one who negotiates her marriage contract. See Bell, *A Commentary on the Qur'ān*, 1:49. However, Ṭabari says the best interpretation is that it means her husband, because once a marriage portion has been agreed upon, it belongs to the bride, not to her guardian, and therefore he is not free to dispose of it. See 5:146–58.

³⁵ For other meanings of the term *mut'a*, see the entry in *EI* and also *EQ*, s.v. "Temporary Marriage."

³⁶ Wāḥidī, 30–32. See *EQ*, s.v. "Fasting."

³⁷ Wāḥidī, 48. See also *EQ*, s.v. "Sex and Sexuality."

men in charge of women and also given license to discipline their wives. To explain the first sentence of this verse (*Men are in charge of woman ...*), Wāḥidī relates a tradition in which a daughter of one of the chiefs of the Anṣār disobeyed her husband, and he slapped her. When her father came with her to the Prophet to complain, the Prophet initially said she could take revenge against her husband, but then this verse was revealed.³⁸ Wāḥidī does not provide material on the remainder of this verse. I will discuss Ṭabarī's understanding of it below. In 2:228, although the rights of women are affirmed, so is the dominance of the husband: *And they (women) have rights similar to those (of men) over them in kindness, and men are a degree above them.* The main subject of this verse is divorce; however, along with 4:34 it reinforces the dominance of a husband over his wife (again, I will discuss Ṭabarī's understanding of it below).

In 4:128, women who fear mistreatment by their husbands but who do not wish to be divorced are counseled to negotiate a kind of marital truce with them: *If a woman feareth ill-treatment from her husband, or desertion, it is no sin for them both if they make terms of peace between themselves. Peace is better.* Wāḥidī explains this verse with a tradition from 'Ā'isha, who says it refers to a woman whose husband no longer desires her and wishes to divorce her to marry someone else. But the woman in question might have children in the household or have formed bonds with other members of it, so her husband would be loathe to divorce her and thereby remove her from her accustomed home. In this situation a woman can ask her husband not to divorce her, but rather to remain married to her and in addition to marry someone else. She can offer to relieve him from providing her with maintenance and offer to relinquish her right to have sexual intercourse with him.³⁹ Although Wāḥidī does not mention her, the Prophet's wife Sawda figures in a number of traditions that explain this verse. According to one found in Ṭabarī's commentary, she feared that

³⁸ Wāḥidī offers several traditions that are variants on this story. See 100–1. After each of them, the Prophet is reported to have said: "We initially commanded one thing, but God commanded another."

³⁹ Wāḥidī, 123. On 124, he relates a similar tradition about a specific woman, Bint Muḥammad b. Maslama, whose husband developed an antipathy toward her either because she had aged or for some other reason. She asked him not to divorce her, but to keep her and spend as much or as little time with her as he chose.

the Prophet would divorce her and asked him instead to remain married to her but not allot her any of his private time.⁴⁰ In 4:129, men are told that they can never treat all their wives equally, but that they should not ignore any one of them completely.⁴¹

A woman's menstrual periods figure both in marital relations and in divorce proceedings. In 2:222, husbands are instructed not to have sexual intercourse with their wives while they are menstruating: *They question you (O Muhammad) concerning menstruation. Say: It is an illness, so let women alone at such times and go not in to them till they are cleansed. And when they have purified themselves, then go in to them as Allah has enjoined upon you.*⁴² Wāḥidī explains that this verse was revealed in response to queries brought to the Prophet about the way Jews treated menstruating women. In one, the Companion Anas b. Mālik says that the Jews put a woman out of her house during her menstrual period and did not eat, drink, or associate with her. The Prophet was asked about that, and 2:222 was revealed. In another explanation, Wāḥidī says that a number of Qur'ān commentators say that in the *jāhiliyya*, the Arabs did not eat or drink with a menstruating woman and would not live with her in the same house, as the Magians did.⁴³ The Companion Abu'l-Daḥdāḥ asked the Prophet what they should do about menstruating women and 2:222 was revealed.⁴⁴ In cases of divorce, a woman's *idda* (the period of time she must wait after divorce and before remarriage) is reckoned in terms of menstrual periods.

⁴⁰ Ṭabarī, 9:277–78. In Ibn Sa'd's biographical notice on her, several traditions say that the Prophet had already divorced her, and she asked him to take her back so she could be among his wives in the Hereafter. See Ibn Sa'd, 10:155–57; Also see *EI*, s.v. "Sawdah bt. Zam'a"; and *EQ*, s.v. "Wives of the Prophet."

⁴¹ *You will never be able to deal equally between (your) wives, however much you wish (to do so). But turn not altogether away (from one), leaving her as in suspense. Leaving her as in suspense, Ṭabarī says, means neither divorcing her, nor having sexual intercourse with her.* See 9:284–96. He quotes a number of traditions that point to the fact that it is impossible for a man to care equally for his wives, but he is still obliged to be as fair as possible to all of them.

⁴² See *EI*, s.v. "Ḥayḍ" and *EQ*, s.v. "Menstruation" where the word *adhan*, translated above as "illness," is discussed at some length in the context of ritual purity. Other possible translations are "pollution" and "harm."

⁴³ See *EQ*, s.v. "Magians."

⁴⁴ Wāḥidī, 46–47. For full discussions of menstruation see *EI*, s.v. "Ḥayḍ" and *EQ*, s.v. "Menstruation."

Divorce

In general, the Qurʾān allows a husband to pronounce a unilateral divorce against his wife. At the same time, the verses that regularize divorce procedures are meant to protect a woman from being abandoned, and, should she be pregnant, they establish the paternity of (and hence responsibility for) any unborn children. Protection from abandonment is accomplished first through a woman's control of her marriage portion (see again, 4:4) and second by means of her *ʿidda*. In 4:20, for example, a husband who wishes to divorce his wife is instructed to make sure that she retains her full marriage portion: *And if you wish to exchange one wife for another and you have given to them a sum of money (however great), take nothing from it.* The verse ends with a question: *Would you take it by the way of calumny and open wrong?*⁴⁵ In 2:228, a woman's *ʿidda* is fixed at three menstrual cycles: *Women who are divorced shall wait, keeping themselves apart, three (monthly) courses.* Or, if a woman does not menstruate, her *ʿidda* lasts three months: *And for such of your women as despair of menstruation, if you doubt, their period (of waiting) shall be three months, along with those who have it not* (65:4). Further in 65:4, if a woman is pregnant, her *ʿidda* ends with her delivery: *And for those with child, their period shall be till they bring forth their burden.* In 65:1, men are urged to pronounce divorce at a moment that makes it easy to reckon a woman's menstrual cycle and hence count the three menstrual periods until her *ʿidda* ends: *When you (men) put away women, put them away for their (legal) period, and keep your duty to Allah, your Lord.*⁴⁶

During a divorcée's *ʿidda*, her husband can take her back. However, he can do so only twice: *Divorce must be pronounced twice and then (a woman) must be retained in honour or released in kindness* (2:229). After a third divorce, a couple can remarry only if the wife has first

⁴⁵ The verse 4:21 emphasizes the exhortation in 4:20 with a rhetorical question: *How can you take it (back) after one of you have gone in unto the other, and they have taken a strong pledge from you?*

⁴⁶ The occasion of revelation most often offered for this part of 65:1 is about the Companion ʿAbd Allāh b. ʿUmar (son of the Caliph, Umar b. al-Khaṭṭāb) who divorced his wife while she was menstruating. In order to make it easy to reckon three menstrual cycles, the Prophet ordered him to return to her and, if he still wished to divorce her, wait a full menstrual cycle and then divorce her just after the end of her period and before having intercourse with her. See Wāḥidi, 289. In legal discussions, this timing is usually referred to as *ṭalāq al-sunna*.

been married to and divorced from another husband: *And if he has divorced her (the third time), then she is not lawful to him thereafter until she has wedded another husband (2:230)*. During a woman's *'idda*, her husband should decide whether or not he wishes to return to her. Once he has reached a decision, two men should witness the fact that he will resume the marriage or that it has come to an end: *Then when they have reached their term, take them back in kindness or part from them in kindness, and call to witness two just men among you, and keep your testimony upright for Allah (65:2)*.⁴⁷ Also, once a woman's *'idda* ends, she should not be prevented from remarrying: *And when you have divorced women and they reach their term, place not difficulties in the way of their marrying their husbands if it is agreed between them in kindness (2:232)*.⁴⁸

Although women should not be prevented from remarrying, men are urged to act with propriety toward those who are waiting an *'idda*: *There is no sin for you in that which you proclaim or hide in your minds concerning your troth with women (2:235)*. Ṭabarī explains that this means that a man who wishes to marry a woman who will soon be free should not say so in so many words, but he may intimate his interest in becoming her next spouse by saying such things as, "You are beautiful," or "I wish to marry." He might also say to her guardian, "Do not place anyone ahead of me with her."⁴⁹ The second part of the verse says: *And do not consummate the marriage until (the term) prescribed is run*. Here, Ṭabarī offers several possible meanings. The one he supports is that a man who has intercourse with a woman before her *'idda* has ended commits adultery.⁵⁰

⁴⁷ See also, 2:231: *When you have divorced women, and they have reached their term, then retain them in kindness or release them in kindness*.

