

Muslim Women in Law and Society

Annotated translation
of al-Ṭāhir al-Ḥaddād's
Imra'tunā fi 'l-sharīʿa
wa 'l-mujtamaʿ,
with an introduction

Ronak Husni and Daniel L. Newman



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This book is a translation of what can arguably be called the very first Arabic feminist manual on the role of women in Muslim society by the early twentieth-century Tunisian author and reformist al-Ṭāhir al-Ḥaddād (Taḥer Haddad).

The extensive introduction places the book in its historical context and includes an overview of the various movements and reformists who dealt with the emancipation of Muslim woman prior to al-Ḥaddād's book. This is followed by a biography of al-Ḥaddād and a discussion of the background and genesis of *Our Woman in the Sharʿa and Society*. Causing quite a furore when it was released, the book remains just as topical today as it was then.

This book is undoubtedly the single-most original work written on the subject of Muslim woman in the early modern period. It constitutes a major source for a wide readership, which extends far beyond students with an interest in Arabic literature, as it will also be of considerable benefit to anthropologists, cultural and social historians, gender studies specialists, as well as anyone involved in Middle Eastern studies.

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Preface and acknowledgements

It would be fair to say that there is not exactly a dearth of books on women in Islam, both past and present. This, then, poses the question whether one needs another one on a market that, according to some, is nearing saturation point despite the seemingly unquenchable thirst for what is a controversial, but above all highly topical subject.

Naturally, we would argue that there is, but this view is based on a number of objective factors. First of all, the present work is not yet another overview of the various Islamic texts dealing with the subject of women, their rights and duties. Second, and perhaps more importantly, it presents an insider's view of the condition of Muslim women. First published in 1930, this seminal book of which we have produced a translation was written by the Tunisian author and reformist al-Ṭāhir al-Ḥaddād (Taher Haddad). It is arguably the most original work written on the subject in the early modern period. It deals with a topic that was as sensitive then as it is today in a way that was both novel and creative, while its impact has endured to the present day. It is our hope that this book will increase attention for this most courageous of reformers who may justifiably lay claim to being the first Muslim feminist. Indeed, it must be observed that al-Ḥaddād has largely been ignored in the English-speaking world, as witnessed by the small number of studies devoted to him and his thought. The fact that none of his works has been translated also means that until now his views were accessible to a relatively small group of people in the West. We hope that the present book will help remedy this situation and introduce Western audiences to al-Ḥaddād's ideas, many of which are as revolutionary and groundbreaking today as they were when the book was first released.

The translation is preceded by a general introduction which focuses on those who may be called al-Ḥaddād's predecessors and their views on the role of women in society, in general, and the position of Muslim women, in particular. This is followed by a brief biography of al-Ḥaddād and, finally, a discussion of the background and genesis of 'Our Woman in the *Shari'c*a and Society', as well as the furore and infamy it brought about for its author.

We are very pleased to be able to thank a number of people who have extended their help to us in the course of this project. First and foremost, our heartfelt thanks go to Dr Ahmed Khaled, the former Minister of Culture of Tunisia,

whose erudition and knowledge of al-Ḥaddād's work and thought is surpassed only by his unstinting generosity and kindness in answering our many queries regarding the more abstruse references in the book and historical institutions. We should also like to thank our friends Prof Mongi Chemli, Dr Omar Jemni and Dr Farouk El Omrani for making available to us a number of original sources and for the assistance they provided in Tunis in securing access to many valuable documents. An equally warm thanks is due to Louise Haysey, Ruth Wood and Ahmed Iraqi for their proofreading of parts of the earlier versions of the text.

Naturally, it goes without saying that any remaining flaws are entirely the responsibility of the present authors.

Ronak Husni

Daniel L. Newman

Notes on transliteration

The transliteration of Arabic words is essentially that of the *Encyclopaedia of Islam* (2nd edn), with the following deviations: kh = kh; dj = j; sh = sh; q = q. The transcription does not reflect the regressive assimilation (*idgām*) of the lateral in the definite article *al* with the so-called ‘sun letters’ (t, th, d, r, z, s, sh, ṣ, ṭ, ḍ, z, n): for example, al-Sanūsī (and not as-Sanūsī). The ‘connective *hamza*’ (*hamzat al-waṣl*) is not transcribed, whereas the so-called ‘nunation’ (*tanwīn*) – the regular indefinite inflectional noun endings – is dropped throughout (except in some cases for the accusative singular *-an*), as are the linking vowels of connected speech. The approach to Tunisian proper nouns has been pragmatic inasmuch as in most cases the transliterated Arabic form is used, whereas the (Gallicized) Latinate form is added in brackets the first time the person’s name is mentioned: for example, al-Ṭāhir al-Ḥaddād (Taḥer Haddad). A secondary issue is the dialectal influence on Arabic forms of names as in, for instance, the nominal prefixes *Bū* or *Bil* (Bel), which are, of course, clipped variants of the Classical Arabic *Abū* (‘father of’) and *Ibn al-* (‘son of’), respectively. In this book, the transliteration reflects actual usage, rather than opting for some kind of ‘hypercorrection’: for example, Būḥājib (rather than Abū Ḥājib). Place names tend to appear in their recognized Latinized forms, with the transliterated Arabic being added in brackets: for example, Hammam-Lif (Ḥammām al-Anf). Arabic technical terms are transliterated and italicized, except for such ‘naturalized’ words as *Islam* or *Muslim*. Save for such familiar forms like ‘*ulamā*’ (sg. ‘*ālim*’), plurals of isolated Arabic words appear in the singular with the English regular plural *-s* marker: for example, *shaykhs* (instead of *shuyūkh*). The *tā’ marbūṭa* feminine end-marker is not rendered in transcription when it appears in pre-pausal positions, only when it is affixed to the head-noun in a genitive construction (*idāfa*), in which case it is transliterated as *t*: for example, *jāmi‘a* but *jāmi‘at al-Zaytūna*.

Finally, a word about the dates. On the whole, only the Georgian dates are given, with the dates of the Muslim (lunar) *Hijra* calendar (which starts in 622 AD, the year in which the Prophet Muḥammad emigrated from Mecca to Medina) being added in case of overlaps or ambiguity, in which case the *Hijra* calendar year comes first: for example, 1348/1929–1930.

Abbreviations

CA	Classical Arabic
coll.	collective noun
dial.	dialectal
fem.	feminine
Fr.	French
It.	Italian
lit.	literally
masc.	masculine
MSA	Modern Standard Arabic
pl.	plural
sg.	singular
TCA	Tunisian Colloquial Arabic
Tu.	Turkish

Introduction

The precursors: the role of woman in nineteenth-century reformist thought

At the dawn of the nineteenth century, after centuries of relative isolation and stagnation, several Muslim states suddenly found themselves face to face with European invaders. Through the contacts with Europe and Europeans, many new political, social and intellectual ideas entered Muslim societies, resulting in a rebirth of sorts across various fields, with the creation of new literary genres, the introduction of new sciences, and the emergence of political and social reform movements. This Muslim Awakening subsequently became known as *al-Nahḍa* ('the Renaissance'), which was, initially at least, primarily associated with Egypt and the modernization projects of its ruler, Muḥammad ʿAlī (1805–1848).

The treatment and place of women in European societies caused Muslim reformers to (re-)appraise the position of women in their native lands. But while in Europe and America the women's movement's calls for equality of men and women centred on obtaining the right to vote, with little interest in any fundamental social changes, Muslim reformers re-examined the role attributed to women in Islam (often to counter attacks by Europeans regarding the oppression of Muslim women), with a particular focus on women's education.

We shall now examine the views of reformers in two Muslim countries, that is, Egypt and Tunisia.

Egypt

On 15 April 1826, a party of some forty Egyptians landed in Marseilles. They had been sent by their ruler, the viceroy Muḥammad ʿAlī, to receive instruction in the modern European sciences. Among them was a young *shaykh* – a graduate from the university-mosque of al-Azhar in Cairo – who had been sent along as *imām* to offer spiritual and religious guidance to his fellow students. His name was Rifāʿa Rāfiʿ al-Taḥṭāwī (1801–1873). He went on to write a seminal account of his stay and experiences in the French capital entitled 'The Extraction of Pure Gold in the Abridgement of Paris' (*Takhlīṣ al-ibrīz fī talkhīṣ Bārīz*),¹ and later on played a leading role in the development of his native country's intellectual and cultural life.

2 Introduction

Al-Ṭaḥṭāwī's views on French women were quite ambiguous in that their appearance was both a source of pleasure (with numerous comments on their beauty and elegance) and grounds for criticism. Besides the often loose behaviour of women of certain classes (and their men's lack of jealousy), it was the way European men in general were treated by their womenfolk that found little favour with him ('the men are slaves to the women here, and under their command, irrespective of whether they are pretty or not').² Interestingly enough, he reported – but refrained from commenting – on the idea prevalent among Europeans that 'in Eastern countries they (sc. women) are treated like furniture'.³ One of the things that most impressed al-Ṭaḥṭāwī was the level and universality of European education, which he considered a prerequisite for progress and prosperity as well as a sign of justice. In this regard, he stressed the fact that both sexes were highly inquisitive, and the intellectual achievements of some French women. As further proof of the equality between men and women in France, he mentions that women often travel alone – even abroad – to satisfy their craving for knowledge! When it comes to the veil, al-Ṭaḥṭāwī made what at the time was quite a revolutionary statement that the wearing of it does not have an effect on the chastity of women, which is

linked to whether a woman has had a good or bad education, whether she is accustomed to loving only one man rather than sharing her love among others, and whether there is peace and harmony within the couple.⁴

Nothing if not cautious, al-Ṭaḥṭāwī did not commit himself to making any recommendations. That is not to say that he did not have any opinions on the matter, though. One important clue as to how his ideas on this issue developed can be found in his translation of Depping's *Aperçu historique sur les mœurs et coutumes des nations*, which he completed in 1829,⁵ and in which he added the following comment:

respect for women among a people is proof of their good manners and sophistication, whereas the absence of women's rights – and one of them must be that they enjoy freedom – is a sign of a barbarous disposition.

However, it would take several more decades before al-Ṭaḥṭāwī addressed the subject of women at greater length. This he did in the book which contains an outline of his educational thought. Published in 1872 and aptly entitled 'The Trustworthy Guide for Girls and Boys' (*al-Murshid al-amīn li 'l-banāt wa 'l-banīn*), it revealed the huge impact of his experience with European education, while some of it was probably inspired by Fénelon's *Traité de l'éducation des filles* (1687). Praising the virtues and qualities of women and the important role some of them have played in history, he called for women to be educated as this is conducive to relations within the marriage and contributes to the upbringing of the children – is not the woman the child's first teacher? Furthermore, the wife can encourage the husband to perform virtuous acts. Al-Ṭaḥṭāwī was also the first

to stress the importance of the concept of love in the relationship between husband and wife. Far more revolutionary, however, was his idea that education could give women a voice within the household and earn them respect from their husbands, while enabling them to gain access to work; indeed, if necessary and if women are capable of doing so they can perform the same tasks as men, whereas this keeps them away from the vices associated with idleness. As a result, work safeguards women against less than wholesome proclivities and brings them closer to virtue, as ‘an inactive woman only wastes her time speaking ill of her neighbours, criticizing what they eat and drink,’ etc.⁶ Finally, he highlighted the importance of the mother as a role model to her daughters. At the same time, al-Ṭaḥṭāwī’s calls for education for girls were limited to basic skills like reading and writing, and throughout the book the author expressed some very traditionalist and conservative views of women in general, supported by relevant verses from the Qur’ān and numerous *ḥadīths* (sayings of the Prophet), with lengthy treatments of at times frivolous issues like the various types of beauty, the charms of women of different races, the differences between blonde and brown-haired women, virgins and non-virgins, thin and fat women, young and old women. As is often the case with al-Ṭaḥṭāwī’s writings, one is left to wonder at the inherent ambiguities: yes, he wanted women to be educated, but only in certain areas, and the benefits of education are largely restricted to the home and the family; he recommended the taking of only one wife, but never condemned polygamy or seclusion (*ḥarīm*). He also underscored that women are free beings and equal to men (in which one may adumbrate an influence from Saint-Simonian thought to which the author had been introduced in the 1830s), but never went so far as to tackle the real inequalities that existed in his native society. Finally, one should mention that the *Murshid* did have some tangible results, with the foundation in 1873 (only a few months before al-Ṭaḥṭāwī’s death) of a private European-style girls’ school by one of the Khedive Ismā’il’s wives, whereas the ruler himself set up a similar establishment one year later.⁷

The issue of women’s education did not just affect Muslims in the East; Christian Arabs, particularly in the Fertile Crescent, put in their penny’s worth as well. Most eloquent on this question was the Maronite lexicographer, philologist and translator Buṭrus al-Bustānī (1819–1883). His views can be found in two lectures published in 1849, in which he expressed ideas that were akin to al-Ṭaḥṭāwī’s, as witnessed by the following statement:

how great are the advantages to children which are derived from women’s education. For the woman bestows on her children such knowledge, culture and civilization she herself has. The child receives his first impressions from his mother, because she is the first thing to impinge on his senses and perceptions.⁸

The next Egyptian author to address the issue of women was another traveller to Europe, Ḥamza Faṭḥ Allāh (1849–1918), who was a member of the mission to the eighth International Congress of Orientalists in Stockholm (1889). On their way, the group called on several cities in Italy, Switzerland, Germany, Holland,

England and, of course, France, where they visited the *Exposition Universelle*. The contingent was headed by ʿAbd Allāh Fikrī (1834–1890) – tutor to the Khedive’s children and the future Minister for Education – and included his son, the Paris-educated Muḥammad Amīn Fikrī (1856–1900), as well as Maḥmūd ʿUmar al-Bājūrī (d. 1905), both of whom left accounts of their European journey.⁹ Rather than writing a travelogue (*riḥla*) like his companions, Faṭḥ Allāh dealt with his experiences in Europe in an idiosyncratic way, that is, through women. Entitled *Bākūrat al-kalām ʿalā ḥuqūq al nisāʾ fi ʿl-islām* (‘Earliest Discourse on the Rights of Women in Islam’), the book focuses on the (lack of) virtue of French women. In many ways, Faṭḥ Allāh marked the first step *back* in time; while, as we have seen, al-Ṭaḥṭāwī stated that the veil had nothing to do with chastity, Faṭḥ Allāh wholeheartedly subscribed to the conventional view that it provided necessary protection. In support of this, he adduced statistics to the effect that, despite all their education, 71 per cent of men are engaged in adultery, whereas 90 per cent of women are abused or deserted. This of course led him to European divorce practice, of which he disapproved strongly, while making a very strong case for polygamy, albeit under certain conditions. Quoting a multitude of religious sources, Faṭḥ Allāh, as if to shore up his case, mentions that it was also practised in royal circles in Europe, with the most famous example being Napoleon. When it comes to education for girls, he (like al-Ṭaḥṭāwī) cites the case of the Prophet’s wives Ḥafṣa and ʿĀʾisha, both of whom could read and write. He adds that in early Islam some women played an active role in the community, assisting their husbands and even performing valuable tasks on the battlefield, and provides a list of famous women in Arab history. Then, Faṭḥ Allāh took a hitherto unexplored avenue as he compared the rights of European and Muslim women in history, stating that European women only recently acquired rights awarded to their Muslim sisters since the revelation of the Qurʾān. A staunch opponent of Western education for Muslims, he considered the acquisition of sciences, which, so he reminded his readership, was encouraged by Islam, a tool towards a better understanding of religion and for the performance of religious duties. This certainly applies to women, to whom anatomy, for instance, should be taught in order to explain religious precepts regarding (ritual) purity and marital duties.

Neither Ḥamza Faṭḥ Allāh nor al-Ṭaḥṭāwī approached the realities of the social position of women in any structured way. This would be done some time later by one who has been called the ‘Father of Arab-Muslim Feminism’. Of Kurdish extraction, Qāsim Amīn was born in Alexandria in 1863 and trained as a lawyer both in Cairo and France (Montpellier, Paris), where he stayed for several years. Upon his return to Egypt, he joined the judiciary as advisor to the Appeals Court. In the late 1890s, the Egyptian reformist movement was essentially split into two factions: a nationalist one, led by Muṣṭafā Kāmil (1874–1908), which focused on liberating Egypt from the British occupation; and a ‘social’ ‘Muslim revivalist’ one, led by the Azhar *shaykh* Muḥammad ʿAbduh (1849–1905). The latter had initially joined forces with his former teacher, the Persian-born mystic Jamāl al-Dīn al-Afghānī (1839–1897), with both of them leading an active campaign against the autocratic rule of the Khedives of Egypt and European political influence on

the country. Though an active member of the nationalist opposition during the early years of the British occupation, ‘Abduh’s thought later concentrated on social issues and the changes Islamic society needed to undergo, with a return to the true values of Islam being the key, which ideology became known as *al-salafiyya* (from the Arabic *salaf*, ‘ancestor’).

Qāsim Amīn’s fame is predicated on two works, whose titles were to resound throughout his native Egypt and beyond: ‘The Liberation of Woman’ (*Tahrīr al-mar’a* 1899), and ‘The New Woman’ (*al-Mar’a al-jadīda* 1901).¹⁰ Interestingly enough, his first work on the subject of Muslim women was one he had written in French. Entitled *Les Égyptiens, Réponse au duc d’Harcourt*, it was published in Cairo in 1894, and constituted a response to the accusations (particularly with regard to the wearing of the veil) contained in the duke d’Harcourt’s *L’Égypte et les Égyptiens* (1893).¹¹

‘The Liberation of Woman’ caused quite an uproar upon its publication. However, despite its title, this was as much a ‘feminist’ work as al-Ṭaḥṭāwī’s and Faṭḥ Allāh’s in that its author also remained squarely within the traditional religious framework. To put it differently, Amīn’s work was, to paraphrase Mary Wollstonecraft’s work (published a century earlier), a vindication of the rights of the Muslim woman in religion. The ideas developed in ‘The Liberation of Woman’ would leave a lasting impact, which has endured to this day. The largest chapter in ‘The Liberation of Woman’ bears on the question of the veil (*ḥijāb*),¹² with the others dealing with the education of women, the role of women within the nation and within the family. Like al-Ṭaḥṭāwī, Amīn stressed the moral role of women in society, which he saw as an extension of the values upheld in the family. The key to this was education, though like his illustrious predecessor, he argued in favour of basic education to enable them to manage the household and play their (limited) role in society, which included earning a living. Amīn’s position on the veil and seclusion was also new. Relying on the Qur’ān and the *shari’a*, he held that women are not actually prohibited from showing their faces, whereas he added that the veil was an impediment to the performance of their social role. Furthermore, rather than preserving chastity and virtue – the usual argument in support of the wearing of the veil – it in some cases even arouses lewd thoughts in men. Amīn made a similar case against seclusion, positing that there were no texts in support of it that there were no texts in support of it (only for the Prophet’s wives), whereas it, too, prevents women from participating in society. Furthermore, he considered it intrinsically iniquitous as it is predicated on a lack of trust and respect on the part of the men. More than anything else, Amīn argued for a liberation of women in the sense of enabling them to realize their potential (through education), as this benefits both men and society in general. Always the velvet reformist, his approach was one that involved re-examining and reinterpreting religious precepts and practice. For example, in spite of his opposition to the veil and seclusion he at no point called for their abolition; quite the opposite, as he at the beginning of the chapter on the veil pre-empts any criticism of unreligiousness by referring to it as the moral cornerstone of society and defends its use in principle. When it comes to polygamy, he found himself on shaky ground

of course; on the one hand, the Qur'ān unambiguously endorses it (VI: 3), whereas on the other the modernist cannot hide his distaste of it. The result is an expected compromise: even though it reveals a lack of respect for women by men, it is acceptable in some circumstances. Divorce, too, is permitted sometimes, but men and women should have the same rights.

In his second, even more controversial, book on the subject, 'The New Woman', which was written partly in response to the criticism levelled at 'The Liberation of Woman', Amīn changed tack in that the reasoning was no longer based on an interpretation of Islamic texts and practice. In its place came an unrelenting European-inspired secularism or, to be more precise, positivism, with the issue of women appearing within a broader context of 'civilization', whereas one can observe the influence of European social philosophers like Auguste Comte, James Mill and, especially, Herbert Spencer (who is referred to several times)¹³ and Charles Fourier, whose works Amīn had read during his stay in France. Just as al-Ṭaḥṭāwī and the Tunisian statesman Khayr al-Dīn (1810–1890)¹⁴ had done before him, Amīn singled out freedom (*hurriyya*) as the single most important cause for a nation's prosperity. Within al-Ṭaḥṭāwī's and Khayr al-Dīn's thought, this was inextricably linked to justice; Amīn, for his part, held that the freedom of women underlay all other freedoms. As we have seen, al-Ṭaḥṭāwī established a link between the degree of civilization and the treatment of women. Amīn gave it a slightly different twist, stressing the rights accorded to women by society, with the highest form of civilization (e.g. Europe) being one in which men and women truly enjoy equal rights, whereas scientific advance constituted the sole means towards attaining it. It was the 'Euro-centrist' views, and the impugnement of Islamic culture as a perfect model for civilization that most caused outrage. For example, he quite emphatically stated that at no time in their history Muslims had reached the same cultural level as the ancient Greeks or Romans, while highlighting Europe's advance in the development of political and legal institutions.¹⁵ He was even more at odds with other Muslim reformers in praising Europe's moral superiority. While previously (and afterwards) the recognition of the scientific and technological supremacy of the West was often offset by claims of a lack of morals and virtues which were presented as the preserve of Islam and its believers, Amīn established a Spencerian link between scientific progress and moral progress.¹⁶ As apparently there was little glory in the Islamic past, Amīn set his hopes on the future, thus 'reversing', to use H. Charabi's words, 'Abduh's backward-looking position'.¹⁷ As A. Hourani put it, 'Amīn... dissolved the relationship established by °Abduh between Islam and civilization, and created in its place a *de facto* division of spheres of influence.'¹⁸ The image of Qāsim Amīn as a champion of Westernization has endured to this day, as witnessed by an article in the official Azhar magazine, *Nūr al-Islām*, as recently as 1997, in which its author discussed the freedom of women and their right to go out to study, stating emphatically that this should not be interpreted in the 'sense of Qāsim Amīn'.

The Tripoli-born Muḥammad Rashīd Riḍā (1865–1935) was another of °Abduh's disciples (as well as his biographer),¹⁹ and the author of a great (but unfortunately

unfinished) Qur'ān commentary entitled *Tafsīr al-Manār*, with *al-Manār* ('The Lighthouse') being the name of the influential periodical set up by him in 1898 to spread the reformist ideas of ʿAbduh, and which in more ways than one continued the line of *al-ʿUrwa al-Wuthqā* ('The Unbreakable Handle'), founded by ʿAbduh and Afghānī in Paris in 1884.²⁰ He, too, discussed the position of women in Islam in several works, notably *Nidā' ilā 'l-jins al-laṭīf* ('Call to the Fair Sex', 1930). In more ways than one, however, Riḍā's views constitute a throwback to pre-Amīn days. In the book, he provided a full survey of religious sources to prove not only the many rights of women in Islam in a variety of fields, but also their advance on their European sisters as a result of it. Like early reformers, he supported the idea of basic education for girls suited to their specific role in society. Within Riḍā's traditionalist approach, there was no question of social equality with men (even though they enjoyed equality in religious rights and duties), as they had a natural supremacy over women. Riḍā was also strongly in favour of seclusion; when during a public debate a female university student expressed the wish for more freedom to mix with men, he considered her an apostate!²¹ It is hardly surprising, then, that Riḍā did not share Amīn's qualms about polygamy either, believing it to be not only just, but also necessary – does not every woman need a legal guardian? Strangely enough, he did put forward the idea that women should be entitled to political rights. One is left to wonder.²²

The first female author to call for gender equality was Zaynab Fawwāz (1846–1914). Of Lebanese descent, she championed the rights of women through newspaper articles and poems, with her views on the subject being collected in *al-Rasā'il al-Zaynabiyya* ('The Zaynab Letters'), which she published a few years before her death. She was also the first to deal with women's rights through fiction, and may thus be considered the precursor to the more famous Egyptian author and playwright ʿĀ'isha ʿAbd al-Raḥmān, who is better known by her pseudonym Bint al-Shāṭi' ('Daughter of the Shore'). Another name worth mentioning in this context is that of Bāḥithat al-Bādiyya; the first Egyptian woman to obtain a primary school certificate (1893) and to graduate as a teacher (1900), she continued in Amīn's path through articles that were later collected in *al-Nisā'iyyāt* ('Women's Affairs').

In the first half of the twentieth century, other authors also dealt with the issue of women, but most tended to continue in the 'traditionalist' vein, divorced from everyday reality in the real world.

Prevailing orthodoxy has it that the Egyptian women's movement came into being in 1919 when a number of women, led by Hudā al-Sha'rāwī, organized a demonstration to protest against the decision by the British authorities to forbid the nationalist leader, Sa'ad Zaghlūl, from going to London with his delegation (*wafā*) to present their demands. Although the women were all veiled and protested as members of the nationalist movement (and not as women's rights activists), the significance of the event lies in the fact that this was the first time a group of women actively participated in political life on an equal footing with men. However, in spite of the passing of a number of laws to improve the lot of women in 1924 (legal right to education, minimum age of marriage) and 1929 (divorce law), it

was not until 1935 that a small group of (predominantly upper-class) Egyptian women organized into the Egyptian Feminist Union, and demanded full and equal political rights. And so, nationalism as a uniting force succeeded in bringing about what no reformer had been able to do, whereas it was the women themselves who took up the banner to change their condition.

Tunisia

In Tunisia, which had witnessed its own *nahḍa* with the reign of the modernizing Bey Aḥmad (1837–1855), several Muslim scholars also addressed the issue of women in Muslim society very much in the same way as their Egyptian counterparts. Indeed, sometimes they even took the lead. Unfortunately, the pre-eminent position of Egypt as a lightning rod for reform meant that the Tunisian efforts did not get the publicity they deserved. Indeed, even today the contributions by Tunisians in this field in the nineteenth century are largely ignored by scholars from both East and West who prefer to focus their attention on Egypt.

As with Egypt, one can adumbrate two strands, that is, a traditionalist one involving the rights accorded to women in Islam, and an ‘educationalist’ one centring on the issue of girls’ education.

Aḥmad Ibn Abī ‘I-Ḍiyāf (1803–1874) was private secretary to Aḥmad Bey, whom he accompanied on his state visit to France in December 1846 of which he also left an account in his monumental chronicle *Ithāf ahl al-zamān bi akhbār mulūk Tūnis wa ‘ahd al-amān* (‘Gift to the People of the Age regarding News about the Kings of Tunis and the Fundamental Pact’). During their stay, the Tunisian party attended the performance of a play at the Palais-Royal theatre, with the chronicler being particularly intrigued by the behaviour of the young female protagonist, who was intent on marrying the man of her choice, stressing that even the king does not ‘have the right to rule our minds by force’, as every citizen is a ‘free human being’.²³ Ten years later, Ibn Abī ‘I-Ḍiyāf wrote a treatise on the position of women in Muslim society, entitled *Risāla fi ‘l-Mar’a* (‘Treatise on Woman’), which took the form of answers to questions (twenty-three in total) put to him by the then French consul-general in Tunis, Léon Roches (himself an accomplished Arabist).²⁴ The topics under discussion cut across a wide range of fields: the equality between men and women in Islam; women’s education; child marriages; polygamy; the dowry; wife beating; activities of women; social behaviour (the veil); Muslim men’s perception and treatment of women; divorce and inheritance.

In reply to the question as to why Muslim families view the birth of a male child more favourably than that of a girl, Ibn Abī ‘I-Ḍiyāf referred to the physiological differences between the two sexes, with men being naturally predisposed to tasks securing the existence of the family and the protection of its legacy, as some duties can only be performed by men (e.g. leading the believers in prayer, defending the family honour and the country). The role of women, on the other hand, is limited to providing offspring and caring for the home. Yet, the author is quick to point out the discrepancy between cultural practice and religious injunction by

stating that this is not set forth in the *Shariʿa*; indeed, the Qurʾān explicitly condemns the maltreatment of girls in pre-Islamic times, while establishing the equality in birth of boys and girls (Qur. III: 36, XVI: 58–59, XLII: 49).

The second question revolves around the lack of education of Muslim women

Contrary to European women, Muslim women do not receive any training in the sciences and few of them can read and write. However, there is no doubt that ignorance drives them towards unlawful things, whereas education drives them away from it. Furthermore, an educated woman makes for better conversation and company.

Again, Ibn Abī ʿI-Ḍiyāf used the cultural argument, stating that the situation was rooted in history. Although he did not reject the principle of education for girls, he felt it should be restricted to religious and moral instruction and practical tasks to assist them in their household chores. Indeed, ‘education does not offer any benefit to them’. What is more, education is fraught with danger as it may distract woman from her role in society as a mother and mistress of the house, and thus lead to the disintegration of the family unit. Related to this is Ibn Abī ʿI-Ḍiyāf’s vehement opposition to any desegregation of the sexes and the free movement of women as it only serves to expose them to the looks of others (sc. men). In order to lend force to his argument that unrestricted relations between the sexes results in moral depravity, he even cites Napoleon Bonaparte (‘I hate it when men copy women and women copy men’). At the same time, Ibn Abī ʿI-Ḍiyāf mentions that a small minority of girls have received instruction, adding that social and economic factors are of paramount importance; it is ‘the general interest and the degree of civilization and progress attained by European nations, indeed by most Christian nations’ which have resulted in changes in the condition of women there.

A number of questions bear on the issue of Muslim marriages and the relationships between husband and wife. The first (no. 3) highlights the discrepancy between girls getting married at an early age – sometimes before puberty – and the ultimate purpose of marriage within Islam, that is, procreation, which phenomenon impacts on the growth in population as the girls are often physically ill-suited for childbirth. In Europe, on the other hand, where girls only marry after reaching puberty, there is a rapid rise in population. Ibn Abī ʿI-Ḍiyāf, however, refutes the notion that marriage among Muslims is directed solely towards reproduction, and stresses the importance of a lasting union between man and wife, whereas marriage presupposes mutual consent by the two parties. And even though it happens – rarely – that, for some reason, men marry pre-pubescent girls, the marriage is not consummated until they can have sexual relations. As for the demographic impact, Ibn Abī ʿI-Ḍiyāf points out that this is not related to the age of the spouses, but (once again) to the degree of ‘civilization and prosperity’ of the country involved.

The question (no. 5) of whether the fact that, in contradistinction to non-Muslims, Muslim men pay a dowry for their women is proof of the latter’s chattel-like status leads to an indignant response from the author. Not only is this totally unrelated

to a sales agreement in any shape or form, but one can, with equal justification, consider the European practice of women paying a dowry to men as degrading to men since it may be considered rent for their services!

In light of the above it is hardly surprising that when it comes to polygamy (sixth question), Ibn Abī 'l-Ḍiyāf strictly toes the traditional line, even though he does concur with his 'interviewer' that it leads to rivalry and jealousy within the couple. Adding that the rights of women are protected by Islamic law, he wholeheartedly supports the practice, listing a number of practical reasons: for example, a woman is often unable to fulfil her marital duties, and a woman's fertility span is a lot shorter than that of a man. Related to the issue of polygamy is that of repudiation (*ṭalāq*), and the consequences it has on the children, which is broached in the eleventh, twelfth and twenty-second questions. Ibn Abī 'l-Ḍiyāf states that the *ṭalāq* is an institution sanctioned by both the Qur'ān and *ḥadīth*, but that both spouses can benefit from it (Qur. IV: 128, IV: 130). However, the husband must not take this decision lightly, and avoid reacting in anger or on emotional impulse; indeed a wise man does not leave his wife and children without serious and due cause. This view is supported by several *ḥadīths* revealing the Prophet's reprobation of repudiation.

Ibn Abī 'l-Ḍiyāf found himself in hot water with question no. 7:

Why is a husband allowed to beat his wife without any lawful reason and to make her carry heavy loads as if she were an animal, while he himself does not do so? In European countries, this kind of thing can only result from a lack of chivalry on the part of the husband.

Ibn Abī 'l-Ḍiyāf's reply centred on the duty of obedience and the right to punishment sanctioned in the Qur'ān (IV: 34). However, he warned that beating should only be used as a last resort and should not be viewed, as some Europeans do, as a licence to maltreat women; indeed, according to the Mālikī legal school, a woman may in such a case demand a divorce. In any event, it is only in rural areas that this form of punishment is still exacted. As for the heavy tasks imposed on women, this, too, is limited to certain social classes and is linked to the economic situation of the household. Related to this are the tenth and fourteenth questions, which bear on the alleged treatment of women as servants and without respect by their men. This is again rejected by Ibn Abī 'l-Ḍiyāf, who states that, on the contrary, women are the object of great respect within Muslim society – indeed, they are something sacred (*ḥurma*) – as they play a central role in the household, and are referred to as a refuge.