⁴⁸ Either a woman's relatives might wish to stop her from returning to a husband from whom she has been revocably divorced, or her now former husband might try to stop her from marrying another man. See Watt, *Companion*, 42; Bell, *Commentary*, 1:48. For the first explanation, see Wāḥidī, 50: the Companion Ma'qil b. Yasār gave his sister in marriage to a man who subsequently divorced her, but after the end of her *'idda*, he wished to remarry her. Even though she was amenable, Ma'qil told the Prophet that he refused to give his sister in marriage to this man again, and then this verse was revealed.

⁴⁹ Ṭabarī, 5:95–96.

⁵⁰ The other possibilities are (2) that a man should not preclude a woman from marrying anyone else during her *'idda*; (3) that he should not directly tell her not to marry anyone else, (4) or that he should not marry a woman in secret during her *'idda*. See Ṭabarī, 5:105–13. Ahmed Ali's translation of this verse reads: *And do not resolve upon marriage till the fixed term of waiting is over*. This translation supports possibility (2) in Ṭabarī's commentary.

Since her husband may return to her at any moment, a woman who has been revocably divorced remains in her marital home during her *ʿidda*: *Expel them not from their houses nor let them go forth unless they commit open immorality* (65:1). If a divorcée is pregnant, regardless of whether her divorce is revocable or final, in accordance with 65:6 she receives both maintenance and lodging in her husband's home at his expense, until she delivers: *Lodge them where you dwell, according to your wealth, and harass them not so as to straiten life for them. And if they are with child, then spend for them till they bring forth their burden.*⁵¹

This description of divorce procedures is based on the assumption that a husband has made a unilateral declaration of divorce using some form of a word composed from the root letters *ṭ, l, q*, as in “*Anti ṭāliq*” (you are divorced). Several other statements that can effect a divorce are also regulated in the Qurʾān.

ṣihār and ʾilāʾ

A man can separate himself from his wife by taking one of two oaths, an oath of *ṣihār* or an oath of *ʾilāʾ*. These are both assumed to be pre-Islamic procedures, which are at the same time disapproved of and regulated in the Qurʾān. In the case of *ṣihār*, a man swears that his wife is to him “like the back of his mother.”⁵² By means of this statement, he forbids himself sexual relations with his wife. The Qurʾān treats his statement as an extrajudicial oath and provides a man with the means to expiate it if he wishes to return to his wife. He may either manumit a slave or feed sixty poor people. *Ṣihār* is condemned in the Qurʾān in 58:2: *Such of you as put away your wives (by saying they are as their mothers)—they are not their mothers; none are their mothers except those who gave them birth—they indeed utter an ill word and a lie.*⁵³ Then it is regulated in 58:3–4: 3: *Those who put away their wives (by saying they are as their mothers) and afterwards would go back on that*

⁵¹ See Chapter 3 below for the question of lodging and maintenance for a woman who has been definitely divorced and is not pregnant.

⁵² See *EL*, s.v. “Ṭalāq”; *EQ*, s.v. “Marriage and Divorce.”

⁵³ It is also condemned in 33:4: *... nor hath He made your wives whom ye declare (to be your mothers) your mothers. ...* For a discussion of the oath of *ṣihār*, along with that of *ʾilāʾ*, by means of which a man swears to abstain from having sexual relations with his wife, see Hawting, “An Ascetic Vow and an Unseemly Oath? *ʾilāʾ* and *Ṣihār* in Muslim Law.”

which they have said, (the penalty) in that case (is) the freeing of a slave before they touch one another. ... 4. And he who finds not (the where-withal), let him fast for two successive months before they touch one another; and for him who is unable to do so (the penance is) the feeding of sixty needy ones. ... Wāḥidī identifies the woman whose concerns led to the revelation of these verses as the woman referred to in the title of this Sūra (*She that disputeth*). She is Khawla bt. Tha'labā, who complained to the Prophet that her husband had separated himself from her permanently by means of this oath. These verses provided a way for Khawla's husband to expiate his oath and return to her.⁵⁴

A man who takes an oath of *īlā'* swears to abstain from sexual intercourse with his wife for four months. At the end of this period he should not leave his wife in a state of uncertainty, but either resume sexual relations with her or divorce her. *Īlā'* is mentioned in 2:226–27: *Those who forswear their wives must wait four months; then if they change their minds, lo! Allah is Forgiving, Merciful. And if they decide upon divorce, (let them remember that) Allah is Hearer, Knower.* Wāḥidī provides two traditions describing the pre-Islamic practice of *īlā'* that offer the reason for the revelation of these verses. In one, the Companion Sa'īd b. al-Musayyib relates that *īlā'* was a harmful pre-Islamic practice whereby a man who did not want his wife himself, but did not want another man to marry her, would swear never to approach her. Thus she would be left without sexual relations and without a husband, so God set a time limit for this oath. In the other, the Companion Ibn 'Abbās relates that in the pre-Islamic period men would swear an oath of *īlā'* for one or two years, or possibly more. Then God set a time limit of four months. An oath of abstinence for less than four months does not constitute *īlā'*.⁵⁵

Takhyīr

"The choice" (*takhyīr*) (see verses 33:28–29) is closely associated with 'Ā'isha and with events in the Prophet's family life, so it will be discussed below. In such a divorce, a man gives his wife the option of initiating divorce proceedings if she wishes to do so.

⁵⁴ Wāḥidī, 273. There is also a reference to *zihār* in 33:4: ... *nor hath [H]e Allāh made those whom ye declare (to be your mothers) your mothers.* ... For Khawla bt. Tha'alaba, see Stern, *Marriage in Early Islam*, 127–28.

⁵⁵ Wāḥidī, 49.

Li'ān

The procedure of *li'ān* is described in 24:6–9. A man who wants to divorce his wife and at the same time deny the paternity of a child with which she is pregnant can publicly accuse her of adultery. In turn, she can avert the punishment for adultery by swearing she is innocent. If she does so, the husband is punished for slander as it is assumed that he cannot provide the eyewitness proof⁵⁶ needed to prove his accusation: 24:6: *As for those who accuse their wives but have no witnesses except themselves; let the testimony of one of them be four testimonies, (swearing) by Allah that he is of those who speak the truth; 24:7, And yet a fifth, invoking the curse of Allah on him if he is of those who lie. 24:8, And it shall avert the punishment from her if she bear witness before Allah four times that what he says is indeed false, 24:9, And a fifth (time) that the wrath of Allah be upon her if he speaks truth.*

Wāḥidī offers two occasions of revelation for these verses. In the first, on the authority of Ibn 'Abbās, Hilāl b. 'Umayya complains to the Prophet that he has found his wife with another man and is distressed that 24:4 forbids him to act unless he can provide four witnesses to her behavior (*And those who accuse honourable women but bring not four witnesses, scourge them (with) eighty stripes ...*). At first the Prophet rebuffs him, but then the verses delineating *li'ān* are revealed, and Hilāl, pleased, says that he had been hoping for guidance from his Lord. Here Wāḥidī says: “and he (i.e., Ibn 'Abbās) mentioned the rest of the tradition.”⁵⁷ The “rest of the tradition” can be found in many sources,⁵⁸ with varying detail. In some versions Hilāl's wife does not swear a fifth time and departs. The unspoken assumption is that she is guilty. In others, she does swear a fifth time, and then the Prophet separates the couple and at the same time suggests that if the child she bears has no physical resemblance to Hilāl, it is not in fact his.⁵⁹

⁵⁶ See 24:10–20 for the necessity of providing four eyewitnesses for an accusation of adultery, and below for “the affair of the lie,” which refers to an accusation of adultery made against 'Ā'isha.