The answer to the eighth question regarding the empty lives of Muslim women who spend their time prettifying themselves is also highly praising for women, with Ibn Abī 'l-Ḍiyāf providing a detailed account of female activities within the various classes of the populations. Of course, they primp themselves, but only in the evening, to welcome their husbands, but even then exaggeration is frowned upon!

The issue of the veil is addressed in the answer to the ninth question related to the jealousy of Muslim men:

Is jealousy in Islam so strong that women can only go out if they are veiled and thus screened from the gaze of all, even their closest kin? Among non-Muslims, women can go out unveiled and embellish the meetings [of men] without giving into the kind of debauchery that is more prevalent among veiled women.

Ibn Abī 'l-Ḍiyāf is one of the few authors to recognize that jealousy is an Islamic virtue, and constitutes a sign of love by the husband. He adds that the veil is a mark of religious chastity, while it obviates illicit desires and builds morals. Interestingly enough, he explains the absence of the veil among bedouin women by their extreme in-born chastity, which prevents them from committing any unlawful acts. But then, how to establish a link with morality? Ibn Abī 'l-Ḍiyāf recognizes that whether a woman is veiled or not does not guarantee that she will not commit unlawful acts. Indeed, no society is immune from immorality and debauchery, whose prevalence is linked to the size of the population and the degree of civilization of the nation. However, the author explains that in Islam immoral behaviour is severely punished, whereas he endorses the practice of 'honour-killing'.

The thirteenth question touches upon the issue of inheritance and the fact that women are entitled to half of the share of men's inheritance. After pointing out that prior to Islam neither girls nor boys inherited from their parents, the author states that the prescription is linked to the socio-economic role of the husband as the family provider. Furthermore, men do not have any right to the women's trousseau or to any goods received by women from their families, whereas the woman is the sole owner of the dowry and may dispose of it as she sees fit.

Finally, the last question (no. 23) deals with the expression of patriotic sentiment. Ibn Abī 'l-Ḍiyāf makes a convincing case to support his claim that Muslim women have throughout Muslim history played an active part, for instance, in battles, adding that patriotism is a feature common to both Muslim men and women.

In the same year (1856) that Ibn Abī 'l-Ḍiyāf completed his 'Treatise on Woman', a compatriot, Sulaymān al-Ḥarā'irī (1824–1877), a graduate from the Zaytūna mosque in Tunis, arrived in Paris, where he would remain for the rest of his life.²⁵ In addition to his work as a teacher at the prestigious *École des Langues Orientales*, he translated numerous works into Arabic, including Lhomond's French grammar (1856). Al-Ḥarā'irī was also one of the first to address issues confronting Muslims living in the Christian territories – which were part of the so-called *Dār al-Kufr* ('The House of the Unbelievers') or *Dār al-Ḥarb* ('The House of War') – such as the wearing of the European hat, and the lawfulness of eating meat not slaughtered in accordance with Islamic precepts. Undoubtedly the most interesting part of al-Ḥarā'irī's translation of Lhomond's book is the bilingual French–Arabic preface (translated by the author), entitled *Guide de l'Afrique du Nord et de l'Orient (Conseils adressés aux Musulmans)*, the French text of which

was reprinted twice (1857, 1861). In this treatise al-Ḥarā'irī outlined his views regarding the necessary reforms in Muslim societies in order to catch up with the West, and made a passionate case for European-style education for all – including women – as he considered it the basis for a just and equitable society.

The issue of women in Muslim society was also addressed by another *shaykh* and graduate from al-Zaytūna, Muḥammad al-Sanūsī (1851–1900),²⁶ who for a while played a leading role in the Tunisian reformist and nationalist movements in the mid-late 1880s, he maintained close contacts with Muḥammad °Abduh, whose first visit to Tunis (6 December 1884–4 January 1885) he organized.²⁷ The first appearance of women in his writings can be found in the author's accounts of journeys to Europe, such as that to the 1889 Paris World Exhibition (*Exposition Universelle*). When reporting on the Conference on education held at the Exhibition, he briefly touches upon the theme of women's education. The basic premise sounds promising enough; 'In Islam, women and men are subject to the same duties.' Moreover, there have been many female scholars and poetesses in the past (e.g. in al-Andalus). But when it comes to the recommendation by the Conference to teach girls and boys together, al-Sanūsī is quite emphatic; it is acceptable in Europe, where men and women mix, but quite impossible in Islamic countries, since in accordance with 'the rules of decency' in Islamic law the two sexes are segregated at the age of ten.²⁸ The same views can already be found in the account of al-Sanūsī's earlier journey to Europe (1882–1883), entitled *al-Rihla al-Hijāziyya* ('The Journey to the Hijaz'), where the mixing of men and women in the theatre contributes to it being unlawful in religion.²⁹ And though, like al-Taḥṭāwī, he stressed the importance of modern schools in order to ensure access to the sciences and thus progress, this did not extend to women.³⁰ Fortunately, al-Sanūsī left us a fully fledged treatise on his views on women in Islam under the title *Tafattuq al-Akmām* ('The Ripping apart of the Calyces'). Written at the behest of 'several people' (one may presume Frenchmen), it was translated by the author's son, Muḥammad Muḥyī 'l-Dīn, and son-in-law °Abd al-Qādir al-Qibaylī (Kader Kebaili) under the title *Epanouissement de la fleur ou étude sur la femme dans l'Islam* ('The Blooming of the Flower; a Study of Woman in Islam').³¹ The booklet is divided into two broad parts: a eulogy of (Muslim) woman and women's rights in religion. The content is as traditional as the structure, and al-Sanūsī is very much part of the Faṭḥ Allāh (alongside of whom he worked as a proofreader at the Tunisian Official Gazette, *al-Rā'id al-Tūnisī*),³² Ibn Abī 'l-Dīyāf and Riḍā school. After stressing the importance of women both before and under Islam, and the special place they occupy in men's hearts ('to a Muslim, a woman is a flower with which he perfumes himself and which he treats with the same amount of respect he does other flowers'), al-Sanūsī discusses the negative views of women and their neglect in European history, contrasting it with their current advanced status. Women should be respected as it is they who guarantee the future of mankind, which, in turn, explains the duty of matrimony. In line with tradition, al-Sanūsī supports his views with a battery of religious references. What are the rights of women? In the field of finance, the author restricts himself to the

inheritance provisions set forth in the Qur'ān, whereas within the marriage they are entitled to be fed and dressed by their husbands in accordance with the latter's means. As for the duties of women, these, too, are limited to the household and the caring for the husband and children. The zeal with which women do this attests to their religiousness. At the same time, 'women should be raised in fear of beatings and repudiation', whereas honesty and obedience are the cardinal virtues. A woman should not be allowed out without her husband's permission as 'The Prophet imposed only one duty on women: to have relations only with their husband and to stay with him'! As for the veil, this is 'a sign of their perfect honesty', and something of which 'women are proud'; it is so rooted in Muslim women's customs that 'those who do not wear it are considered to be without honour, for which their children bear the consequences'. Furthermore, al-Sanūsī states that the fact that a woman should not wear the veil in front of her teacher 'proves the care given to the education of women'. But what kind of education? He confirms that learning how to sew is far more useful than learning how to write, adducing the Prophet's saying: 'Do not teach them (sc. girls) to write; instead teach them the *sūra* of *al-Nūr* ('The Light'), and sewing.' Indeed, for girls, 'writing is a dangerous instrument', since for the most part they will use it at the service of their desires and passions. The corollary, of course, is obvious; just imagine the damage that could be done if other, even more useless subjects are added! Nevertheless, al-Sanūsī accepts that chaste, good and trustworthy girls may be taught writing and even other sciences – on condition, however, that this contributes to their duties in society. By way of example, he, like Faṭḥ Allāh, lists a number of female scholars of early Islam, starting with the already-mentioned wives of the Prophet, as well as those daughters of famous legal scholars who knew the Qur'ān and other worthy religious texts by heart. Al-Sanūsī adds that this kind of 'moral' instruction has continued, as witnessed by the fact that the Tunisian scholar *shaykh* al-Ḥarkāfi taught the daughter of one of the country's former rulers, 'Uthmān Dey (1594–1610), to recite the entire Qur'ān, whereas the Holy Book is taught to girls in all the leading households of the land for the very same purpose. So, 'nobody doubts that, for a supervised girl, instruction constitutes an advantage', and Muslim law clearly demands women be educated and to help her husband while busying herself with weaving, sewing, etc. The only non-religious science that finds favour with the author is medicine or, to be more precise, midwifery, for its obvious benefit to women (even though men are also allowed to exercise the profession if no woman can be found).

The third Zaytūna *shaykh* was Muḥammad Bayram V (1840–1889), the scion of one of Tunisia's most famous dynasties of scholars and religious leaders and a close collaborator and supporter of Khayr al-Dīn's reforms in the 1860s–1870s.³³ In more ways than one, Bayram's position is reminiscent of that of Riḍā in that there was no real room for reform on women within his thought, which focused almost entirely on political changes within their countries and the Islamic community (*umma*) as a whole. Bayram, too, objected strongly to the mixing of the sexes, and was a staunch supporter of the veil. It is clear that his views on the

subject were coloured by his visits to Europe and the behaviour of women there. Indeed, he was clearly shocked to find men and women dancing together, or unmarried men and women talking and laughing with each other in the presence of the girls' fathers, whereas even high officials allowed strange men to have their arms around their daughters' necks and waists. He strongly refuted claims by European men that Muslim men force Muslim women to wear veils because they are jealous, out of hypocrisy and because they want to keep them secluded. While stating that there is no such duress, Bayram adds that 'the wearing of the *hijāb* is for most women a natural thing'. He warned that simple things may lead to serious problems: first it is the uncovering of the face, then it is dancing with strange men, the drinking of wine, followed by who knows what other kinds of mischief! As a result, the fact that in Europe women talked with men without covering their faces and met with them in the markets and gatherings invariably led to lewdness. And though he acknowledged that the face of a woman is not part of *ʿawra* (sc. that part of the body that needs to be covered), he felt it was endorsed by the Qur'ān (XXIV: 31) enjoining women not to reveal their beauty to strange men.³⁴ It is hardly surprising, then, that Bayram V could not conceive of women playing an active role in politics; indeed, what seemed to strike him as being most damning about the Paris Commune was the fact that everyone – including women! – was called to join. It is equally interesting to observe that the great statesman Khayr al-Dīn completely ignored the issue of women. Indeed, despite his overwhelming emphasis on the principles of justice and equity, women and their position in society are conspicuous by their absence in the lengthy treatise of the reforms he thought should be introduced into Islamic societies and which formed the introduction to his historical encyclopaedia *Aqwam al-masālik fī maʿrifat al-mamālik* ('The Surest Path towards Knowledge about the Kingdoms').

Finally, there is Muḥammad Ibn al-Khūja (1869–1939) (Mohamed Belkhoja), who could boast the same impressive antecedents as Bayram V. He was part of a movement which started in the 1880s and has since then become known as that of the *evolutionists*, together with intellectuals like Muḥammad al-Bashīr Šfar (1856–1917),³⁵ Muḥammad al-Ašram (d.1925),³⁶ and ʿAlī Būshūsha (1859–1917),³⁷ who founded the group's official mouthpiece, *al-Ḥāḍira* ('The Capital'), whose first issue appeared on 2 August 1888.³⁸ The evolutionist brand of reformism was directly inspired by people like Khayr al-Dīn or the poet Maḥmūd al-Qābādū (1814–1871)³⁹ – Tunisia's first reformist *shaykh* – as well as Muḥammad ʿAbduh. Their focus was on the Arab-Muslim identity, while emphasizing the need for progress through learning from Europe. Theirs was a purely cultural reformism that crystallized into education, which they believed was the only way of 'regenerating' the nation. Until 1905–1906, this would remain the dominant view among the native Tunisian intelligentsia, all of whom were trained at the capital's elite schools like the *Collège Sadiki* (*al-Madrasa al-Šādiqiyya*)⁴⁰ – Tunisia's first modern school set up in 1875 by Khayr al-Dīn – or the Lycée Saint-Charles (which was later renamed the Lycée Carnot), and many of whom had studied in Europe (e.g. Šfar, al-Ašram). At the same time, their views were closely related to those of reformers from the Levant and especially Egypt, with contacts being

established with al-Afghānī, °Abduh (who set up a Tunisian branch of *al-°Urwa al-Wuthqā*) as well as with Rashīd Riḍā, whose *Manār* regularly paid attention to events in Tunisia.⁴¹ It was °Abduh's *salafiyya* ideas regarding the inherently rational nature of Islam and its 'ability to assimilate modern European values and institutions [which] for a time induced [the Tunisians reformers] to become supporters of France's oeuvre in Tunisia'.⁴²

Within the Tunisian evolutionist movement – which became known as 'The Second Renaissance' (*al-nahḍa al-thāniyya*) – European education (sc. French) was considered a key factor. The preoccupation with the marriage of tradition and modernism led to the foundation (by Šfar and al-Ašram, among others) in December 1896 of the Khaldūniyya Association (*al-Jam'īyya al-Khaldūniyya*), which took its name from one of Tunisia's most famous sons, the fourteenth-century historian Ibn Khaldūn, whose theories on the rise and fall of civilizations earned him the title of 'Father of Modern Sociology'.

The foundation of the society was directly inspired by the change in the Azhar curriculum (1895) under the impulse of Muḥammad °Abduh, who was the *muftī*⁴³ of Egypt at the time. The changes involved the inclusion of modernist subjects like geography, mathematics and history as the marriage of tradition and modernism was a constant preoccupation for the Tunisian *evolutionists*.⁴⁴ Like *al-Ḥādīra*, the Khaldūniyya was endorsed by the French authorities, whereas it is useful to add that several French officials – not in the least the French Resident-General, René Millet (1894–1901)⁴⁵ – contemplated an institute of this kind. The liberal views of Millet allowed a climate conducive to the setting up of a society of this nature.⁴⁶

Islam and the acquisition of modern sciences were a pet subject of Millet's, who presented a paper at the 1908 *Congrès de l'Afrique du Nord* entitled '*Si l'Islam est incompatible avec la civilisation moderne*',⁴⁷ in which he expressed his support of the ideas of *shaykhs* like Sālim Būḥājib.⁴⁸

It is worth noting here that as from the beginning of the Protectorate, the French stepped up their efforts to Frenchify the educational system, instigated by the first Resident-General, Pierre Cambon (1882–1886),⁴⁹ who, in May of 1883, founded a *Direction de l'Enseignement*, the first Director-General of which was the scholar Louis Machuel.⁵⁰ In this field, Cambon was very much an acolyte of the French Prime Minister Jules Ferry, with whom he had closely worked as his *chef-de-cabinet*. Although Ferry has the dubious honour of ordering the invasion of Tunisia by French troops, as Minister of Education (1879–1883) he left an even greater mark on the educational policies both in Algeria and in France, where he issued a number of Acts making education free (16 June 1881), secular and compulsory (28 March 1882)⁵¹ while organizing secondary schooling for girls (21 December 1880) and setting up nursery schools.⁵² In addition, he instituted the freedom of the press (28 July 1881). The first institute to be founded by the French authorities was the Alawiyya College (*al-madrasa al-°Alawiyya*) (1884),⁵³ which offered bilingual French–Arabic tuition and was primarily a teacher training college (*école normale*) for French teachers for the Tunisian schools. It was added with an ordinary secondary school (*école annexe*). By 1901, the secondary

public education system comprised one *lycée*, two boys' 'grammar' schools (*collèges*), and one girls' school. Primary education, on the other hand was provided by twenty-five secular schools for boys, and twelve co-educational establishments. There were also two *collèges congrégationistes* (i.e. confessional) and fourteen boarding schools (nine of which were 'congregationist').⁵⁴ A final telling statistic is that 71 Muslim girls (as opposed to 1583 'French', that is, European girls) were enrolled.⁵⁵

It was Louis Machuel who also claimed the credit for setting up the Khaldūniyya,⁵⁶ which naturally fitted in well with his dream of

having in Africa Minor, which is now entirely under French domination, an Arab intellectual centre whose influence would extend to all other Muslim lands.⁵⁷

Besides Bashīr Šfar, who together with M. al-Ašram was the driving force behind the Society, the Khaldūniyya's founder members included al-Ṭāhir (II) Ibn ʿĀshūr,⁵⁸ ʿAlī Būshūsha, Khalīl Būhājib,⁵⁹ Khayr Allāh b. Muṣṭafā,⁶⁰ Muḥammad al-Qarawī (who became the Society's first President),⁶¹ and Muṣṭafā Dinqizlī.⁶² All the members of the Khaldūniyya group were high public officials.