⁵⁷ Wāḥidī, 212–13. For this *ḥadīth*, see Schacht's article “Ṭalāq” in the first edition of *EI*. This article summarizes the development of the doctrine of *li'ān* and gives a description of this and other *ḥadīths* used to explain the occasions of revelation of these verses. This portion of the article “Ṭalāq” has not been reproduced in the second edition of the *EI*.

⁵⁸ See Wensinck, *Concordance*, 8, “Hilāl b. 'Umayya al-Wāqifi'.”

⁵⁹ For one example, see Bukhārī, *Ṣaḥīh*, 3:414–15, no. 5309.

In a second *ḥadīth*, also on the authority of Ibn 'Abbās, an anonymous member of the *anṣār* wonders what to do if a husband finds his wife with another man, since he incurs the punishment for slander if he accuses her without four witnesses. He decides to ask the Prophet about this, and these verses are revealed.⁶⁰

Khul'

*Khul'*⁶¹ is the word used to refer to a divorce initiated by a wife rather than her husband. Although the word is not used in connection with divorce per se in the Qur'ān, two verses, 2:229 and 4:35, are understood to refer to such a divorce. As we saw above, the first part of 2:229 decrees that a man must pronounce a divorce twice and then either remain married to a woman or divorce her a third and final time, so that she is free to marry someone else. The second part of the verse refers to a woman who wishes to end her marriage. It allows her to ransom herself by offering to buy her freedom from her husband by returning her marriage portion to him. However, there is some suggestion in the Qur'ān that her husband might demand a larger sum: *And it is not lawful for you that you take from women any of that which you have given them; except (in the case) when both fear that they may not be able to keep within the limits (imposed by) Allah. And if you fear that they may not be able to keep the limits of Allah, in that case it is no sin for either of them if the woman ransom herself (2:229)*. To explain this verse, Ṭabarī includes a version of the story most often told to define *khul'*: the wife of the Companion Thābit b. Qays came to the Prophet to say that she could not bear Thābit. The Prophet ordered her to return to Thābit the garden he had given her as a marriage portion and ordered Thābit to separate from her.⁶²

In 4:35, arbitration is recommended for a couple who are not getting along. Although here too the verse does not refer to *khul'* directly, it is

⁶⁰ Wāhidi, 212–13.

⁶¹ This word is used once in the Qur'ān in 20:12 (in the imperative of Form I to mean “remove” or “take off”) when the Lord speaks to Moses and commands: “*Take off your shoes. ...*” For its use as a legal term to refer to a divorce procedure initiated by a wife, see Lane, *Arabic-English Lexicon*, at *kh*, l, '.

⁶² See Ṭabarī, 4:538–85 for this and (several) other stories about the Prophet separating incompatible couples after ordering the wife to return her marriage portion to her husband.

understood as a possible outcome in cases where the arbitrators are unable to reconcile the couple to each other: *And if you fear a breach between husband and wife, appoint an arbiter from his folk and an arbiter from her folk. If they desire amendment, Allāh will make them of one mind.* Part of Ṭabarī's explanation of the verse is that a couple might not "desire amendment" if a breach occurs between husband and wife, either when the wife is refractory, and she ceases to carry out the duties to her husband that God has prescribed for her, or when the husband is no longer retaining his wife with honor or releasing her with kindness (in accordance with the first part of 2:229). At that point, either the *qāḍī* appoints an arbitrator to represent each spouse, or each of them (or his or her agent) chooses an arbitrator. Ṭabarī goes on to report different views on what the arbitrators actually do. If the husband is the oppressor, the imam (i.e., the *qāḍī*) should remind him of his duty to his wife. If the wife is refractory and fails in her duty to her husband, God has allowed him to compensate himself through the revelation of 2:229, or he can divorce her. Ṭabarī thinks that the arbitrators can separate the couple if the husband has authorized them to do so, but they cannot take money from the wife (to ransom herself) without her consent.⁶³

Children

Relations with Parents

A number of Qur'ānic statements about children speak of the affection between parents and children and of the importance for children of honoring and caring for aging parents.⁶⁴ In 31:33 we find: *O Mankind! Keep your duty to your Lord and fear a Day when the parent will not be able to avail the child in anything, nor the child to avail the parent.* And in 17:23: *Your Lord has decreed that you worship none save Him, and (that you show) kindness to parents. If one of them or both of them attain to old age with thee, say not "Fie" to them nor repulse them, but speak to them a gracious word.*⁶⁵ In return, parents are expected to value and care for their children. Thus the Qur'ān condemns the pre-Islamic

⁶³ See Ṭabarī, 8: 319–31.

⁶⁴ See *EL*, s.v. "Ṣaghīr"; *EQ*, s.v. "Children."

⁶⁵ In 4:36, kindness to parents is included with the exhortation to show kindness to others as well. See also 2:83 and 31:14.

practice of sacrificing infants to false gods. For example, in 6:137 we find: *Thus have ... (so-called) partners (of Allah) made the killing of their children to seem fair to many of the idolators. ...*⁶⁶ It also condemns infanticide in response to economic pressure: *Slay not your children fearing a fall to poverty* (17:31).⁶⁷ Finally, it condemns eliminating daughters and saving sons (who were more highly valued) in 81:8–9 where female infanticide is singled out in the midst of the description of the signs of the end of the world: *And when the girl-child that was buried alive is asked for what sin she was slain.*⁶⁸

The main legal rulings about children are about nursing and weaning infants, and these rulings are found in verses that regulate divorce.⁶⁹ Thus 2:233, which refers to a divorcing couple who have a child, says that if mothers wish to, they should nurse their infants for two full years: *Mothers shall suckle their children for two whole years (that is) for those who wish to complete the suckling.* During this time, it is the duty of the child's father to provide support for both; 2:233 continues: *The duty of feeding and clothing nursing mothers in a seemly manner is upon the father of the child.* If a mother prefers to wean a child before the end of the two-year period, a wet nurse can be hired in her stead: *If they desire to wean the child by mutual consent (and after) consultation, it is no sin for them; and if you wish to give your child out to nurse, it is no sin for you, provided that you pay what is due from you in kindness.*⁷⁰

Adoption

Adopting a child who thereby takes his adopted parent's name and is in every way considered a son (or daughter) is forbidden by the Qur'ān in 33:4–5. In 33:4, we find: *Allah has not assigned to any man two hearts within his body, nor has he made those whom you claim (to be your sons) your sons.* And in 33:5: *Proclaim their real parentage. That will be more*

⁶⁶ See also 6:140.

⁶⁷ See also 6:151.

⁶⁸ See *EQ*, s.v. "Children"; and *EI*, s.v. "Ṣaghīr." See also, 16:58–59 against killing female infants by exposing them and burying them alive.

⁶⁹ An exception is 46:15 where, in the context of a man's reverence for his parents and his God, thirty months are given as the time period within which a child is conceived, born, and nursed

⁷⁰ See *EQ*, s.v. "Wet-Nursing." See Qur'ān 31:14 for the period of nursing lasting for the first two years of life. See 65:6 for another reference to hiring a wet nurse.

*equitable in the sight of Allah. And if you know not their fathers, then (they are) your brethren in the faith, and your clients.*⁷¹ Before these verses were revealed, the Prophet himself had an adopted son, Zayd b. Ḥāritha. In his youth, Zayd was captured in battle and sold to a relative of the Prophet's wife Khadija. Zayd then came into Khadija's possession, and at some point she gave him to Muḥammad, who subsequently manumitted and adopted him. Zayd was married to the Prophet's maternal cousin Zaynab bt. Jaḥsh. When the Prophet wished to marry her himself (this incident is discussed further below), Zayd divorced her. Since a father cannot marry his son's wife, the Prophet's marriage to Zaynab underscored the point made in 33:5 that there was thenceforth to be no adoption in Islam and those who had been adopted were to be treated as clients.⁷² This prohibition is reiterated in 33:40: *Muḥammad is not the father of any man among you, but he is the messenger of Allah and the Seal of the Prophets; and Allah is Aware of all things.*

Wāḥidī explains that the first part of the sentence, quoted from 33:4 above, by saying it refers to a Fihrite who was an intelligent man and remembered everything he heard. The Quraysh used to say of him that only someone with two hearts could remember that much, and he used to say of himself that he reasoned with both hearts, and thus his reasoning was superior to that of Muḥammad's. On the day of the Battle of Badr in which he participated, he was seen wearing one shoe and carrying another. When asked about this, he said he had been unaware of the fact that he was not wearing both shoes. Then everyone knew that if he had really had two hearts, he would not have forgotten the shoe in his hand.⁷³ Ṭabarī also mentions this interpretation, but says that the best interpretation of the verse is that it refers to Zayd b. Ḥāritha, regarding whom God provided a parallel: just as a man cannot have two hearts, he cannot be the son of more than one father.⁷⁴ For 33:5, Wāḥidī says Ibn 'Abbās used to say: "We used to call Zayd b. Ḥāritha, Zayd b. Muḥammad until *Proclaim their real parentage. That will be more equitable in the sight of Allah* was revealed."⁷⁵ The Prophet's

⁷¹ For "clients" (*mawālī*), see *EI*, s.v. "Mawlā"; *EQ*, s.v. "Clients and Clientage."

⁷² See *EI*, s.vv. "Zayd b. Ḥāritha"; "Zaynab bt. Jaḥsh." See also *EQ*, s.vv. "Children"; "Family of the Prophet"; "Wives of the Prophet."

⁷³ Wāḥidī, pp. 236–37.

⁷⁴ Ṭabarī, *Tafsīr* (Beirut, 1987), 10:75.

⁷⁵ Wāḥidī, 237.

marriage to Zaynab is connected to several other verses of the Qur'ān that are discussed below.

Despite the formal ban on adoption, a number of verses exhort believers to care for orphans.⁷⁶ Perhaps the most famous is 2:177, which says in part: *righteous is he who believes in Allah and the Last Day and the angels and the Scripture and the Prophets; and gives his wealth, for love of Him, to kinsfolk and to orphans and the needy and the wayfarer.* ... Further, as we saw above, 4:3 exhorts their guardians not to exploit orphan girls, and 4:6 is about managing orphans' wealth solely for their benefit and turning it over to them once they reach maturity.

Widows and Heirs

The *'idda* of a widow is longer than that of a divorcée. In 2:234 it is set at four months and ten days. After this period of time has elapsed, she is free to remarry: *Such of you as die and leave behind them wives, they (the wives) shall wait, keeping themselves apart, four months and ten days. And when they reach the term (prescribed for them) then there is no sin for you in aught that they may do with themselves in decency.*⁷⁷ As a "sharer," that is as an heir designated in 4:12, the widow inherits a portion of her late husband's estate, out of which she is expected to support herself during her *'idda*.⁷⁸

In addition to widows, mothers, grandmothers, daughters, granddaughters, and sisters all inherit from a deceased relative, either as "sharers," who are specifically mentioned in 4:11, 12 and 176, or as agnates. Once the sharers receive their fixed percentages, the remainder of the estate is divided up among the agnatic heirs in a fixed order.⁷⁹ Although as a general rule women inherit proportionally less than men do, the Qur'ān seems to have regularized and improved their status. One of the traditions Wāḥidī relates as the occasion of

⁷⁶ See *EI*, s.v. "Yatīm"; *EQ*, s.v. "Orphans."

⁷⁷ In 2:235, men are cautioned against proposing to a widow before her *'idda* has ended, although they may intimate to her that they will wish to do so when appropriate. They are also cautioned against reaching a secret agreement with her before the allotted period of time is up. See *EQ*, s.v. "Widow."

⁷⁸ See *EQ*, s.vv. "Widow"; "Inheritance."

⁷⁹ A nearer agnate will eliminate one more distantly related. The rules of inheritance (*'ilm al-farā'id*) are complex. For a clear explanation of the Qur'ānic rules, see *EQ*, s.v. "Inheritance." For an overview of the historical development of inheritance regulations in the pre-modern period, see *EI*, s.v. "Mirāth."

revelation for 4:11 is of a woman widowed by the death of her husband at the Battle of Uḥud. She came to the Prophet to say that her two daughters had been left destitute by their paternal uncle, who had seized their wealth and their inheritance as booty. Once the verse has been revealed, the Prophet summons the uncle and orders him to give to each of his nieces one-third of his late brother's wealth and to give his widow one-eighth, after which he may take the rest for himself.⁸⁰

The Prophet's Wives

The Prophet's wives became models for all women and have a special status among the believers.⁸¹ They are never actually mentioned by name in the Qur'ān, but their participation in the Prophet's life made them actors in the ongoing process of revelation, and they are the subject of a number of verses. When the Prophet died, he left nine widows. In addition, he married other women (in several cases these were women whose marriage contracts were not completed) and had one or possibly two concubines.⁸² However not all his wives played an equal role in subsequent legal discussions. His first wife Khadīja, who died in 619, looms large in the Prophet's life in Mecca when his mission was beginning. Although she plays an important role in the popular imagination, she does not figure significantly in the rules and regulations for daily life, most of which were developed after her death, in the last ten years of Muḥammad's life.

Several verses in Sūra 33 refer to Muḥammad's wives. In v. 6, for example, they are given special status: *The Prophet is closer to the believers than themselves, and his wives are their mothers.* Other special

⁸⁰ Wāḥidī, 97.

⁸¹ See *EQ*, s.v. "Wives of the Prophet" and references there. Also see *EI* entries for these women under each of their names. They are depicted as loving, kind, and charitable, but also as typical women who were jealous of each other and quarreled among themselves.

⁸² In addition, several women who offered themselves to the Prophet never actually became his wives. In 33:50–52, the Prophet is granted special privileges regarding the women he is permitted to marry and the number of wives he is permitted to have at the same time. Further, he is relieved of the need to treat all his wives equally. These privileges are for the Prophet alone and do not extend to other believers. See *EQ*, s.v. "Wives of the Prophet" (8); Abbott, *Ā'isha the Beloved of Mohammed*, 59–61; Watt, *Muhammad at Medina*, Excursus L, Muḥammad's Marriages; Stern, *Marriage in Early Islam*, passim.

aspects of the Prophet's wives are mentioned in vv. 30 and 31. In v. 30, their divine punishments for lewd behavior will be double that of other women: *O you wives of the Prophet! Whichever of you commits manifest lewdness, the punishment for her will be doubled.* ... In v. 31, their divine reward for virtuous behavior will be double that of any other woman: *And whichever of you is submissive to Allah and His messenger, and does right, We shall give her reward twice over, and We have prepared for her a rich provision.*

Sūra 33 also contains rules for the modest dress and seclusion of the Prophet's wives from all but close relatives. In v. 33, for example, we find an exhortation to modest dress and restrained public behavior: *And stay in your houses. Do not adorn yourselves with the adornment of the Time of Ignorance, ...*⁸³ Two verses order the physical seclusion of the Prophet's wives. In v. 53, they are to be secluded indoors; in v. 59, out of doors. In v. 53, they are to remain behind a curtain (*ḥijāb*) when believers visit them at home to ask favors of them: *And when you ask of them (the wives of the Prophet) anything, ask it of them from behind a curtain. That is purer for your hearts and their hearts.* In v. 59, the Prophet is ordered to instruct both his wives and all other believing women to cover themselves when they go out: *O Prophet! Tell your wives and daughters and the women of the believers to draw their cloaks close round them (when they go out). That will be better, so that they may be recognized and not annoyed.*⁸⁴ Wāḥidī reports that the believing women used to leave their houses at night because there were no indoor plumbing facilities, and the Hypocrites would interfere with them and harass them.⁸⁵ In a second report, if the undesirable elements of Medinese society who were out of doors at night saw a veiled woman, they would assume she was not a slave and leave her alone. If they saw an unveiled one, they would assume she was a slave and accost her.⁸⁶ Those from whom the Prophet's wives (and by extension other women) need not seclude themselves are close male relatives and their own male slaves.