The Khaldūniyya was intended to provide al-Zaytūna university graduates with instruction in modern sciences that were not part of their curriculum: hygiene, geography, history, arithmetic (all taught by Šfar), medicine,⁶³ accounting, (Tunisian) law, geometry, real estate law, and French. Although Zaytūna students formed the main target group, the Khaldūniyya diversified and also organized lectures on various topics for a wider audience.⁶⁴

As from November 1898 the Khaldūniyya was allowed to deliver an official degree, viz. the *Diplôme de Connaissances pratiques (shahādat al-maʿārif al-ʿamaliyya)*.⁶⁵

Aside from Arabic being the medium of instruction, it was also the first time modern sciences were being taught by native Tunisians, all of whom had received a European-style education, whether in Tunis or in France, with a clear majority of Šādiqī graduates. In the words of al-Ašram, the Khaldūniyya was to fill a gap in the education of the indigenous population, while being

a cultural centre where all Muslim peoples subject to French influence could come and delve into science and truth (...) its principal aim would be to introduce Arab civilization to the French, and French civilization to the Muslims.⁶⁶

Eventually, it was even to lead to the creation of

a modern Muslim university, where through Western sciences, we would train a new generation better able to face up to the economic struggle, and to appreciate the civilizing mission of the French while being more conscious of their rights as well as their duties.⁶⁷

The latter objective or hope was shared by Millet, who was inspired by British efforts in this field, such as the Muslim university of Aligarh. However, in view of the later role of the Khaldūniyya, contemporary Tunisian scholars have exaggerated its political importance. Indeed, the above comments by its main ideologue belie claims that the society was some kind of nationalist breeding ground or the educational wing of a resistance movement. Nor was it 'a forum to condemn colonial policy',⁶⁸ with its teachers actively engaged in 'identifying the constituent components of the Tunisian personality'.⁶⁹

Although many of the future young Tunisians would have links with the institute, the only anti-French sentiment was aimed at extremist elements among French colonists. But even in this, there was a common purpose with the French administration, which was also regularly involved in disputes with the fanatical segment of the French expatriate community. In the early period at least, there was hardly a '*poids formidable d'une politique gouvernementale hostile*'.⁷⁰ With hindsight, it is probably more correct to identify the Khaldūniyya as a political catalyst.

It is worth pointing out that the third article of Association explicitly stated that the society would not engage in 'the discussion or publication of works of a religious or political nature'.

Rather than entering into competition with the Zaytūna, the Khaldūniyya was in fact intended to cement the relationship between the 'young Ṣādiqīs' and the Zaytūna circle by combining (or, as the Articles of Association stated, 'reconciling'), tradition and modernist science. In 1897, 71 Zaytūna students were already enrolled; by 1905 the figure would double to 156.

Despite opposition to the Khaldūniyya's modernism by a large conservative '*ulamā*' bloc led by Aḥmad Ibn al-Khūja,⁷¹ the Society was endorsed by some of the leading '*ulamā*' of the day, including the *Shaykh al-Islām* Aḥmad al-Kurayyim (d. 1897),⁷² and Sālim Būḥājib, who delivered the opening speech on 15 May 1897. His speech contained an exegesis of the famous verse Qur. II:29, *wa 'allama Ādam al-asmā' kullahā* ('and God taught Adam all the names'). He reached the conclusion that the pursuit of knowledge is a divine ordinance, and also fell in with Khayr al-Dīn and his mentor Qābādū on the backwardness of Muslim states being the direct result of their neglecting the sciences.⁷³

A number of Zaytūna teachers also taught at the Khaldūniyya. But here, too, the Society acted as a catalyst, leading to educational changes within the mosque-university.⁷⁴

However, the traditional '*ulamā*' were not the only ones who opposed the Khaldūniyya. As far as the French *colons* – the traditional enemies of the Tunisian cultural reformers – were concerned, things were getting out of hand: one of their spokesmen, de Carnières, vented his paranoia by stating that 'if ever there is an uprising in Tunisia, it is at the Khaldounia that the general staff of the rebels (*révoltés*) will be recruited'.⁷⁵ The same ideas can be found in A. Servier's book, aptly entitled *Le péril de l'avenir; le nationalisme musulman en Égypte, en Tunisie, en Algérie*, in which the author aimed a broadside at Ṣfar, whom he accused of stirring up anti-French feeling.⁷⁶

As a forum for political as well as intellectual education and discussion, the Khaldūniyya played a crucial role in the training of the future élite of the country. At the turn of the century the Society, which also attracted Algerian and Moroccan Muslims, counted 384 members, and among the Zaytūna students who took courses there we find people like Muḥammad al-Miqdād al-Wartatānī (1875–1950),⁷⁷ ʿAbd al-ʿAzīz al-Thaʿālībī (1876–1944),⁷⁸ as well as al-Ṭāhir al-Ḥaddād, whereas the young poet Abū ʿl-Qāsim al-Shābbī (1909–1934) gave himself a crash course in the modern sciences at the Khaldūniyya library.⁷⁹ It was also with the Khaldūniyya that Tunisia witnessed its second translation movement,⁸⁰ this time of non-military scientific works, as teachers like B. Šfar or ʿAbd al-Razzāq Ghaṭās (who even set up a chemistry laboratory at the Khaldūniyya)⁸¹ translated teaching manuals, or, at need, wrote their own courses based on European works.

To a certain extent, the stress on Muslim education was a natural offshoot of a pan-Islamist ideology within which ties with brethren in the East, particularly Egypt, played a major part. From the start, there were plans to send Khaldūniyya students to other centres of learning in the Islamic East, with the Cairo mosque-university of al-Azhar being high on the list. This is hardly surprising in view of the long-standing links between the Tunisian reformers and Muhammad ʿAbduh, which were consolidated during the latter's visit in September (9–24) 1903, which was part of a grand 'promo-cum-lecture' tour which had also taken him to Algeria (27 August–6 September).⁸² While in Tunis, he stayed with Khalīl Būḥājib, and visited the Khaldūniyya several times. In addition, he had many private conversations with its members. The highlight of ʿAbduh's stay was a public speech at the Society (20 September), in which he used Qur. XCVI (the *sūra* of al-Qadr) to stress the need for Muslims to acquire both secular and religious knowledge.

ʿAbduh was very impressed with the service the Khaldūniyya offered to Zaytūna students, stating that al-Azhar should emulate the Zaytūna's example. Although ʿAbduh's second visit did not have the same direct impact as the first, it provided further impetus to the budding Tunisian reform movement, with many of his views resounding in the speeches by Tunisians at the 1908 North Africa Conference (Congrès du Nord de l'Afrique) in Paris.

It is in the same context that the topic of women also emerged. To be sure, Ibn al-Khūja on more than one occasion promoted the position of women.⁸³ However, this was very much within the already-mentioned traditionalist approach. Far more revolutionary were the author's comments in an article that appeared in French in the scholarly journal *Revue Tunisienne* under the title *La femme arabe et l'instruction* (1896), in which he made a convincing case for girls' education and took a decidedly European, even 'Ferryesque', stance. In fact, this French-language article is the only document in which Ibn al-Khūja takes an openly reformist standpoint. After referring to the Prophet's views on equal education, and pointing out that if a woman is to be able to take care of her children, she has to leave '*des limbes de son ignorance et s'asseoir sur les bancs de l'école*', he stated that

Over the past four centuries, the progressive movement, far from following its usual course, has received such a shock from the political events of the

period that the Muslim peoples lost sight of all notions of progress and considered women's education an attack on virtue. Fortunately, this abnormal situation has, thanks to the action of European civilization introduced in the East, been replaced by a rebirth of sorts, which led people towards a more sound appreciation of the benefits of education.

(pp. 270–271)

These views would appear almost verbatim some twelve years later (by which time a Muslim girls' school had been set up in Tunis), in the paper read by al-Šādiq al-Zimrī (Sadok Zmerli) at the 1908 North Africa Conference:

The Koran imposes on Muslim women the same religious duties as those of men and for this purpose it has implicitly recommended that they should be educated (. . .). The young Turkish or Egyptian girls of today are proof of this. Thanks to the wise design of school curricula, which make sure that the young girls' education is above all else Muslim, Turkey and Egypt currently count a large number of female authors. In Tunisia, it has only been seven years that our young girls have been going to school (. . .). However, this school is not suitable for Tunisians; the organizers omitted to give pride of place to the teaching of Arabic. Indeed, while Tunisians believe that Muslim girls must be educated, they are in favour of a modern primary education taught in Arabic and patterned on the Turkish and Egyptian curricula.⁸⁴

In 1905–1906, cultural reformism had to make way for political reformism with the emergence of a nationalist movement and calls to the French colonial authorities for *Liberté, Égalité, Fraternité* for Tunisians.⁸⁵ This group rejected the earlier reform movement ideals, and were inspired by the events taking place in Constantinople, where another group of angry young men, the Young Turks, were fighting for liberal reforms and whose first victory was the reintroduction in June 1908 of the Constitution of 1876.⁸⁶ The Tunisian nationalists, who became known as the Young Tunisians (*Jeunes Tunisiens*),⁸⁷ organized themselves politically, forming the Young Tunisian Party (*al-ḥizb al-Tūnisī*), which in 1920 became the *Parti Libéral Constitutionnel Tunisien* (*al-ḥizb al-ḥurr al-dustūrī al-Tūnisī*), more commonly known, simply, as *Destour*.⁸⁸

In the early twentieth century, the women's issue became inextricably bound up with the nationalist movement, which was also the case for the present author, al-Tāhir al-Ḥaddād, to whom we turn next.

al-Tāhir al-Ḥaddād: a reformer's life⁸⁹

Al-Tāhir al-Ḥaddād was born in the old medina of Tunis, in the street which currently bears his name (*rue Haddad*), but which was then known as the *Rue d'Arles* (*naḥj Ārl*), in 1899,⁹⁰ ominously the year in which Qāsim Amīn published his 'Liberation of Woman'. The family originally hailed from El Hama (*al-Ḥāma*), a small town to the east of the governorate capital of Gabès (*Qābis*).⁹¹

Al-Ḥaddād's father was a menial worker in the Tunis souk before starting work in the poultry shop that belonged to his brother when the latter died while performing the pilgrimage in Mecca (*hajj*). It was in this shop that the young al-Ṭāhir got his first taste of work, an experience which seemingly left a lasting impression on him as he would later rail against child labour and its iniquitous effects on both the children themselves and society as a whole. Al-Ṭāhir received his primary school education at one of the *kuttābs* (Qur'ānic schools) of the capital where he was taught basic reading and writing skills as well as learning the Holy Book by heart, which would later on put him in good stead during his studies at the Zaytūna mosque. The young al-Ṭāhir worshipped his father, as witnessed by the moving eulogy he wrote upon the latter's death in 1919, which is redolent of that written by his contemporary, the poet Abū 'l-Qāsim al-Shābbī.⁹²

Meanwhile, Tunisia was going through a period of momentous change, as the burgeoning nationalist movement began to move to the fore.⁹³ It is commonly accepted that the first manifestation of this was the inaugural address of 24 March 1906 by the then president of the Religious Endowments Agency (*Jam'iyyat al-Awqāf*), B. Şfar, on the occasion of the opening of a new *Tékia* (*tākiya*) as a home for the elderly.⁹⁴ In his speech, Şfar made two moderate comments

The decline (*décadence*) in local commerce and industry, the lack of encouragement for local workers in public and private enterprise, the alienation of the land, as well as other causes, have plunged many of our compatriots into deep misery.

And although he subsequently thanked the French authorities for the 'improvements and reforms' they had introduced, he went on to say that Tunisia's population

would be far more vibrant if our Government were to seriously examine ways in which to prevent social misery, [through] vocational, commercial and agricultural training for the natives (*indigènes*); by providing actual protection of the Tunisian workforce; supporting local industries through customs and other measures; and, finally, preserving local property.

The griefs centred on a number of points: the increasing power of the colonists; the arrival of Alapetite as the new Resident-General, with a resultant emphasis on increased French immigration; the acquisition of *awqāf* land by the colonists; and, last but not least, the extension of French nationality to Tunisian Jews.

When Şfar was appointed governor of Sousse, he was replaced by two fellow reformists at the head of the Young Tunisian movement: al-Tha'ālībī (1874–1944) and 'Alī Bāsh Ḥanba. A year before, the latter had founded Tunisia's first nationalist newspaper, *Le Tunisien*,⁹⁵ which two years later started appearing in Arabic as *al-Tūnisī*. The two new leaders were heavily influenced by the Young Turk movement in Turkey in the same period, and would change the direction and emphases of the movement.

Al-Ḥaddād entered the Zaytūna in 1911, the year in which there were violent clashes between Tunisians and the French occupiers, which augured things to come. When the government announced plans to extend a stone quarry onto the Jellaz (al-Jallāz) cemetery, the local population was outraged and demonstrations followed which eventually led to casualties on both sides, though the number of Muslim deaths has never been revealed. While the Young Tunisians still thought salvation lay in Franco–Tunisian cooperation, another incident occurred the next year, which revealed more than ever that the movement was essentially that of a number of privileged intellectuals and that it was completely out of step with the realities on the ground. The incident has become known as the ‘tramway troubles’. In 1912 a Muslim child was hit by a tram, and died. Muslim workers used this incident to address an old grievance, namely that of the Italian domination of the service. A strike was called, and the Tunisian Muslims demanded equal pay and conditions with the Europeans who worked on the trams. The leaders of the Young Tunisians joined the strike, but the Protectorate authorities violently quelled the ensuing riots, whereas al-Thaʿālībī and ʿAlī Bāsh Ḥanba (together with others) were expelled from Tunisia in March of that year (though an amnesty would be granted the next year).

After spending nine years at the Zaytūna, al-Ḥaddād obtained his *taṭwīʿ* certificate (*shahāda*), which enabled him to work as a notary public.⁹⁶ Instead, however, he chose to start working as an accountant for one of the leading merchants in the souk, and later on as secretary at the Muslim Benevolent Society. Naturally, his training as an ʿālim put him in good stead in his later work, whereas his time at the Zaytūna gave him first-hand experience of traditional education and the ways in which it should be amended in order to meet the ever-changing needs of a modern society. In his treatise on reforming the institution,⁹⁷ he refers to the purpose of education being ‘the spread of a scientific spirit’, the ‘encouragement of an intellectual movement’ in ‘respect of freedom of thought’, which he contrasted with the reality at the Great Mosque, which was mired in conservatism and traditionalism. These were revolutionary ideas, and it is little wonder that the author decided against publishing the book.

Together with an interest in workers’ and women’s rights, education would remain a constant in al-Ḥaddād’s thought and writings. It was also at the Zaytūna that he came in contact with the leading scholars of the day, some of whom would reappear in his later work, as is the case for ʿUthmān Ibn al-Khūja, who is one of the ʿulamāʾ questioned on certain women-related issues in the present book.

Still in 1920, he enrolled as a law student but abandoned his studies at the end of the first year due to his continued involvement in political activism (though he would eventually graduate in 1930).⁹⁸ Though al-Ḥaddād had been politically conscious for a long time and, as his writings reveal, clearly had sympathy for and an affinity with the ‘Young Tunisian’ movement, his political partisanship began with its avatar, the newly founded *Destour* party (by al-Thaʿālībī), of which he became an active member since the start. Al-Ḥaddād took his propaganda task seriously and from 1921 onwards began publishing articles in a wide variety of opposition newspapers such as *Ifriqiya* (‘Africa’), *al-Ṣawāb* (‘The Right Way’),

Lisān al-Shaʿb ('The Language of the People'), *Murshid al-Umma* ('The Nation's Guide'), *al-Umma* ('The Nation') and *al-Zamān* ('The Times'). The topics of the articles show al-Ḥaddād's commitment to the Cause, with one of his earliest articles provocatively entitled *Ilā al-Nahḍa! Ilā al-Nahḍa!* ('Get Up! Stand Up!').⁹⁹

Unlike the 'evolutionists' al-Ḥaddād was a man of the people whose modest background remained, by all accounts, a driving force in his thought and desire for reformism. However, his reformism was not that of the drawing room; it was firmly rooted in reality, such as the workers' conditions in Tunisia. Al-Ḥaddād joined forces with another son of his native village of El Hama, Muḥammad ʿAlī al-Ḥammī (1894–1928), and both men stood at the cradle of the Tunisian worker's Union, the *Jāmiʿat ʿumūm al-ʿamala al-Tūnisiyya* (*Confédération Générale Tunisienne des Travailleurs*, CGTT) in 1924, which was, in fact, the successor to another organization, founded by al-Ḥammī, namely the *Jamʿiyyat al-Taʿāwun al-Iqtisādī al-Tūnisī* ('The Tunisian Economic Cooperation Society'). The Protectorate Government was not impressed and in 1925, they acted peremptorily by the arrest of the leaders and their subsequent exile in November of that year. Two years later, al-Ḥaddād chronicled the events leading up to the creation of the CGTT and its vicissitudes in a book entitled *al-ʿUmmāl al-Tūnisiyyūn wa zuḥūr al-ḥaraka al-niqābiyya* ('Tunisian Workers and the Emergence of the Trade Union Movement').¹⁰⁰ This work paints the miserable conditions of the Tunisian working classes, the exploitation of the country by foreigners and union action during the dockers' strikes of 1924 (Tunis and Bizerte), as well as providing a detailed account of the way in which the movement came to an abrupt and violent end. As a historical document, the book remains invaluable. Naturally, the authorities realized the potential of the book and were quick to ban it.

Shortly after the publication of *al-ʿUmmāl al-Tūnisiyyūn*, al-Ḥaddād published his first articles on the situation of Muslim women,¹⁰¹ which would eventually find their way into the book for which he is best known, that is, *Imraʾunā fī 'l-sharʿa wa 'l-mujtamaʿ* ('Our woman in the *Sharʿa* and in society') which appeared in 1930 amidst a great deal of furore.¹⁰²

The book was launched to great pomp and circumstance at the Belvédère Casino on 17 October 1930, in the presence of the cultural elite of the country and its leading literati, with a 24-page booklet appearing afterwards to mark the event. It almost immediately elicited vehement responses and refutations, mainly by the religious establishment, outraged at what they perceived to be a betrayal by one of their own.¹⁰³ No fewer than five rebuttals were published the year after al-Ḥaddād's book, with the titles leaving little to the imagination in terms of their authors' position: *al-Ḥidād ʿalā imraʾa aw radd al-khaṭaʾ wa 'l-fikr wa 'l-bidaʿ allatī hawāhā kitāb 'Imraʾunā fī 'l-sharʿa wa 'l-mujtamaʿ* ('Mourning women, or a response to the error, thought and heresy comprised in the book "Our woman in the *Sharʿa* and Society"') by Muḥammad al-Ṣāliḥ b. Murād,¹⁰⁴ *Sayf al-ḥaqq ʿalā man la yarā al-ḥaqq* ('The sword of truth against he who does not see the truth') by ʿUmar b. Ibrāhīm al-Barrī al-Madanī,¹⁰⁵ *al-Lubāb fī ithbāt al-ḥijāb bi*

'*l-sunna wa 'l-kitāb* ('The essence in the confirmation of the veil in the *sunna* and the Holy Book') by Muḥammad al-Madanī al-Quṣaybī al-Madyūnī;¹⁰⁶ *Shumūl al-ahkām al-shar'īyya li awwal al-umma wa akhīrīhā* ('Collection of the *Shar'ā* judgements for the first *umma* and the last one') by Muḥammad al-Bashīr al-Nayfar;¹⁰⁷ and *Rūḥ al-Islām wa naqd ārā' al-mulḥidīn* ('The spirit of Islam and a critique of the heretics' views') by Muḥammad al-Shāfi'ī b. Muḥammad al-Naftī.¹⁰⁸ All of them accused al-Ḥaddād of unreligiousness, taking issue especially with regard to his negative comments about the veil and other Islamic precepts, which they felt were unassailable. In true '*ulamā*' style, they countered al-Ḥaddād's arguments with a barrage of *ḥadīths*.

It is interesting to note that darker issues came into play as well, with the '*ulamā*' settling another score with al-Ḥaddād, who had placed the blame for the defeat of the Tunisian workers' union squarely at their door, whereas their religion-based indignation also served to deflect popular disapproval of the cowardly way they had reacted to the Eucharistic Congress.¹⁰⁹ In 1930, the Catholic Church in Tunisia organized the *Congrès Eucharistique de Carthage*, which took on the shape of a Crusade in Tunisia, with over 12,000 participants, dressed in white cloaks marked with black crosses, marching over several kilometres and ending at the tomb of Saint-Louis in Carthage. Unbelievably, the Tunisian establishment, including the Bey and the Zaytūna faculty appeared to be guests of honour at an event, which, in view of the spirit of the times, was perceived by the population at large as a provocation and humiliation.

On the other side of the divide, there were, of course, a number of supporters, among whom we find a young Habib Bourguiba, the future President of the country, whose revolutionary Code of Personal Status, introduced at Independence, awarded thitherto unknown rights to women (abolishing, for instance, polygamy) and was clearly influenced by al-Ḥaddād's views on women and their emancipation as a force for societal progress and prosperity.¹¹⁰

Another supporter was 'Izz al-Dīn Bilḥājj, who in his book *al-Jins al-Laṭīf* ('The Fair Sex'), which was published in 1936,¹¹¹ praised al-Ḥaddād for 'his sincerity and sacrifice'.¹¹² He took al-Ḥaddād's detractors to task for not realizing the advantages to woman being a partner in the husband's life, and accusing opponents of wanting to keep her 'ignorant, coarse and filled with disappointment'.¹¹³ In addition, Bilḥājj added his own penny's worth to the discussion, with proposals that took some of al-Ḥaddād's views to their logical conclusion, recommending for instance the abolition of polygamy, condemning divorce unless pronounced by a court, the prohibition of marrying underage girls and the elimination of the father's right to choose his daughter's future husband. Bilḥājj was no armchair reformist, though, as the book includes some speeches he gave in schools on the subject of women's education and on the problems that may occur in marriage.¹¹⁴

Al-Ḥaddād, himself, was quite taken aback by the reactions, and published a number of articles defending himself against the vicious attacks to which he was being subjected.¹¹⁵ Things very quickly turned very nasty; the book was outlawed

by the Zaytūna establishment, while its author was publicly vilified as a heretic, and dismissed from his post at the Benevolent Society.

The remaining four years of his life were spent in total isolation, and depression combined with poor health drove him to an early grave on 7 December 1935. He was only thirty-six years old.

Though he no longer published anything in the last years of his life, al-Ḥaddād continued to write and never lost his commitment or belief in the cause he had fought for so bravely, as is clear from his *Khawāṭir* ('Thoughts')¹¹⁶ and his poems, some of which movingly describe his state of mind in those final dark years.¹¹⁷

The irony of history is such that for many years, this reformist, whose views would help shape independent Tunisia slipped into obscurity for a number of decades, to the extent that in an article published in 1961, and aptly entitled *al-Ṭāhir al-Ḥaddād, al-ta'rif bi-rā'id maghbūn* ('al-Ṭāhir al-Ḥaddād: a wronged leader'), Mongi Chemli bitterly complained of the fact that throughout his training at the Ṣādiqī college and at the University of Tunis, he had never heard the name of al-Ḥaddād.

Fortunately, things have come a long way since then, with the foundation in December 1974 of the *Club Tahar Haddad*,¹¹⁸ housed in one of the magnificent houses of the Tunis medina, the nineteenth-century Dar Lasram (Rue du Tribunal). The Centre is located in the so-called *makhzen* of the house, that is, the former stables and goods store on the ground floor (whereas the living quarters were situated on the first floor, as was the case in all traditional urban dwellings). Today, the *Club Tahar Haddad* is a vibrant cultural centre, which has its own library and organizes exhibitions, lectures, as well as being the venue of theatrical, film and music performances.

In addition to naming a Centre and a street after its famous son, the centenary celebrations commemorating his birth were marked by the official issue of a 500-milime stamp bearing his picture (on 13 August 1999).

However, the most lasting proof of al-Ṭāhir al-Ḥaddād's influence is the progress made by women in modern Tunisia, which has the highest number of women participating in public life of any Arab or Muslim country (indeed higher in some areas than in a number of European countries).

'Our woman in the *Sharī'a* and in Society'

The book is divided into two parts, each subdivided into chapters. The first part deals with the position of woman according to Islamic law. At the centre of al-Ḥaddād's thought is the principle that the various religious texts and rulings can, and must be interpreted differently from the way scholars have explained them. In so doing, al-Ḥaddād debunks a number of what he holds to be misconceptions in such areas as the veil, polygamy, marriage, divorce and inheritance. He stresses the dynamic nature of Islam and its ability to adapt to changing conditions. He corroborates this claim through a discussion of the gradualist approach of Islam with traditions from pre-Islamic times being gradually eliminated, and replaced

by others, which is supported by the principle of abrogation of Qur'ānic verses by the Prophet. Al-Ḥaddād rightly underscores the point that the interpretations of the classical Islamic scholars were inextricably linked with the traditions and conditions of their time, which do not correspond to those of the present. In the case of woman, this means that her status woman should reflect the changes in the socio-historical environment.

Though al-Ḥaddād was, like the people he berated, a child of his time, his true daring lies in speaking out against what were held to be inviolable truths because they were endorsed by religious practice. In this sense, he went further than Qāsim Amīn, in that the latter, as we have seen, was very careful not to stray beyond certain limits. Al-Ḥaddād did not see any bones in likening the *ḥijāb* to a muzzle and referring to it as a practice rooted in tradition, rather than in Islam. The basic premise, and one which has since then often emerged, is that Islam is completely innocent of the accusations that it is an obstacle to woman's progress and emancipation; rather, it has given woman the dignity and freedom that she ought to have. Unlike many others, al-Ḥaddād actually took this to its logical corollary, which is that if precepts are based on the misinterpretation of Islam, then it is high time to change things.

Naturally, he was not immune from the problem besetting other reformers in this field, that is, how to square this view with clear Qur'ānic injunctions which do not involve interpretation. A good example is polygamy. It is here that al-Ḥaddād's originality of thought comes to the fore. He argues that it is a heinous legacy of the pre-Islamic era and that if it had been subject to the gradualistic approach, it would have been challenged by Islam, and eventually abolished.

In the second part, the author deals with the position and conditions of Muslim women in the Tunisia of his day, focusing on the role of woman in marriage and the importance of education. As we have already pointed out, education was central to al-Ḥaddād's thought. The reasoning is as simple as it is convincing. He states that the West is advanced because it sets store by women's education and allows them to take part in society on an equal footing with men in every aspect, both in public and private life. Again, he went much further than Qāsim Amīn, who also talked about the need to educate woman, but only to primary school level and then only to what she actually needed in the home. Al-Ḥaddād, for his part, stresses the need for full equality, which means liberating women from the homes to which men confine them out of ignorance and misplaced jealousy, and educating them so that they can pass these values on to the next generation and thus help build the nation, rather than holding it back by clinging to outdated and iniquitous traditions. It is because of all of this that Al-Ḥaddād rightly deserves the credit of being the first Arab (Muslim) feminist of the twentieth century.

Translation

Introduction

Woman is the mother of all mankind; she carries the child inside her and in her arms. It is from her that he gets the character that will manifest itself later on in life. She suckles the child at her breast, nourishing him with her blood and soul. She is a faithful companion and a wife¹¹⁹ who fills a gap, and takes away her husband's loneliness. She sacrifices her health and comfort to satisfy her husband's needs, helps him overcome obstacles and showers him with love to ease all hardships and sorrows. She infuses him with life and rejuvenates him. She makes up half the human race and half the nation, fully contributing to all aspects of human activity. If we despise woman and ignore her humiliation and degradation, we are in fact showing contempt for ourselves and are satisfied with our own humiliation and degradation. However, if we love and respect her, and endeavour to help her achieve her full potential, this is a demonstration of love and respect for ourselves in our quest to fulfil our own potential.

We are accustomed to viewing women as being separate from men, as though they do not play a role in shaping man's character and life, or, more specifically, their social development and failures. In doing so, the bitterness of disappointment is seeping into all aspects of our lives. Unless we identify the underlying causes of this growing failure, we will be unable to eliminate them.

Woman is viewed in two different ways in society today: there are those who support her and those who oppose her. However, in the West they look at things differently than in the East.¹²⁰ Indeed, the differences are as great as those between their women and ours. In Europe, they attach a great deal of importance to the upbringing and education of women, and the sexes work together so that women can perform their tasks in the home as well as raising the children. As women enjoy civic freedom they are able to fully develop their talents, both materially and morally, for the good of the family and society as a whole so that they can fully participate in life's pleasures. Both women, themselves, and European society as a whole have benefited from their activities. European women are different in that they have progressed equally alongside men. They have an equal share in the nation's economic output and governance. They share all burdens with men and are their equal in everything. This has become an increasingly powerful trend among Western women. Opponents argue that this means women are neglecting their traditional role as housewives, child bearers

and educators. They believe that a woman's involvement in public affairs will undermine her efforts at home since she will have no time left for anything. Furthermore, opponents argue that women competing with men in the job market has contributed to an increase in unemployment in various countries across Europe, even though in their view a woman is not capable of doing men's work, or at least not as well as they do. Supporters of women, on the other hand, regard their activities during and after the Great War as clear evidence of future achievements. Success on the part of women should be regarded as a success for the nation and as adding strength to its thriving productivity both economically and morally. This constitutes a clear benefit as long as it does not affect the children. Indeed, if the fact that a woman works outside the home affects the upbringing of children, which is a specifically female task, we should establish more nurseries in order to alleviate women's domestic responsibilities until they are eventually removed. European countries have heeded this and have enabled women to become Members of Parliament and take up leading public office.

Conversely, in the East our women continue to live behind a veil.¹²¹ Those among us who support women's emancipation realize that education and instruction in the sciences of life is the only factor that can improve their lives. It will help them accomplish their duty in the home and towards the family, and enable them to give birth to children who will grow up to have jobs that make their country proud and allow them to achieve success in life. The proponents also consider that it is a woman's natural and lawful right to use her civil freedom in a way that directly benefits her and, like men, to seize the opportunities that life has to offer. The opponents of women, on the other hand, regard this amount of freedom as exceeding the bounds of isolation that is necessary to prevent temptation¹²² and inhibit intimacy with men. They also hold that in order to live and do their duty, women only need a small amount of knowledge, restricted to the family domain, which does not require the establishment of various scientific institutes. The advancement of the nation does not depend on man being forced to grant women social freedom. In support of this, they cite as evidence the rise of Arab civilization¹²³ which depended merely on men's efforts.

This is our attitude towards woman in the East, and our view on her advancement. In Tunisia, we have failed, more than any other Eastern country, to raise the status of women in any way. While some of us at least talk about this, the majority of the people are completely indifferent to it. Some influential people among them believe, however, that we can advance ourselves as a society without woman, as was the case in Arab civilization in the past. If we look at the position of woman beside Arab-Muslim men when they were conquering kingdoms, we can see that it was women who filled men with the spirit of greatness that was the driving force behind the success of that civilization. Some people believe that this was the secret of success, rather than the knowledge of religious sciences and literary genres, such as poetry and prose. However, women would have had a greater impact on this civilization if they had been more educated, cultured and had enjoyed more freedom. Perhaps this spirit of the past still exists among us men. While women advance in their honourable tasks, in order to save their country

and defend it, they instil both life and courage in us men. Yet, we persist in foolishly looking backwards while we see other nations advancing and being granted victory in life.

If we examined the origin of our tendency to deny progress to women, we would see that this is primarily due to the fact that we regard them as an object to satisfy our desires. While we may choose to exaggerate in denying women's rights or ignore the overall good that we will all gain through their progress, the trend of progress is marching on forcefully, and neither we, nor women can stop it. Women are proceeding along this path, without guidance, which increases the deep-rooted and complicated sense of chaos. We ought to abandon this futile stubbornness and instead work together to salvage our lives by establishing comprehensive grounds for the advancement of women which, in turn, ensures the advancement of society as a whole. In so doing, we will purify the water of life before it becomes putrid, and destroys life.

The French authorities here in Tunisia have, for some time now, been investing in Tunisian women's progress, in accordance with a policy based on setting up educational programmes for Muslim girls in primary schools specifically for them. The government also seizes every opportunity to pave the way towards enhancing the development of Muslim women. How can we then remain silent, bewildered and resentful in this sweeping current? Are we waiting to be swept down the drain?

It is essential to introduce social reform in all aspects of life, and it is particularly indispensable when it is related to our own existence. I, without a doubt, do not consider Islam as an obstacle in the way of progress. In fact, Islam is completely innocent of the accusations levelled against it as being a factor in delaying reform. Nothing could be further from the truth inasmuch as Islam is the endless source and strength of this reform. It is the fantasies of our own beliefs that are the cause of our destruction, in addition to dangerous and abominable customs that have stiffened our necks against change. This is what has made me write this book on women in the *sharʿa* and society, to show who is right, and who has gone astray. In doing so, I hope I have discharged a duty which I owe first to all men and second to my nation.

al-Ṭāhir al-Ḥaddād
Tunis, 10 December 1929

Part 1

The law

1 Woman in Islam

Preface

It is most important to talk briefly about Islam and its legislative guiding principles before examining its view on the position of woman in society, so as to clarify its standpoint in this regard and to enhance the usefulness and truthfulness of the discussion of the topic.