⁸³ This verse initially referred to the Prophet's wives, but was then extended to all women. See EQ, "Wives of the Prophet (5)"; Stowasser, *Women*, 95–96.

⁸⁴ The initial reason women were to cover themselves out of doors was to be recognized. However, as the custom evolved, the reason became not to be recognized. For modern discussion of these verses, see EI, s.v. "Ḥijāb," EQ, s.v. "Veil"; Stowasser, *Women*, 127–31.

⁸⁵ For the Hypocrites, see EI, s.v. "Munāfiḳūn"; EQ, s.v. "Hypocrites and Hypocrisy."

⁸⁶ Wāḥidī, 245. See also Stowasser, *Women*, 91–92.

The two wives of the Prophet associated with particular Qurʾān verses are Zaynab bt. Jaḥsh and ʿĀʾisha bt. Abī Bakr. As mentioned above, Zaynab was married to the Prophet's adopted son Zayd b. al-Ḥāritha. In 4/626, Zayd divorced her because the Prophet wished to marry her. This marriage and God's command that it take place are the subjects of 33:36 and 37. God's commands must be obeyed: v. 36 says: *And it becometh not a believing man or a believing woman, when Allah and His Messenger have decided an affair (for them) that they should (after that) claim any say in their affair ...*, and in v. 37: *And when you said ... keep your wife to yourself, and fear Allah. And you hid in your mind that which Allah was to bring to light, and you feared mankind whereas Allah had a better right that you fear Him. So when Zeyd had performed the necessary formality (of divorce) from her, We gave her to you in marriage, so that (henceforth) there may be no sin for believers in respect of wives of their adopted sons. ...*

According to Ṭabarī, the Prophet went one day to Zayd's house to find him, but Zayd was not home. Zaynab invited the Prophet to wait until Zayd's return, but the Prophet realized immediately that he himself wished to marry her and withdrew. When Zaynab told Zayd what had happened, Zayd offered to divorce her, but the Prophet told him not to. Once these verses were revealed, Zayd did divorce Zaynab, and after her *idda* had ended, the Prophet married her. Ṭabarī explains the passage: *And you hid in your heart that which Allah was to bring to light, and you feared mankind whereas Allah had a better right that you fear Him*, by saying that the Prophet was aware of his attraction to Zaynab and knew that he was destined to marry her, but feared criticism, because hitherto adopted and consanguine sons had been considered equal. This marriage of the Prophet's has attracted a great deal of attention. Some pre-modern commentators unashamedly discuss Zaynab's beauty and the Prophet's attraction to her. Others are apologetic. Modern detractors are sarcastic about the ease with which the Prophet's personal desires were fulfilled by his revelations.⁸⁷ Of legal

⁸⁷ Ṭabarī, *Tafsīr* (Beirut, 1987), 10 (section 12), 10–11. Reasons for the Prophet's marriage to Zaynab have been much discussed in both pre-modern and modern Qurʾān commentaries, as well as in many works on the Prophet's life. Some follow Ṭabarī's description, which includes details about how Zaynab was wearing a revealing garment when the Prophet arrived unexpectedly, and he saw how beautiful she was and was immediately attracted to her. Others stress (and Ṭabarī also mentions) that Zayd and Zaynab were not compatible, and the Prophet rescued them from an unhappy

interest is the fact that from then on, as mentioned above, formal adoption was forbidden.

The “*ḥijāb* verse” (33:53), which imposed seclusion on the Prophet’s wives indoors, was revealed in the context of the wedding banquet celebrating the marriage of Zaynab and the Prophet.⁸⁸ The first part of v. 53 says: *O you who believe! Enter not the dwellings of the Prophet for a meal without waiting for the proper time, unless permission be granted to you. But if you are invited, enter, and, when your meal is ended, then disperse. Linger not for conversation. Lo! That would cause annoyance to the Prophet. ...* As we just saw, the verse continues: *And when you ask of them (the wives of the Prophet) anything, ask it of them from behind a curtain.* The verse ends with the injunction that believers must not annoy the Prophet and must not marry his widows, who, as we saw above, are designated as *mothers of the believers*: *And it is not for you to cause annoyance to the messenger of Allah, nor that you should ever marry his wives after him.*

Two incidents in the family life of the Prophet involve ‘Ā’isha.⁸⁹ The first is often referred to as the “affair of the lie.” In 5/627, ‘Ā’isha had accompanied the Prophet on his expedition against the Banū’l-Muṣṭa’liq⁹⁰ and was accidentally left behind as the caravan was returning to Medina. She was found and brought home by a young Muslim (Ṣafwān b. al-Mu’atṭal al-Sulamī).⁹¹ The fact that she had been alone in his company led a number of Companions to suggest that their encounter could not have been innocent and to urge the Prophet to divorce her. Although this incident is not referred to directly in the Qur’ān, Sunni Qur’ān commentators say it is the occasion for the revelation of 24:11–20, verses which they believe were revealed to clear ‘Ā’isha of any wrongdoing. Verse 11 inveighs against slander: *Lo! they who spread the slander are a gang among you.* Verse 13 demands four witnesses for an accusation of adultery: *Why did they not produce four witnesses? Since they produce not witnesses, they verily are liars in the sight of*

marriage by marrying Zaynab, who had always wanted to be his wife, and allowing Zayd to marry someone else. For references to these discussions, see the bibliography to the article on Zaynab in *EI*; and cf. Abbott, *‘Ā’isha the Beloved of Muhammad*, 16–19; Sonbol, “Adoption in Islam”; Stowasser, *Women*, 87–90.

⁸⁸ But see Stowasser, *Women*, 90–91, for alternate explanations of this verse.

⁸⁹ See *EQ*, s.v. “‘Ā’isha bint Abī Bakr.”

⁹⁰ See *EQ*, s.v. “Expeditions and Battles.”

⁹¹ For his role in this incident, see *EI*, s.v. “Ṣafwān b. al-Mu’atṭal.”

Allah.⁹² Verses 12 and 14–20 admonish those who are willing to listen to unproven allegations and act upon them.

The second incident involving ‘Ā’isha is the occasion for the revelation of 33:28–29.⁹³ These verses are said to have been revealed in response to domestic discord in the Prophet’s household. His wives, or at least some of them, seem to have wanted more worldly goods than he was able to provide and to have badgered him to the point where he secluded himself from all of them for a month.⁹⁴ To put a stop to their demands, the Prophet was instructed to offer his wives the choice of leaving him: *O Prophet! Say to your wives: If you desire the world’s life and its adornment, come! I will content you and release you with a fair release (33:28). But if you desire Allah and His messenger and the abode of the Hereafter, then lo! Allah has prepared for the good among you an immense reward (33:29)*. Before offering ‘Ā’isha this choice, he urged her not to make a hasty decision once she had heard the verses, but to consult her parents first. However, she immediately chose to remain with the Prophet, and his other wives followed suit.⁹⁵ This option, which gives a wife the opportunity to choose divorce, is called *takyīr* (see Chapter 3).

The beginning of Sūra 66 also refers to domestic discord in the Prophet’s household. Several of his wives were involved, but the narratives that explain this discord do not always refer to the same women or the same incident. In one, for example, related by Wāḥidī, the Prophet’s wife Ḥaḥṣa found him in her dwelling with his slave concubine Māriya.⁹⁶ The Prophet swore to Ḥaḥṣa that if she would not share her discovery with ‘Ā’isha, he would no longer have sexual relations with Māriya. Ḥaḥṣa promised but subsequently told ‘Ā’isha anyway. The Prophet then refused to spend time with any of his wives and withdrew from them for one month. Then God revealed 66:1: *Oh Prophet! Why do you ban that which Allāh has made lawful for you seeking to please your wives?* In a second story related by

⁹² See Wāḥidī, 214–19; and EQ, s.v. “‘Ā’isha bint Abī Bakr.” For a full discussion of this incident in ‘Ā’isha’s life, see Abbott, *‘Ā’isha the Beloved of Mohammed*, 29–38.

⁹³ But see below for the connection of these verses with 66:1–5.

⁹⁴ This is one possible explanation. Several others are also possible; see Stowasser, *Women*, 96; and EQ, s.v. “Wives of the Prophet.”

⁹⁵ For more details of the situation in the Prophet’s household surrounding the revelation of these verses, see Abbott, *‘Ā’isha the Beloved of Muhammad*, 51–56.

⁹⁶ See EI, s.vv. “Māriya”; “Ḥaḥṣa.”

Wāḥidī, the Prophet was particularly fond of honey, and to eat more of it, he spent more time than usual with whichever wife had some. Several other wives, angry at such favoritism, agreed secretly among themselves to complain that he exuded an unpleasant smell when he came to them. After hearing repeated complaints and finally being told by one of his wives what the secret was, he withdrew from all of them until 66:1 was revealed. In the context of the first story, 66:2 enables the Prophet to expiate his oath not to have sexual relations with Māriya (*Allah has made lawful for you absolution from your oaths ...*); and Wāḥidī relates that 66:3: *When the Prophet confided a fact to one of his wives and when she afterward divulged it and Allah apprised him thereof, ... lets him know what has been going on behind his back. Then, again according to Wāḥidī, 66:4 was revealed: If you two turn to Allah repentant, you have cause to do so for your hearts desired (the ban): and if you aid one another against him (Muhammad), then lo! Allāh, even He is his protecting friend. ...*⁹⁷ In 66:5, the Prophet's wives are threatened with divorce: *It may happen that his Lord, if he divorce you, will give him in your stead wives better than you. ...*⁹⁸

Other Issues

Veiling

The verse that enjoins women to cover themselves is 24:31:

Tell the believing women to lower their gaze, guard their private parts, and to display of their adornment only that which is apparent, and to draw their veils over their bosoms, and not to reveal their adornment save to their own husbands or fathers or husbands' fathers, or their sons or their husbands' sons, or their brothers or their brothers' sons or sisters' sons, or their women or their slaves, or male attendants who do not have any need of women, or children who know nothing of women's nakedness. And let them not stamp their feet so as to reveal what they hide of their adornment. ...

⁹⁷ Wāḥidī, 291–293.

⁹⁸ See EQ, s.v. "Wives of the Prophet" where Barbara Stowasser discusses both 33:28–29 and 66:1–5. In her discussion of 66:1–5, Stowasser points out that "[t]here is a great deal of overlap in the details of the quoted *asbāb al-nuzūl* (occasions of revelation) materials, and some sources even collapse the occasions of revelation of Q 33:28–29 and Q 66:1–5."

Just before this verse and usually understood to go with it, 24:30 says: *Tell the believing men to lower their gaze and guard their private parts.* Together these verses exhort Muslims to behave and dress with decorum. What that means for women has been subject to many interpretations. As the religious scholars of the community worked on gathering material with which to emulate the life of the Prophet, 24:31 was linked with 33:59 (*Tell your wives and daughters and the women of the believers to draw their cloaks close around them*), and the two together were taken as the basis for “*ḥijāb*” for women in general, not just the Prophet’s wives. Initially, *ḥijāb* referred to the curtain that concealed the Prophet’s wives from inappropriate male visitors in their homes (33:53), but it rapidly took on the connotation of concealment outside as well and became the word for the concealing garment worn by women outside the house and for the physical barrier they place between themselves and outsiders.⁹⁹ Subsequent discussion focused on what parts of a woman needed to be covered rather than what she needed to wear to cover them. The word Pickthall translates as “*nakedness*” is *ʿawrāt*, literally *pudendum* or genitals, but figuratively those parts of the body that must be covered in public as well as those parts that must not be uncovered during prayer.¹⁰⁰ Ṭabarī says the best understanding of [*t*]hat which is *apparent* of their adornment, is that the phrase means their faces, their hands, and the part of their arms up to the middle of their forearms, the part of their arms the Prophet had permitted them to show. The reason, he continues, why this is the best understanding of the phrase is because of the general consensus that every person must cover his *ʿawra* during prayer, and a woman must uncover her face and her palms during prayer and otherwise have the rest of her body covered.¹⁰¹ As for *what they hide of their adornment*, that, Ṭabarī says, refers to ankle bells, which could be heard if they stamped their feet.

No early Islamic texts are extant that enjoin veiling for all women, but there is evidence that in some cities in Arabia, as well as in the

⁹⁹ See *EQ*, s.v. “Veil”; and *EL*, s.v. “Ḥijāb.”

¹⁰⁰ See *EQ*, s.v. “Modesty.”

¹⁰¹ See Ṭabarī, *Tafsīr* (Beirut, 1986–87), 18:94. Ṭabarī’s interpretation of the meaning of verse is not as strict as those of later commentators, who recommended that women cover more and more of themselves when not in the privacy of their home, except in certain special circumstances, such as when they were witnesses in court or required medical treatment. For some examples of later commentaries, see Stowasser, “The Status of Women in Early Islam,” 11–43.

cities of the rest of the Middle East conquered by the Arab Muslim armies, upper-class women veiled themselves in public. How soon or how completely urban Muslim women started to veil themselves in public is open to question.¹⁰²

Witnessing

In 2:282, if a written record is to be drawn up of a debt, the record should be witnessed by two men or by one man and two women: *And call to witness from among your men, two witnesses. And if two men be not (at hand) then a man and two women, of such as you approve as witnesses, so that if one errs (through forgetfulness) the other will remember.* Ṭabarī says very little about the fact that two women replace one man. He says that *such as you approve as witnesses* means they must be moral and upright.¹⁰³ Otherwise, he does not discuss any intrinsic female weakness, but rather the grammar and syntax of this sentence, and then states that if one of the women forgets, the other will remind her.¹⁰⁴ This equivalence of one man and two women is not mentioned elsewhere in the Qur'ān, but later discussions apply it to other contexts (see below, Chapter 5).

Ḥadd Punishments

Ḥadd punishments are prescribed for five acts forbidden in the Qur'ān:¹⁰⁵ unlawful intercourse,¹⁰⁶ false accusation of unlawful intercourse (*qadhf*),¹⁰⁷ drinking wine, theft, and highway robbery. Although in theory both women and men may perpetrate any of these forbidden acts, the two for which women are specifically mentioned along with men are theft and unlawful sexual intercourse.¹⁰⁸ In 5:38, male and female thieves receive equal punishment (*As for the thief, both male and female, cut off their hands.*). In 17:32, there is a general statement condemning adultery: *And come not near to adultery. Lo! It is an*

¹⁰² See Doumato, "Hearing Other Voices," especially 183–85 where she shows that veiling and seclusion among Christian women of the upper classes was common in 6th-century Najran.

¹⁰³ They must possess the quality of *ʿadl*, trustworthiness. See *EI*, s.v. "ʿAdl."

¹⁰⁴ Ṭabarī, 4:61–69.

¹⁰⁵ See *EI*, s.v. "Ḥadd."

¹⁰⁶ See *EI*, s.v. "Zinā."

¹⁰⁷ See *EI*, s.v. "Qadhf."

¹⁰⁸ See *EQ*, s.vv. "Adultery and Fornication"; "Flogging."

*abomination and an evil way.*¹⁰⁹ In 4:15, if four witnesses testify to a woman's sexual misconduct, she is to be confined to her house until death or *until Allah appoints for them* [i.e., women guilty of sexual misconduct] *a way*. This verse is understood to have been abrogated by 24:2, which stipulates one hundred lashes as punishment for both men and women who commit adultery: *The adulterer and the adulteress, scourge each one of them (with) a hundred stripes.*¹¹⁰ False accusation of adultery (*qadhf*) is punished with eighty lashes, and the accuser is thereafter not considered a reliable witness: *And those who accuse honourable women but bring not four witnesses, scourge them (with eighty stripes and never (afterward) accept their testimony ... (24:4).* As we saw above, the occasion of revelation for this verse was the accusation against 'Ā'isha.¹¹¹ The penalty of stoning is popularly assumed to be the Qur'anic punishment for adultery. It is not found in the Qur'an; it is found in a number of traditions about the practice of the Prophet and the early caliphs.¹¹²

Discussion

Most of the verses we have just gone over address men and their treatment of women.¹¹³ A girl or a woman is given in marriage by one or another male guardian, and 4:3 is directed to these guardians. Similarly, 4:19 assumes that if a woman is widowed, a relative of her late husband becomes her guardian. With the exception of *takhyīr* and *khul'* divorces, men initiate divorce and women accept it. As far as relations between the spouses are described: *Men are in charge of women* (4:34), and *men are a degree above them* (2:228).