Islam was a new doctrine in the life of Muslims in general, and Arabs in particular. We are most interested here in the changes it brought about with regard to woman, both in the confirmation of her civil rights and social position, and in the recognition of her role as a companion to man.

Arabs did not have a written *Sharīʿa*¹²⁴ to resort to; they were not used to an ordered structure or to following a set of rules except their own inner disposition, principles, manners and habits passed down through the generations, which became irrefutable values. These values were judged before a council of elders, whereas often conflicts were resolved through the sword and spear. Then came Islam with a whole new set of rules, laws and moral principles which ran counter to the ways by which previous generations used to live. Their original beliefs were sacrosanct to them and they used to consider them a source of Arab glory and of their pride in its history, which accounted for the fanaticism during the pre-Islamic period.¹²⁵ Up until then, no other movement or set of ideas had defended woman's rights on the basis that she is a cornerstone of society and the other half of man. This was one of the most critical and difficult issues facing Islam.

Islam was not merely a religion of worship and prayer, divorced from the activities of human beings and what they did in life as we are led to believe from spurious texts by Sufi scholars. The purpose of prayer and worship is not to purify the soul and save man from the power of evil.

Islam was not just a guide for the future which was discarded by the then generation because of its frankness in its objectives to combat all the familiar customs. As such it did not have to wait for subsequent generations to accept that the Qur'ān really is the book of eternal life and a useful contribution, just like the works of ancient philosophers and contemporary schools of social thought. Islam wanted to be effectual in its day and effective in its influence on the souls and the state it established. The verses of the Qur'ān were revealed progressively,

in response to various events as they arose. It did not create events in order to provide judgements on them. The Qur'ān is not classified into chapters according to its judgements on particular topics as was customary in other theoretical works and books. Its *Sharī'a* was the result of various developments and events in people's lives and its chapters were not put together beforehand to make people accept them. This is one of the most important reasons for its astonishing appeal in recent times.

Life is long and rich with stages that are characterized by specific features that give it significance. Approximately twenty years in the life of the Prophet (Peace Be Upon Him) were sufficient to establish Islam, but it required the abrogation of texts and rulings, taking into account this eternal law. On examining the course of Islam, everlasting through successive generations and centuries, how can we stand still, and not make any effort to adapt to the changes of time?

More precisely, what I am trying to say here is that we should take into consideration the great difference between what Islam brought and its aims, which will remain immortal in eternity, such as a belief in monotheism, moral behaviour, and the establishment of justice, dignity and equality among people. Furthermore, we have to consider the social situation and the deep-rooted mindset that existed in Arab society in the pre-Islamic era when Islam first emerged. The prescriptions for confirming or amending previous customs remained in force as long as these practices existed. Their disappearance, however, did not harm Islam as practices such as slavery,¹²⁶ polygamy, etc. cannot be considered inherent in Islam.

In order to understand better what is part of the essence of Islam and what is not, we should ask ourselves the following question: 'Did Islam come for a particular reason?' We could ask for example, whether Islam came in order to purify the souls of criminals and cleanse them from evil and criminal propensities, or whether it came to inflict punishment¹²⁷ on them for their actions and make an example of them? Did Islam come to bring about equality between the believers of God, irrespective of the deeds they have committed? Did it come to make woman, because of her femininity, inferior in life to man by virtue of his masculinity? Or did Islam come to make marriage a source of happiness in the family and the cornerstone of the nation's progress, or to allow man complete control over divorce, which is now exposed to all manner of abuse?

The answers to these questions are clear even to those who examine Islam at a superficial level, and so we are able to look for the real Islam, distinguishing it from marginal elements that obfuscate the issue and, thus, prevent any misunderstanding on our part.

The essence and objectives of most divine laws are governed by two main principles: the moral conduct of people and their general needs in everyday life. They support them and provide a balance between the two so that they do not pull against each other in life. However, divine laws are more inclined to favour moral conduct and make them more dominant over human needs. Therefore, our Prophet Muḥammad (Peace Be Upon Him) explained this in his great wisdom when he said: 'I was sent to complete the noblest of morals'.¹²⁸

However, these 'good' eternal beliefs generally constrain the inclinations of human beings and their weaknesses, which manifest themselves in their upbringing and in legislation. They become gradually clearer to a person as he reaches maturity. This is exactly the road followed by Islam, as it is known to follow a gradual wisdom in the formulation of its legislation. A case in point of this wise strategy is the subject of woman. Islam took her out of the dark pre-Islamic days into the light of truth and freedom, and thus conquered previous beliefs embedded in the Arab psyche as people were embraced by the faith. It was left to the scholars and men in society to enlighten people through the same spirit that rescued woman from the dark pre-Islamic times. And so, we can now commence our discussion of the topic.

Consideration of woman as an individual

Islam opposed the negative feelings and hatred Arabs harboured towards girls. The Prophet (Peace Be Upon Him) said in praise of girls: 'I am the father of girls'.¹²⁹ From the outset, Islam legislated against female infanticide,¹³⁰ that heinous practice in pre-Islamic times, when baby girls were buried alive soon after birth. Islam thus eradicated one of the great injustices to which they were subjected. On this subject, the Qur'ān states:

And when any of them is given the good tidings of a girl, his face is darkened and he chokes inwardly, as he shall preserve it in humiliation, or trample it into the dust. Ah evil is that they judge.¹³¹

In another verse it speaks out against the hideousness, atrocity and terror of this practice and likens it to the end of the universe:

When the sun shall be darkened, when the stars shall be thrown down, when the mountains shall be moving, when the pregnant camels shall be neglected, when the savage beasts shall be mustered, when the seas shall be set boiling, when the souls shall be coupled, when the buried infant shall be asked for what sin she was slain, when the scrolls shall be unrolled, when heaven shall be stripped off, when Hell shall be set blazing, when Paradise shall be brought nigh, then shall a soul know what it had produced.¹³²

Islam treated both man and woman alike; they were both subject to the same duties and responsibilities. The Prophet had frequent meetings with women to explain the message of Islam, and their duties. At the same time, he showed them great respect and esteem they had never previously encountered from other men, which raised their spirits and endeared them to Islam. The noble Prophet (Peace Be Upon Him) did not feel that his repeated meetings with women were a waste of his time as men in pre-Islamic times had believed and as some still do today. He wanted to enlighten their minds with knowledge and wisdom, so as to prepare them to exercise the rights they received from Islam. The Prophet (Peace Be Upon Him)

is reported as saying in the book entitled *Iḥyā' 'Ulūm al-Dīn* ('The Revival of Religious Sciences') by Abū Ḥāmid al-Ghazālī¹³³ in the chapter on marriage: 'He who has a daughter and who educates and feeds her properly shall be spared the fires of hell and be taken to paradise'.¹³⁴ The attention shown to woman by Islam is manifest in the Qur'ān where there is a whole *sūra* (chapter) devoted to her that is entitled 'Women' (*al-Nisā*),¹³⁵ whereas she is mentioned in various other verses and *sūras* that discuss her rights and guide us in what we must do in consideration of woman and to confirm her rights.

Woman's civil rights: testimony and justice

The respect given to woman did not stop at her as a person; rather, it was to prepare her to exercise the rights granted to her by Islam. While in pre-Islamic times woman was dissuaded by her family, and even her husband, from discussing non-essential matters, she was given a voice by Islam and was allowed to testify in tribunals against both men and women in all kinds of trials. The Qur'ān refers to the testimony of woman as follows:

And call in to witness two witnesses, men; or if the two be not men, then one man and two women, such witnesses as you approve of, that if one of the two women errs the other will remind her.¹³⁶

Women had never had this right, and were not accustomed to standing beside men to testify in a justice system, whose power and prestige had been increased by Islam. The fact that woman lagged behind man in all aspects of life made her less proficient in intellectual and mathematical tasks, especially since at that time she did not get her share of education and culture to prepare her for that. Islam took this weakness into account when it decided that a woman's testimony is worth half that of a man. This was justified in the Qur'ān as follows: 'If one of the two women errs the other will remind her'.¹³⁷ It did not justify it on the basis of a deficiency in her character as opponents to her emancipation are wont to claim. If the issue was not related to a matter of deadline, such as debts, but had to do with something that could be witnessed by sight or hearing, would we accuse woman here of having less developed senses than those of a man, or would we try and justify this on the grounds of a deficiency in her character? This is not why the Qur'ān justified the lessening of a woman's testimony.

This assertion – if true – is even stranger in view of the fact that according to the jurisprudence of the four orthodox Islamic law schools¹³⁸ a woman is allowed to act as a judge to rule on differences between people in a role similar to that of a man. Abū-Ḥanīfa al-Nu'mān,¹³⁹ who was a contemporary of some of the Prophet's Companions,¹⁴⁰ confirmed that this is acceptable in Islam. It is doubtful that imams and important figures in early Islam would have formulated such independent legal judgements if these were contrary to the essence and basic principles of the religion. So, do we deduce from this that Islam underestimates the value of a woman if she acts as a witness in front of the justice system,

and at the same time elevates her by conferring upon her the responsibilities of a judge?

Islam truly is a religion that is rooted in reality and evolves as it changes over time; herein lies the secret of its immortality. Nowhere in the Qur'ān can one find any reference to an activity – no matter how elevated it may be – whether in government or society, that is forbidden to woman. This shows that these matters are not part of the essence of Islam; otherwise, they would have been extensively treated in the Qur'ān.

It has been reported by some *Ḥadīth* scholars that the Prophet (Peace Be Upon Him) said something along the lines: 'Women are lacking in intellect and religious devotion'.¹⁴¹ However, despite what has been said to trace this *Ḥadīth* to the Prophet and regarding its assumed validity, it is not known whether it was meant to reflect on the essential nature of woman – for which there is no evidence in the *Ḥadīth* – or whether it is a reference to the condition of woman at that time and an explanation for some of her faults. We cannot provide explanations to various sayings of the Prophet based solely on the meaning conveyed by the words used without knowing the exact context in which they were uttered and the reasons behind them. Arabs at the time did not need to be reminded of the weaknesses and flaws of woman as they had discriminated against her for centuries during which she had experienced the worst of conditions. On close examination, we can see that Islam has made tremendous efforts to change this attitude towards women in order to enable them to exercise the rights they had been devoid of during pre-Islamic times. Hence, it is simply inconceivable that Islam should award women all these rights without granting them full respect and curbing the discrimination to which they had been subject previously.

Managing her affairs

In addition to offering woman civil rights, Islam has also offered her a civil identity and the personal right of ownership, whether by way of inheritance or through work, just like for men, as explained in the following verse: 'To the man a share from what they have earned, and to the women a share from what they have earned'.¹⁴² The assets acquired by a woman are no longer an integral part of her father's or her husband's estate as was the case in pre-Islamic times when she was considered merely a bonded servant. Islam validated all transactions undertaken by women and offered them full rights to buy and sell goods and other services once they reached legal maturity (two or three years after marriage), although certain law schools limited women's rights in exchanges and gifts up to one-third of their wealth on account of their emotional weakness which could harm their personal interests. A woman may act as executor to minors' estates and legacies either by testament or by proxy. It is not conceivable that Islam could give woman all these rights, which are supported by most of its legal scholars, and at the same time regard her naturally inadequate to use these rights to act in her own interests and in those whom she represents. One can imagine, therefore, the

impact Islam expected these rights would have on her intellect and state of mind when she would fully take responsibility for her actions.

As for the Tunisian Civil Law, it has given woman full and unrestricted freedom once she reaches legal maturity, after two years of marriage. Article 7 of the Code of Obligations and Contracts¹⁴³ states: 'Every male over the age of eighteen is considered to reach majority in compliance with this law. As for a woman, she will remain under guardianship for the first two years of marriage.' This is in contrast to French law, which considers that when a woman marries, her husband becomes her guardian.

Woman advanced gradually in the early period of Islam and exercised the rights she was granted. She benefited from them as much as she was able to and as was allowed by the general circumstances at the time. We could contrast this with the opinions of those who want to isolate woman and segregate her from social matters except within the home. Indeed, one has to ask the question as to whether she would succeed in her extended civil responsibilities if she were confined to her home, looking out of the window, or listening to news and stories by journalists, especially at the present time when all activities are generally complex and require a certain degree of attention and a deeper understanding of the context and the individuals involved.

Today we can still see the consequences of our judgement to keep women away from managing the funds and property of juvenile girls, married women and widows. Instead, we have close and distant relatives fighting over it, and it does not take long before everything is gone. As a result, the woman loses her wealth and her legitimate rights. Her life is wasted away, while her intellect withers through stagnation and she is no longer capable of defending herself, her rights, her honour or her wealth. This is the Tunisian woman, whom we love and whose fatal resignation we worship.

Woman's right to live her own life

The verses of the Holy Book explicitly address man and woman on an equal footing whenever they deal with issues relating to rulings and general prescriptions, except if it involves texts specifically aimed at men or women. The Qur'ān awards both sexes civil rights and imposes duties on both of them, while they are subject to the same punishments when they commit a crime. This, in general, is the position of most orthodox schools of law in Islam. For instance, it is not as if the following Qur'ān verses are intended for men only:

It is not for the believers to go forth totally, but why should not a party of every section of them go forth, to become learned in religion, and to warn their people when they return to them;¹⁴⁴

O, my Lord, increase me in knowledge;¹⁴⁵

Be you watchful over the prayers, and the middle prayer;¹⁴⁶

And fulfil the covenant; surely the covenant shall be questioned of;¹⁴⁷

God commands you to deliver trusts back to their owners; and when you judge between the people, that you judge with justice;¹⁴⁸

And whosoever slays a believer wilfully, his recompense is Hell, therein dwelling forever;¹⁴⁹

In retaliation there is life for you;¹⁵⁰

Say: Who has forbidden the ornament of God Which He brought forth for His servants and the good things of His providing?;¹⁵¹

Let the man of plenty expend out of his plenty;¹⁵²

And forget not thy portion of the present world; and do good, as God has been good to thee.¹⁵³

None of the above was exclusively addressed to men; instead, these verses are aimed at both men and women alike. The woman has the same rights as men to enjoy the good things in life, as well as its honourable pleasures and entertainments. So, it is necessary that she should, at least, be able equally to enjoy the sunlight, to engage in outdoor physical exercise, and to take pleasure from nature and the four seasons of the year without covering herself with robes and veils. This would take her mind and body away from the drudgery of her domestic chores, and help keep her fit and energetic. Islam in no way opposes any such innocent freedoms. It has, in fact, extended women's freedoms, but at the same time forbade indecency and unlawful desires, as in the verse:

Say: My Lord has only forbidden indecencies, the inward and the outward, and sin, and unjust insolence, and that you associate with God that for which He sent down never authority, and that you say concerning God such as you know not.¹⁵⁴

Praise be to God, it seems that the last verse was sent down for those who fabricate lies against Him without knowledge and wrongly claim that He orders the isolation of woman and prevents her from exercising her full civil rights.

The Holy Qur'ān did not leave these evil deeds in the verse without pointing towards the wicked sources whence they arose. God imposed chastity on all the believers – both men and women – as in the following verse: 'Say to the believers, that they cast down their eyes and guard their private parts.'¹⁵⁵ As both men and women are ordered to lower their gaze in chastity, it is clear that the presence of veils between them is not essential.

The Qur'ān explicitly clarifies the sources of evil deeds so as to avoid them. For this reason, God instructed women not to adorn themselves in such a way that they attract attention to their beauty¹⁵⁶ and elicit indecency. In addition, women should not strike their feet on the ground when they walk so that the sound of their anklets makes known what they hide of their ornaments. They must also wear a *khimār* over their bosoms so that their bodies are not revealed.¹⁵⁷ However, none of this applies when a woman is in the company of parents, close relatives, small children to whom the nakedness of women is not apparent¹⁵⁸ and elderly people. The exception

to revealing the woman's adornment involves that which is naturally visible and the covering of which would be troublesome, as in the following verse:

and reveal not their adornment save such as is outward; and let them cast their veils over their bosoms, and not reveal their adornment save to their husbands', or their fathers, or their sons, or their brothers' sons, or their sisters' sons, or their women, or what their right hands own, or such men as attend them, not having sexual desire, or children who have not yet attained knowledge or women's private parts; nor let them stamp their feet, so that their hidden ornament may be known. And turn all together to God, O you believers; haply so you will prosper.¹⁵⁹

From the expression in the verse 'and not reveal their adornment'¹⁶⁰ we can understand that it refers to movement with the intention of exhibition. This allows us to understand that the prohibition does not concern the showing of a woman's adornment, as such, but only when it is done with indecent intentions born out of moral corruption and poor upbringing. Indeed, that is the crucial element in what is enjoined and prohibited.¹⁶¹

Muslim commentators differ in their views on the reference to 'only that which is apparent'.¹⁶² Some of them, like ʿAbd Allāh Ibn Masʿūd¹⁶³ – one of the Prophet's Companions – stated that it denoted garments worn externally by women. Others like ʿAbd Allāh Ibn ʿAbbās¹⁶⁴ (also one of the Prophet's Companions) related it to the wearing of kohl and rings. However, most scholars, including Mālik¹⁶⁵ and Abū Ḥanīfa (who personally knew the Prophet's Companions), held that the phrase aimed at the face and hand palms since these are not shameful parts to be hidden from sight. By referring to what is visible of a woman's adornment without specifying the parts of the woman's body, the Holy Qurʾān took into account the development of people's manners and customs.

It therefore appears that the wearing of the *ḥijāb* which we have imposed on women as a religious duty, like the fact of staying at home or putting the *niqāb*¹⁶⁶ in front of their faces, is not an issue that can easily be proven to be an integral part of Islam. If anything, the verse seems rather to indicate reluctance towards it in view of the difficulties associated with its wearing. Another element pointing towards its non-existence in Islam is the fact that if the veil was clearly supported by the Prophet, as its followers pretend, our imams, including the Prophet's Companions and the great Muslim scholars would not have had differing views on it.

There is another verse that states:

O Prophet, say to thy wives and daughters and the believing women, that they draw their veils close to them; so it is likelier they will be known, and not hurt.¹⁶⁷

This is an order for woman to conceal her body and remove her adornment. The face and the palms, as discussed earlier, are not included in this saying, by virtue of 'save such as is outward',¹⁶⁸ which is how the majority of religious scholars interpret the above.

In pre-Islamic times, women used to leave their chests, necks and legs uncovered to arouse attention. Hence, the Qur'ān ordered Muslim women to desist from this behaviour in order to preserve the values of Islam and its purity as well as to avoid women being hurt by malicious rumours from worthless men and to distinguish themselves from non-Muslim women as mentioned at the end of the verse.

The other verses about the veil, which deal particularly with the wives of the Prophet, are consequently not relevant as the wearing of veil for them was prescribed by the necessity of events in order to preserve the Prophet's dignity and honour and protect him from rumours spread by the dissemblers¹⁶⁹ so as to enable him to carry on his fight to establish Islam and the *Sharī'a*.

Furthermore, God decreed that the believers should seek permission before entering the homes of others so as to prevent its inhabitants' private parts from being seen. Al-Qāḍī al-Bayḍāwī¹⁷⁰ said: 'In the pre-Islamic era, a man would enter someone else's home, and say: Good morning! And Good evening!'¹⁷¹ The visitor might surprise the man of the house lying in bed with his wife. In order to avoid this intrusion, Islam decreed that visitors seek permission before entering as in the verse:

O believers, do not enter houses other than your houses until you first ask leave and salute the people thereof; that is better for you; haply you will remember. And if you find not anyone therein, enter it not until leave is given to you. And if you are told, 'Return', return; that is purer for you; and God knows the things you do.¹⁷²

This verse, which relates to manners to be followed before entering the homes of others to respect their sanctity has been adopted by people from other nations so that they may benefit from its advantages. It must be noted that the Qur'ān recommended that such manners be adopted by all believers, including servants¹⁷³ and children. As these latter groups are often required to enter the homes, it is incumbent upon them to seek permission at least three times before entering homes during the day and night, as in the verse:

O believers, let those your right hands own and those of you who have not reached puberty ask leave of you three times – before the prayer of dawn, and when you put off your garments at the noon, and after the evening prayer – three times of nakedness for you. There is no fault in you or them.¹⁷⁴

These restrictions do not, however, apply to young women who have passed the age of marriage as such women are permitted to take off their clothes, as long as they do not flaunt their adornment, as shown in this verse:

Such as women as are past child-bearing and have no hope of marriage – there is no fault in them that they put off their clothes, so be that they flaunt no ornament; but to abstain is better for them; and God is All-hearing, All-knowing.¹⁷⁵

These honourable verses teach us that the precautions taken in Islam to prevent depravities need not be an obstacle in women's everyday lives or an impediment to their activities, contrary to the crooked way in which Islam is interpreted today and by which we have suffocated woman, and, consequently, ourselves. This way of looking at Islam by Muslims is both wretched and ignorant.

The Qur'ān allows Muslims to gather in each other's houses, whether they are relatives or friends, and share meals in a spirit of affection or affirmation of the bonds that exist between them, as in the following verse:

There is no fault in the blind, and there is no fault in the lame, and there is no fault in the sick, neither in yourselves, that you eat of your houses, or your fathers' houses, or your mothers' houses, or your brothers' houses, or your sisters' houses, or the houses of your uncles or your aunts paternal, or the houses of your uncles or your aunts maternal, or that whereof and you own the keys, or of your friend; there is no fault in you that you eat all together, or in groups separately. But when you enter houses greet one another with a greeting from God, blessed and good. So God makes clear to you the signs; haply you will understand.¹⁷⁶

These verses are a clear indication that the Qur'ān urges Muslims to develop friendship and fraternity ties without any barriers. It has only forbidden the causes that could lead to improper and corrupted behaviour such as the wearing of provocative clothing. As for holding friendly or family gatherings, devoid of any suspicious behaviour, and meeting relatives or friends to talk and have a meal in all innocence, these are part of the civil freedoms granted to people by the Holy Qur'ān. These practices do not have sins or prohibitions attached to them, especially if we examine what the Qur'ān allows and forbids, as in

Say: Who has forbidden the ornament of God which He brought forth for His servants, and the good things of His providing? Say; These, on the Day of Resurrection, shall be exclusively for those who believed in this present life. So We distinguish the signs for a people who know.¹⁷⁷

This is what makes the Qur'ān a divine reference for moral conduct. It is a source of good and its principles, if followed, provide a good upbringing and ward off evil deeds. The Qur'ān will shine eternally against the will of those who deny its beneficence. In the following two verses, a poet describes Muslim women most remarkably (in the *kāmil* metre):

Free-born virgins of paradise,¹⁷⁸ resolute not to be swayed
their hunt is as unlawful as Mecca's antelopes,

You would think from the softness of their talk, they are adulterers
but their Islamic faith preserves them from such dishonest acts.¹⁷⁹

Inheritance

It was customary in Arab society in the pre-Islamic era for a man to marry his brother's widow through inheritance rights. It was also legal for her dead husband's family to marry her off to one of their own, or indeed to whomever they wanted and thus prevent the wife from taking part of her husband's wealth away with her, as a result of which it would be lost to the family. As for her father's house, only the male children had inheritance rights; the woman had no right in the matter except if they felt sorry for her and allowed her to live amongst them if she decided not to remarry. Once you know all of this, you realize that Islam improved the woman's condition considerably and saved her from her previous situation which was tantamount to slavery. Islam enabled her in a similar fashion to men to have a share of the inheritance, whether it was small or great. Accordingly, it freed her from being part of the inheritance as if she were a chattel, as shown in the following verse:

O believers, it is not lawful for you to inherit women against their will; neither debar them, that you may go off with part of what you have given them¹⁸⁰ and also: To the men a share of what parents and kinsmen leave, and to the women a share of what parents and kinsman leave, whether it be little or much, a share apportioned.¹⁸¹

However, since this was a radical departure from pre-Islamic customs, Islam modified it, making her share half that of the man, as in the verse:

God charges you, concerning your children: to the male the like of the portion of the two females.¹⁸²

Laws governing inheritance between husband and wife were also changed so that the husband can inherit half or a quarter of his wife's estate, whereas the woman can inherit a quarter or one eighth of her husband's estate, as in the verse:

And for you a half of what your wives leave, if they have no children; then for you of what they leave a fourth, after any bequest they may bequeath, or any debt. And for them a fourth of what you leave an eighth, after any bequest you may bequeath, or any debt.¹⁸³

But the woman has the same share as the man when it comes to the inheritance of the parents when there is a male child, as in the verse: 'And to his parents to each one of the two the sixth of what he leaves, if he has children.'¹⁸⁴ The same is true as regards the inheritance of blood brothers:

If a man or a woman have no heir direct, but have a brother or a sister, to each of the two a sixth; but if they are more numerous than that, they share equally a third, after any bequest he may bequeath, or any debt not prejudicial.¹⁸⁵

However, despite the wisdom of Islam to gradually introduce women's rights in order to avoid the dangers rapid changes might entail, they were nonetheless severely felt by Muslims. It became commonplace for fathers to put their money in trusts for the exclusive benefit of their male offspring and to the exclusion of their daughters. Under these terms, a woman had only usufructuary rights if she resided in her father's house or returned to it after marriage. This constituted an evasion from the inheritance rights allocated to woman by Islam, and a relic from pre-Islamic customs which accorded most inheritance rights to the male offspring for the reason that sons carry the name of their father, while the daughters' offspring belongs to others. This is exemplified by the verses in the following poem (in the *ṭawīl* metre):

Our offspring are the children of our sons,
But our daughter's sons belong to distant male relations.¹⁸⁶

This attitude was the reason behind the discrimination between males and females. The weakness of woman made them realize her inability to manage her father's inheritance independently, and so it simply passed to her husband's family who, in turn, would prevent her from taking any of her husband's wealth, if she were to return to her father's house. These considerations, which dispossess females, are still prevalent today, especially in rural areas and villages which have retained these attitudes. Instead of enabling woman to fulfil her duties in society by exercising the rights granted to her by Islam, Muslims are going back to the practices and beliefs that existed in the dark pre-Islamic ages.

It is for good reason that Islam prescribed that a woman should get half the share of that of a man. It was difficult for Arabs and people from other nations who converted to Islam to accept the new laws of inheritance since the man assumed on his own the responsibilities for providing for his family and defending them as well as his tribe and his people. He also had the responsibility of defending women in the event of wars or catastrophes. As a result of these sacrifices and because men were subjected to dangers and many hardships it was deemed just and equitable that they should be allocated a greater share of the inheritance as just compensation for bearing these burdens. Furthermore, Islam also decreed that the man is responsible for supporting the woman and meeting her needs, whether she is in her father's house, or that of her husband. This is why the Qur'ān states:

Men are the managers of the affairs of women for that God has preferred in bounty one of them over another.¹⁸⁷

Perhaps this is what is meant by the pre-eminence of men over women in the following noble verse: 'but their men have a degree above them'.¹⁸⁸

Moreover, Islam did not allocate a lesser share in the woman's inheritance compared to that of man as a principle applicable to all cases. It gave her the same share in the case of parents inheriting from their dead son when there is a male child and if it involves the inheritance among blood siblings, both of which are

mentioned in the above verse. It went even further than that in the case of parents' inheriting from their son if the latter had no children, as shown in the following verse: 'but if he has no children, and his heirs are his parents, a third to his mother'.¹⁸⁹ According to Ibn 'Abbās the general logic of the verse is to be interpreted in the sense that the third that is passed to the mother is related to the entire estate. If there is a husband who would inherit half of his wife's estate, then the father's share will be smaller than that of the mother, even though they are both of the same degree of closeness to the deceased. This case alone is sufficient proof that the allocation of a lesser share of inheritance to the woman has nothing to do with her femininity but is predicated on other considerations.

In truth, Islam did not give definite views or judgements about the character of women in the sense of judgements that could stay valid and stand the test of time, while no texts express frank and clear views in this respect. There are only texts that expound on the weakness of woman and her backwardness in life because of her situation at the time, and on the fact that her upkeep is the responsibility of the man. Muslim scholars justified a woman's lesser share in inheritance by the fact that the man was responsible for supporting her and meeting her needs. There is no reason why such a position should remain fixed in time without change. Islam itself has gone beyond this position in many of its judgements. Out of necessity as conditions change with time, Islam has provided woman with her civil rights for the acquisition and investment of capital in commerce and other financial transactions. However, while women's responsibilities were described, at the time they were not able to apply them to activities they were not familiar with, nor had been prepared for.

Today, however, woman is fully engaged in all areas of life as a consequence of the changes in attitudes that have occurred over time and which have enabled her to acquire a proper education and upbringing. Women are engaged in industrial, agricultural and commercial occupations. They work in steel factories and the mining industry, whereas they are also taking part in human adventures of the age such as the exploration of the oceans by plane. Women are also active in the liberal professions, as physicians and lawyers, as well as in literature for which they have natural talents, the press, publishing, high political office, in the establishment of clubs and women's societies and many other occupations, following in the footsteps of men. Women have benefited from gaining a fair share in social pursuits and are still striving towards full and complete equality with men in public life and society. Women today are getting ready to perform their duty of military service. In many European countries, women are active in law enforcement and public administration. Women have accomplished a great deal and have proven themselves in many areas, which will enable them to continue to work towards succeeding in all of their chosen pursuits.

These achievements which have taken woman a long way from her dark past have enabled her to take her independence from man by taking responsibility for looking after her own affairs and to cooperate with man in providing for their common needs. These new trends in women's lives are clear proof that their previous condition had nothing to do with gender, but was merely one of many chapters in their social evolution. Woman is prepared to stand side by side with

men to assume life's responsibilities and all the difficulties associated with them, while the raising of the children is done by nurseries which are sufficiently increasing in number so that soon they will be able to accommodate all children. This will allow woman to benefit together with man from both the duties and privileges of life. I believe that Islam in essence does not contest such equality in all aspects since the causes of man's superiority over woman have vanished and woman has obtained the necessary means.

We are not talking here about our deprived Muslim women and those in Tunisia in particular, who are still far from achieving, or even preparing for, any of this, and so there is very little for us to talk about. Their present lives are in dire need of treatment. We have already highlighted the flexibility of the *Shari'ah*, and its ability to adapt to the various stages of human evolution. This is clear to anyone who understands Islam, and it is this which fills me with the belief that it will carry on for eternity.

Although Islam highlights a number of differences between man and woman in several verses of the Qur'an, this did not in any way affect the principle of social equality between them when the necessary conditions were present over time since Islam in essence aims for complete justice and fairness. It introduced its laws and gradually adapted them according to the capacity of people to obey them. There is no reason to believe that the gradual changes that took place in the life of the Prophet should have been the last of the changes and that they would stop after the passing away of the Prophet. The gradual changes in the *Shari'ah* law took place at a pace that could be sustained by society and there are clear examples to testify to that. I am not going to talk about the issue of alcohol¹⁹⁰ which was dealt with prior to the Prophet's demise. Instead, I should like to focus on the question of slavery.

Islam is a religion of freedom that does not recognize servitude, except to God. However, it has tolerated the selling and buying of human beings as goods, and their exploitation as animals for the duration of their lives through the right of personal ownership, resulting from war spoils, gift or purchase. Furthermore, the conversion to Islam by a slave does not result in his manumission from his master, and he and his offspring could live as a Muslim amongst his Muslim brothers and at the same time remain their slave so that they could exploit him as they wished, or exchange him between them in different ways. At the time, Islam could not abolish slavery; however, it did express the desire to do so and encouraged the emancipation of slaves. Muslim scholars referred to the fact that there was an expectation of freedom on the part of the Legislator, with the freeing of slaves being considered a legitimate act of atonement. The liberation of slaves, especially the Muslims amongst them, was encouraged by the following verse:

It belongs not to a believer to slay a believer, except it be by error. If any slays a believer by error, then let him set free a believing slave, and bloodwit is to be paid to his family unless they forgo it as a freewill offering. If he belongs to a people at enmity with you and is a believer, let the slayer set free a believing slave.¹⁹¹

In other cases, slaves were liberated as a result of specific issues like *ẓihār*,¹⁹² as shown in the following verse:

And those who say, regarding their wives, 'Be as my mother's back,' and then they retract what have they said, they shall set free a slave, before the two of them touch another.¹⁹³

The Qur'ān also encouraged the freeing of slaves through formal agreements or financial compensation, with the slave being able to buy his freedom with his master's help or that of benefactors, as in the following verse:

Those your right hands own who seek emancipation, contract with them accordingly, if you know some good in them; and give them the wealth of God that He has given you.¹⁹⁴

Consider the following metaphorical phrases in the Qur'ān in respect of the liberation of slaves: 'the freeing of a neck'¹⁹⁵ and 'the loosening of a neck'.¹⁹⁶ Both convey the meaning that there were indeed chains on the necks of the slaves before they were liberated. The Qur'ān shows compassion for the condition of slaves, who along with woman were the last two classes of people the Prophet recommended be taken care of before his departure from this world. However, their condition did not improve even though they hoped for a change with the passage of time and despite the efforts of Islamic scholars who grasped the spirit of the *Sharī'a*, its kindness and appreciation for the freedom of man. What a pity!