However, these verses are not just a list of rules and commands without a moral dimension. Kevin Reinhart says of Qur'anic discourse

¹⁰⁹ See also 25:68. In 17:32, *zinā* is usually translated as adultery, but can also mean fornication.

¹¹⁰ See EQ, s.v. "Adultery and Fornication." Abrogation of one Qur'an verse by another is mentioned in 2:106: *Such of Our revelations as We abrogate or cause to be forgotten, we bring (in place) one better or the like thereof.* See EQ, s.v. "Abrogation"; EI, "Naskh."

¹¹¹ The punishment for female slaves is half that for free women: *And if when they (female slaves) are honourably married, they commit lewdness they shall incur the half of the punishment (prescribed) for free women (in that case)* (4:25).

¹¹² For an examination of what early texts say about stoning, see Burton, "Law and Exegesis: The Penalty for Adultery in Islam."

¹¹³ In 33:30–33, the Prophet's wives are addressed directly.

that the Qur'ān assumes that “humans know the good and nonetheless often fail to follow it,” and that “the good has the utility of guaranteeing success and reward.” Further, there are three reasons to behave ethically: “keeping a promise made primordially [with the Creator], paying back what is owed by acting well, and fear of punishment—all motivate the Qur'ān’s audience to act ethically.”¹¹⁴ In 4:3 and 4:19, guardians are urged to behave honorably in dealing with their wards. Verse 4:3 ends: *Thus it is more likely that you will not do injustice.* And 4:19 ends: *But consort with them in kindness, for if you hate them, it may happen that you hate a thing wherein Allah has placed much good.* Although 4:34 is devoted to establishing the authority of a husband over his wife, it ends with an exhortation: *Then if they obey you, seek not a way against them. Lo! Allah is ever High, Exalted, Great.* In 2:228, the rights of women are mentioned (*And they (women have rights similar to those (of men) ...*), as well as the degree that men are above them (*and men are a degree above them*) and the final sentence is a reminder to the believers: *Allah is Mighty, Wise.*

These exhortations, which come at the end of each verse, are often overlooked by modern scholars, or considered irrelevant to the question of the (unequal) status of women. However, they were not considered irrelevant by earlier scholars, and leaving them out ignores an entire dimension of the Qur'ān and the concerns of what Reinhart refers to as its “audience.” I will illustrate this by summarizing what Ṭabarī says about each of the three verses at the head of this chapter. His commentary, and the traditions he uses to make his points, reinforce the ethical exhortations expressed at the end of each verse.

Ṭabarī reports five interpretations of 4:3. All of them construe the verse as a corrective to pre-Islamic practice that is in the interests of women’s well-being. In the first of the five, Ṭabarī reports that one group of Qur'ān commentators says that the verse means that if you (i.e., guardians who are kinsfolk of the orphans in your care) fear you will not be just to these orphans by seeing to it that they receive their fair marriage portions in full, do not marry them, but instead marry other women (e.g., not relatives) whom God has made lawful and pleasing to you, between one and four. If you fear you cannot be fair to more than one woman, marry only one, or (*the captives*) that your right hands possess. The Arabic phrase *illā mā malakat aimānukum*, “or

¹¹⁴ EQ, s.v. “Ethics and the Qur'ān.”

those whom your right hands possess,” is understood to mean “slaves,” but whether slaves captured in battle, household slaves already in a man’s possession, or another person’s slaves is one of the problems with the verse.¹¹⁵

A number of traditions, on the authority of ‘Ā’isha, support this explanation, with slightly different emphases. In one, for example, she says that “orphans” refers to those orphans in a guardian’s care. He might desire their wealth and beauty, but wish to marry them for less than their fair marriage portions. Thus he is forbidden to marry them unless he can act justly toward them by giving them their full marriage portions, and he is ordered (instead) to marry other women. In another tradition, ‘Ā’isha explains that a female orphan in the care of her male guardian participates with him in his wealth, and he might wish to marry her both for her beauty and for her money, but give her a smaller marriage portion than she would receive from another suitor. If he cannot manage to give her what she deserves, he should marry other women who are not in his care. In a third tradition, ‘Ā’isha explains that a guardian might marry an orphan in his care whom he does not like merely for her money and mistreat her, so he (i.e., the guardian) was admonished in this regard.¹¹⁶

According to the second interpretation, 4:3 prevents a man from marrying more than four wives in order to protect the wealth of any orphans in his care. Some Qurayshites used to marry ten women—sometimes more or fewer; then when they found themselves impoverished, they would turn to the wealth of the orphans in their care and either spend it, use it to sustain their current wives, or use it to marry other women. These Qurayshites were told that if they needed their orphans’ money, they should marry no more than four wives, and if they still needed their orphans’ money, they should marry only one

¹¹⁵ Ṭabarī, 7:540–41. Ṭabarī interprets (*the captives*) that *your right hands possess* to mean that a man should take as concubines his own slaves rather than seek to marry slaves belonging to others. It is most likely, Ṭabarī continues, that a man will not oppress his own slaves, since such women constitute part of his own wealth and property and need not be granted the same rights as free women. Jaṣṣāṣ has a different interpretation of the phrase, *aw mā malakat aymānukum*: that a man should seek to marry slaves if he cannot bear the financial burden of free wives. In this case, Jaṣṣāṣ refers to the slaves of others, since one spouse can never own the other. See Jaṣṣāṣ, *Ahkām*, 2:55–61.

¹¹⁶ Ṭabarī, 7:532–33, no. 8457 and no. 8461. This interpretation is like the tradition from ‘Ā’isha that Wāḥidī uses to underline the Qur’ān’s insistence that a woman receive a fair marriage portion (see Wāḥidī, 95).

woman, or *those captives that your right hands possess*. Several traditions illustrate this view; two are on the authority of Ibn 'Abbās. In one, he said that a man is restricted to four wives so that he will not spend the wealth of orphans. In the second, Ibn 'Abbās reports that for as long as God intended, men made use of the wealth of orphans to marry (presumably before the revelation of the verse), and then He forbade that.¹¹⁷

A third interpretation is that people used to avoid wrongdoing with regard to the wealth of orphans in order not to act unjustly, but they would not avoid wrongdoing with regard to wives. Therefore, 4:3 tells them that in the same way they feared being unjust to orphans, they should fear being unjust to wives. Therefore they should marry between one and four, not more, or (*the captives*) *that your right hands possess*. One of the traditions cited by Ṭabarī to support this position is attributed to the Successor Qatāda, who said the verse means that if you fear oppressing orphans and that weighs upon you, you should be equally fearful of an accumulation of wives. In the *Jāhiliyya*, men married ten, or more wives, so God restricted the number to two, three, or four, or one only, if men could not be just to more, or (*the captives*) *that your right hands possess*.¹¹⁸

For the fourth interpretation, Ṭabarī provides one tradition on the authority of the Successor Mujāhid, who said that if a man avoids wrongdoing in exercising control over the orphans in his care and in preserving their wealth, and avoids it faithfully and in a trustworthy manner, he should also avoid unlawful intercourse and marry other woman lawfully, two, three or four; or, if he cannot be just, one only, or (*the captives*) *that your right hands possess*.¹¹⁹

Finally, for a fifth interpretation of this verse, Ṭabarī explains that if men fear that they will not be just toward [certain] orphans who are in their care, they should not marry them, but marry instead the orphans of others who are [also] lawful for them. Ṭabarī supports this interpretation with two traditions of slightly different import. In one, 'Ā'isha says that a man might marry an orphan in his care who has no other guardian and no rival for her hand who would marry her for herself and not only for her money. In consequence, her guardian might beat

¹¹⁷ Ṭabarī, 7:535, nos. 8464, 8465.

¹¹⁸ Ṭabarī, 7:536–37, no. 8468. See also Wāhidī, 95.

¹¹⁹ Ṭabarī, 7:539, no. 8575.

her and treat her badly. In the second, the Successor Ḥasan al-Baṣrī says the verse means that a guardian should marry those orphans from among his relatives who are lawful for him, two, three, or four, and if he fears that he cannot be just, only one, or (*the captives*) *that your right hands possess*.¹²⁰

These five interpretations emphasize ethical treatment of wives or orphans or both. Ṭabarī chooses and restates the third position, which emphasizes both and is in keeping with the concerns of the “Qur’ān’s audience.” Thus, Ṭabarī says, if a man fears he cannot be just to orphans, he should fear the same thing with regard to his wives and marry only as many as he can treat fairly, between one and four. If a man cannot treat one wife justly, then he should not marry at all, but instead take slave concubines. He connects appropriate treatment of orphans in 4:3 with that laid out in 4:2.¹²¹ The reason why this is the best interpretation, Ṭabarī says, is because in the previous verse God forbade consuming the wealth of orphans and mixing it in with other monies. Those who fear God will, therefore, be equally fearful of transgression in matters related to both wives and orphans.

Despite Ṭabarī’s extensive survey, this remains a difficult verse. It is noteworthy that Ṭabarī’s discussion has not been a source for the views put forward in modern secondary literature either about marriage in pre-Islamic Arabia or about the rationale for the revelation of the verse. Stern, for example, concludes that in pre-Islamic Medina, “it was not customary for a man to marry more than one woman at a time, but that divorce and remarriage was a very common experience.”¹²² Further, she says that polygamy was not the rule in pre-Islamic Mecca, where, “[t]he outstanding feature appears to be the looseness of marriage ties in general and the lack of any legal system for regulating procedure.”¹²³ Watt, who agrees with her, says that it is reasonable to assume that there are “good grounds for holding that in pre-Islamic Arabia and especially in Medina, it was unusual for a man to have more than one wife living with him in his house.”¹²⁴ Both add that the

¹²⁰ Ibid., no. 8477.

¹²¹ *Give unto orphans their wealth. Exchange not the good for the bad (in your management thereof), nor absorb their wealth into your own wealth. Lo! that would be a great sin.*

¹²² Stern, *Marriage in Early Islam*, 62.

¹²³ Ibid., 70.

¹²⁴ Watt, *Muhammad at Medina*, 276.

absence of any real evidence of polygamous households in pre-Islamic Arabia supports the “traditional account” of the revelation of 4:3, according to which the verse was revealed after a number of Muslim men were killed in the battle of Uḥud, leaving many widows and girls of marriageable age without male guardians. Polygamy would have been a way of providing them with husbands. If so, Ṭabarī does not mention it.¹²⁵

On 4:34, Ṭabarī begins his discussion with an interpretation of the first sentence. It means, he says, that men are responsible for disciplining their wives and for guiding them with regard to their duty to God and to their husbands. God has set husbands over wives because husbands provide wives with a marriage portion and expend their wealth on them and satisfy their need for provisions. Ṭabarī supports his interpretation with a number of traditions, including the one related by Wāḥidī as the occasion for the revelation of this statement. For the second sentence, Ṭabarī says that *good women* means women who are upright in their religion and do good [rather than evil]. He continues, the word *obedient* means obedient to God and to their husbands. [*G*]uarding in secret, according to Ṭabarī’s interpretation, means “guarding in [the] absence] of their husbands.” That is to say, when their husbands are away, they guard their own private parts and their husbands’ wealth. [*T*]hat which Allah has guarded means that Allah guards the women in leading them toward this behavior. In the next sentence, Ṭabarī glosses the word *rebellion* as “refractoriness.” [*A*]dmonish them means admonish them with words, by reminding them of the Qur’ān and of their duty to their husbands. [*B*]anish them to beds apart means refrain from sexual intercourse with them.¹²⁶ [*S*]courge them means beat them, but in a way that is not agonizing. Ṭabarī provides a tradition on the authority of Ibn ‘Abbās, who said that “in a way that is not agonizing” means hitting them with a toothpick or something similar.

¹²⁵ Neither does Jaṣṣāṣ, who is particularly concerned with the legal import of the Qur’ān. Also, see above, note 14 for Motzki’s translation of this verse, which he bases on comparing it to other places in the Qur’ān where wives and concubines are mentioned together. He points, for example, to 4:25, where a man who cannot afford to marry free women is urged to marry slaves instead. He also points out that linking the verse to Uḥud suggests that many unmarried men took orphans under their protection, which cannot be assumed, and that certainly marrying a slave instead of an orphan would not affect orphans one way or another.

¹²⁶ For the phrase, *banish them to beds apart*, see Lane, *Arabic-English Lexicon*, at *h, j, r*.

The phrase, *[T]hen, if they obey you, seek not a way against them*, Ṭabarī says, means that once his wife has ceased to be refractory, her husband should take no further action against her. He cites a poignant tradition on the authority of the Successor Sufyān b. ‘Uyayna that supports this interpretation: Sufyān b. ‘Uyayna said that if a wife is amenable to sexual intercourse with her husband, he cannot demand that she love him, because her heart is not in her hands.¹²⁷ Certainly this verse provides a husband with disciplinary options, but at the same time Ṭabarī points to a wife’s “obedience” meaning first obedience to God and second, to her husband. The verse ends with a statement of God’s majesty.

On 2:228, we saw above that the first sentence regulates a divorcée’s *‘idda* (*Women who are divorced shall wait, keeping themselves apart three [monthly] courses*). For the first part of the second sentence (*And it is not lawful for them that they should conceal that which Allah has created in their wombs if they are believers in Allah and the Last Day*), Ṭabarī presents three interpretations. In one, a divorcée should not hide the truth about her menstrual periods; in another, she should not hide a pregnancy; and in a third, she should not hide either. The motive suggested for a divorcée’s secrecy is her wish to be rid of her husband. Therefore she would announce that she had menstruated three times before she really had to end her *‘idda* quickly and give her husband less time to return to her. If she were pregnant, she might, following a practice of women in the *Jāhiliyya*, wish to attribute the child to a subsequent husband and hence try not to give the husband on whose behalf she was observing the *‘idda* any motive (such as caring for her and her child) for returning to her. As for the second part of the sentence (*if they are believers in Allah and the Last Day*), Ṭabarī says it means that it is immoral for believing women to hide what is in their wombs because that harms their husbands.¹²⁸ The sentence *And their husbands would do better to take them back in that case if they desire a reconciliation*¹²⁹ means, he says, that husbands should return to their wives during their *‘iddas*.

For *And they (women) have rights similar to those (of men) in kindness*, Ṭabarī explains that women owe their husbands obedience, and

¹²⁷ Ibn ‘Uyayna seems to mean that although a woman might be able to control her behavior, she cannot force herself to love someone. Ṭabarī, 8:290–318.

¹²⁸ See Ṭabarī, 4:527.

¹²⁹ *[I]n that case* suggests that the divorcée might be pregnant. The Arabic says only *in that (fī dhālika)*.

in turn they themselves are owed connubial companionship and kind treatment. In general, the best meaning of the verse is that men should return to their wives only if they really want to, not in order to harm them. On the rest of the sentence (*and men are a degree above them*), Ṭabarī reports disagreement. Some say that this phrase means that men are a degree above women because of the superiority God granted them in matters such as inheritance and undertaking *jihād*. Others say it refers to men's superiority because women obey men and not vice versa; others, that a wife is punished if she slanders her husband, but that if her husband slanders her, he can go a step further and institute the procedure of *li'ān*. Still others say that it means a husband forgives his wife some of her duties to him and is lenient toward her, while at the same time he fulfills his obligations toward her.¹³⁰ Like 4:34, this verse ends with a statement reminding believers of God's majesty.

This brief outline of the majority of verses in the Qur'ān about women's lives depicts a woman who is a member of a patriarchal household. She is at all times under the care and control of a male guardian. When she is a minor, he manages any assets she has. If she is fortunate, he manages her assets responsibly, and he turns them over to her once she has reached physical and mental maturity.¹³¹ Whether she is a minor or an adult, he is in charge of concluding a marriage contract on her behalf. When she passes into the care of her husband, she owes her husband absolute obedience. However, women have rights as well as men, and men are urged to treat the women in their care well. It is here that the three legal qualifications of recommended, neutral, and disapproved of come into the legal material that I describe in subsequent chapters.

¹³⁰ Ṭabarī, 4:499–538.

¹³¹ See *EI*, s.v. “Ṣaghīr” for minors and s.v. “Bāligh” for adults. A boy is assumed to be an adult when he reaches puberty, usually at fifteen years of age; a girl is an adult when she begins to menstruate.