Arabs, like other peoples, very early on had well-established markets for selling slaves. These were a source of wealth for slave traders, who supplied slaves to rich families and thus allowed them to enjoy lavish lifestyles in their big palaces. Slavery had been established for centuries and it was very difficult for the Muslim legislator to outlaw the practice at once for fear of alienating such families, whose moral and financial support Islam needed for the expansion of Islam and its march against the unbelievers. The Arabs were not the only nation who enslaved their enemies during raids and wars; other nations also followed the same practice and took Muslim captives during their battles against them. Hence, an issue of this magnitude could only be resolved through international agreements. Such agreements were not possible at the time because of the extreme religious hatred that existed between nations. Islam realized that such conditions would change sooner or later. It gave the Islamic rulers the right to release prisoners of war either in exchange for Muslim prisoners, for money, or in some cases without any condition, as explained in the following verse: 'Then set them free, either by grace or ransom, till the war lays down its loads.'¹⁹⁷

Another issue linked to the slave trade was the matter of bondmaids, which resulted from an ownership contract following purchase or a gift. Accordingly, the bondmaid could be passed between many people and even be exchanged between

them, for a few days at a time, causing a great deal of jealousy amongst the freewomen. Furthermore, in pre-Islamic times certain masters exchanged their bondmaids in return for payment. Islam prohibited the practice, as becomes clear from the following verse:

And constrain not your slave girls to prostitution, if they desire to live in chastity, that you may seek the chance goods of the present life.¹⁹⁸

Furthermore, Islam imposed a waiting period before a master could take a bondmaid in his bed in order to allow the tracing of the offspring. It also ordered the marriage of slaves and bondmaids in order to prevent debauchery and enable legitimate relationships within marriage, as in the verse:

Marry the spouseless among you, and your slaves and handmaidens that are righteous; if they are poor, God will enrich them of His bounty; God is All-embracing, All-knowing.¹⁹⁹

Based on the same concerns for preventing debauchery, Islam also ordered freemen to marry bondmaids if they were unable to afford marriage to a freewoman. It also instructed that they should be treated in the same way as freewomen in marriage, as shown in the following verse:

Any one of you who has not the affluence to be able to marry believing freewomen in wedlock, let him take believing handmaids that your right hands own; God knows very well your faith; the one of you is as the other. So marry them, with their people's leave, and give them their wages honourably as women in wedlock, not as in license or taking lovers, But when they are in wedlock, if they commit indecency, they shall be liable to half the chastisement of freewomen. That provision is for those of you who fear fornication; yet it is better for you to be patient. God is All-forgiving All-compassionate.²⁰⁰

Arabs disliked marrying bondmaids and often preferred bachelorhood over marrying a bondmaid. God reminded them that He alone knew of their Islamic devotion and beliefs; a bondmaid might have a deeper devotion to Islam than a freewoman and this was the main point that should be taken into consideration. He went beyond that and reminded them that, in essence, there was no difference between slaves and freemen, as He said: 'The one of you is as the other.'²⁰¹

This interpretation was adopted from al-Qāḍī al-Bayḍāwī, an eminent Muslim scholar. God commanded that the marriage to a bondmaid should be similar to that of a freewoman, without prejudice or diminution when He said: 'So marry them, with their people's leave, and give them their wages honourably.'²⁰²

God relieved their punishment if they committed an offence that required it, and made it half as harsh for the bondmaids as for freewomen. This is totally the opposite of what we witness today in our justice courts, where poor and defenceless people are punished with harshness, without protection from anywhere.

It is reported that the Prophet married a bondmaid taken captive in the battle of Khaybar,²⁰³ by the name of Ṣafiyya Bint Ḥuyayy.²⁰⁴ He also married Juwayriyya Bint al-Ḥārith²⁰⁵ of the Khuẓā'a tribe for whom he paid her master what remained of her ransom money and who was set free afterwards. There is no doubt that the Prophet (Peace Be Upon Him) freed slaves in order to demonstrate that the relationship between a man and a woman should always have a sense of equality, and must not be that which exists between a freeman and his bondmaid. This can also be seen in the way he treated Ṣafiyya Bint Ḥuyayy whom he chose as his share of the spoils from the battle of Khaybar and whom he preferred to set free before marriage, rather than marrying her as a bondmaid. The same thing happened with Māriyya al-Qibṭiyya (Mary the Copt)²⁰⁶ who was given to him as a gift, and was the mother of Ibrāhīm. We have to bear in mind that the slaves were the responsibility of their master and as such the latter had to cover their living costs and meet their needs, whereas it was their duty to serve him to the best of their abilities. Islam prohibited the abuse and mistreatment of slaves and legislated that such treatments could result in the manumission of slaves and the punishment of their master. It legislated that the bondmaid should be set free following the death of her master if she had children by him, whereas during his lifetime he should treat her as respectfully as he would a wife.

This is what Islam could achieve in the life of the Prophet. It strove towards the freedom and emancipation of slaves. Unfortunately, the abolition of slavery was not realized, and relationships between bondmaids and freemen continued. It was even accepted that a child born out of a marriage between a bondmaid and a freeman should be considered a slave to her master so as to avoid recognition of the marriage, and also to reduce celibacy as Islam recommended that masters marry off their slaves and bondmaids in order to reduce celibacy and the possible debauchery which might result from that. It was also a good incentive for the husbands of bondmaids to raise the ransom money needed to liberate themselves and their children from slavery. The Prophet (Peace Be Upon Him) adopted this strategy with some of his wives.

There are other difficult issues that remained unresolved, such as the absolute authority of the husband in divorce and polygamy. However, in the same way as it was possible for Islam to abolish slavery based on its love of freedom, so too will it be possible over time to establish equality between man and woman in all things once the conditions for such evolution are fulfilled, as shown in the following verse:

O mankind, we have created you male and female, and appointed you races and tribes, that you may know one another, Surely the noblest among you in the sight of God is the most god-fearing of you. God is All-knowing, All-aware.²⁰⁷

Based on the above discussion, we can clearly see that the spirit of the *Shari'ah* is deeper and more lasting than its texts, as these can be affected in part by the passage of time and the developments in society.

Islam and *Zinā*²⁰⁸

Like other monotheistic religions, Islam forbids sex outside marriage and regards it a hateful abomination,²⁰⁹ as is evident from the following verse of the Qur'ān, 'And approach not fornication; surely it is an indecency, and evil as a way',²¹⁰ whereas another one states: 'Say: 'My Lord has only forbidden indecencies, the inward and the outward.'²¹¹

Therefore, Islam decrees that marriage is the only legally binding union between a man and a woman. This is because *zinā* is merely about seeking carnal pleasure and ridding oneself from the duties that spring from it. As a result, *zinā* is completely contrary to the affection, love and duties that are an integral part of marriage. As long as men and women need to rely on each other's assistance in life, for the bearing and raising of children, then marriage is the only institution that fulfils this purpose.

All divine laws set great store by procreation, and taking care of one's children. They made both parents responsible until the children reach the age of reason.²¹² *Zinā* is the antithesis of all this as it focuses only on lust. It also involves opposition to procreation by any means possible, with some people going so far as to commit a crime on the live foetus in the mother's womb out of fear of a scandal. Some women find themselves in such a miserable situation that they are forced to sell their bodies in order to survive, since they cannot make a living any other way. Islam explicitly and consistently denounces *zinā*, whereas the punishments of those who commit it reflect its wickedness. Under the *Shari'ah*, the punishment for *zinā* is 100 lashes for both the man and the woman involved. The punishment is to be carried out in front of Muslims who have witnessed the act, in order to reflect the severity of the crime, as is made clear in this verse:

The fornicatress and fornicator scourge each one of them a hundred stripes, and in the matter of God's religion let no tenderness for them seize you if you believe in God and the Last Day; and let a party of the believers witness their chastisement.²¹³

This punishment is for those who are not married. As for married people, their punishment is death by stoning. A great deal of controversy has arisen, however, among Muslim religious scholars regarding the so-called stoning verse,²¹⁴ which was abrogated²¹⁵ in the Qur'ān. It states: 'Stone the mature man and woman who commit unlawful sexual intercourse.'²¹⁶ Scholars also refer to the story of Sayyid Ma'az²¹⁷ who was stoned because he admitted to the Prophet

that he had committed *zinā*. There is no divine legislation that is so abhorrent of *zinā* as Islam. However, when it comes to the execution of the punishment, it is almost impossible to establish the occurrence of *zinā* with accuracy.²¹⁸ For the charge of *zinā* to be upheld in a *Shari'c* court, it requires four trustworthy witnesses. Anyone accusing a woman of unblemished reputation (*muḥsana*) without proof is subject to punishment, as shown in the following verse:

And those who cast it up on woman in wedlock, and then bring not four witnesses, scourge them with eighty stripes, and do not accept any testimony of theirs ever; those they are the ungodly.²¹⁹

Jurists adhere to this injunction in also imposing eighty lashes to those bearing false witness. Islam only allows the husband to level this accusation at his wife on condition that he has proof that *zinā* has actually taken place, otherwise he receives the same punishment as one who commits perjury. And here we enter the subject of *li'ān*.²²⁰ Islamic courts have never actually applied the punishment of *zinā*, based on someone else's testimony. *Li'ān* has only occurred two or three times because of the difficulty of establishing proof through a method that is vulnerable to rumours and malicious slander of individuals, as well as casting aspersion on the lineage of children. The Qur'ān threatens those who may be inclined to commit such an act as follows:

Those who love that indecency should be spread abroad concerning them that believe – there awaits them a painful chastisement in the present world and the world to come; and God knows, and you know not.²²¹

This is also clear from the following verse:

Surely those who cast it up on women in wedlock that are heedless but believing shall be accursed in the present world and the world to come; and there awaits them a mighty chastisement.²²²

There are many other verses in the Qur'ān that warn against false accusation.

If we take a closer look at Islam, we can see that it has considered and allowed for the impetuosity of youth in respect of committing *zinā* and takes the circumstances into account. It is reported that the Prophet (Peace Be Upon Him) said: 'Do not apply the prescribed punishments if there is any doubt'²²³ and 'If you commit a sin, conceal it'.²²⁴

This is primarily to protect honour and to save man and woman from harsh punishment. The story of Sayyid Ma'az is a clear example of how Islam strives to save people from the punishment of *zinā*. Sayyid Ma'az stood in front of the Prophet Muḥammad and confessed to *zinā*. The Prophet pretended not to hear

him and continued with what he was doing. Ma'az repeated his confession to the Prophet, who turned his back on him. He then repeated it for the third time, and the Prophet said, 'Are you mad?' He replied, 'No, I'm not mad, but I have committed *zinā*.' So, the Prophet ordered the punishment of stoning because Sayyid Ma'az was a married man. When the executioners returned, the Prophet asked them what had happened, and they told him that Sayyid Ma'az had asked them to 'take me back to the Prophet of God'. The Prophet was saddened and said to the executioners, 'I wish you had brought him back to me.' The Prophet believed that the retraction of the one who confesses constitutes a doubt which requires the lifting of the punishment. A similar story is reported regarding a pregnant woman who went to the Prophet and admitting having committed *zinā*: 'Oh, Prophet of God, please cleanse me,' she pleaded. So, he asked her to wait until she had given birth. She then returned to him and he told her to come back after she had finished breastfeeding. When she returned yet again, he told her to come back after she had found someone to raise the child. The Prophet kept deferring the decision, but finally ordered the stoning she wanted. When the executioners returned to the Prophet, they said to him that she had asked to be returned to Prophet of God but that they could not do this. The Prophet was upset and told the executioners: 'You should have brought her back. By God, she repented to such an extent that she had expiated the sins of all people on earth and in the heavens!'²²⁵

Suspending the punishment of *zinā* because of the impossibility of obtaining and substantiating evidence does not mean that a person is innocent or that there is no punishment, which is how this is interpreted in some European books where they talk about the punishment for *zinā*: 'By making the proof of *zinā* almost impossible that is, by not punishing it, Islam recognizes and allows *zinā* without punishment'. Islam does indeed impose disciplinary measures, as the judge sees fit and according to the strength of proof levelled against those who are accused of committing *zinā*, whether it is a man or a woman. The punishment is adapted to fit the crime, taking into account the circumstances of the accused and it is hoped that whatever punishment is given will deter further immorality and corruption. The opposite is true in European law, particularly French law, where *zinā*²²⁶ is not a crime except when it involves a married person, deceit, rape, or sexual intercourse with minors. Adultery with a close relative, paternal or maternal aunt or even with a mother is therefore pardoned as it is not specifically legislated against.²²⁷

European countries have different attitudes towards *zinā*. Some countries, such as those in Latin America, still regard it as a fact of life that cannot be avoided and stress the need to set up a system to limit the number of births and halt the spread of sexually transmitted diseases. France is taking this path at home, and in its colonies and Protectorates, such as Tunisia. This is why current Tunisian law does not prohibit *zinā* unless it is committed without consent, in accordance with French legislation. Other countries believe that recognizing *zinā*, no matter the reason or circumstances, is tantamount to encouraging it at a time when it must be considered the biggest obstacle to procreation and the growth of the nation.

This is the view in countries such as Germany and England,²²⁸ which are not preoccupied with punishing those who commit *zinā*. Instead, they try to encourage marriage and make it more desirable. This is done through education, social welfare agencies²²⁹ and higher taxes on single people. They have succeeded to such an extent that the population has increased dramatically, and at present these countries are examples for others. All European countries have since made provisions and established orphanages for illegitimate children, so that they can have a normal life and nations are not deprived of the potential contribution of these young people. They have also imposed strict punishment on the abandoning of children, thus saving many newborns from thrown in the river or buried alive. In so doing, the judicial and social authorities have helped drive back immorality as much as possible. If we want to know Islam's position on this issue, we need to even prove the fact that it wants to preserve and protect life from harm, that it encourages people to have more children. Islam regards anything that goes against this as a crime which must be punished. Consider, for instance, the Prophet's saying: 'Marry and procreate, so I will multiply the Muslim nation with you.'²³⁰

Regarding our current situation, we have let things slide, as we have grown accustomed to doing with all things.²³¹ Indeed, if we do not start paying heed to this decrease in population, we will end up serving those who want to increase their number in our land and push us out.²³²

Our prevailing attitude towards eradicating abominable acts and general crimes is to inflict the harshest punishments on the perpetrators, so we either execute them or imprison them for life. Instead, however, we should look at the wicked mindset underlying crimes and depravity and remedy the problem through education at home, and school and in society so as to re-instil in man the foundations of moral righteousness, and kill the badness in them. This is the concern of the new culture, which has had an impact on reducing the severity of the punishment. These are the proper ways of thinking, whereas ours are inadequate and defective.

In reality, to establish and enforce punishment was easier for us here in Tunisia, than to bear the cost of establishing a new education system in order to elevate our character. As a result, we are more passionate about the harshness of the punishment and have more faith in its beneficial effects. The pursuit of harsh punishment alone is unfortunately one of the most important beliefs to which we have adhered to date. If we consider Islam closely, we realize it is much more concerned with the moral education of people than in creating chapters of the *Sharʿa*. We need only look at the Holy Qurʾān and *Ḥadīth* to realize where the emphasis lies. The Prophet Muḥammad regarded his mission as a messenger to mankind: 'I was sent to complete the noblest of morals.'²³³

According to the *ḥadīth*, he was told of a man who regularly attended the prayers at the mosque in a row behind him and yet was an inveterate drunk. The Prophet then replied to those who told him about the man that: 'One day, his prayers will put an end to his habit.'

He did not concern himself with imposing a punishment on the man, who some time later repented completely and stopped drinking. People went and told the

Prophet about this and he replied: ‘Did I not tell you that his prayers would one day make him renounce the habit?’²³⁴

Here we see that the path followed by the Prophet (Peace Be Upon Him) in this particular event was to influence the man’s heart and make him repent of his actions which did not fit in with his love of prayer and his devotion to it in the mosque. Without a doubt, the man had heard what others had been saying about him and what the Prophet told them on this matter, and this had an effect on him. However, there is a gap between the ways in which Islam acts in remedying social ills, and our views and actions. If we constantly complain of our fate in life at present, do we not need to understand that we have brought it upon ourselves?

2 Marriage in Islam²³⁵

Marriage involves emotions, duties, intercourse and procreation. Islam regards emotion as the foundation of marriage since it is the driving force, as witnessed by the following verse:

And of His signs is that He created for you, of yourselves, spouses, that you might repose in them, and He has set between you love and mercy.²³⁶

As for duty, this refers to the fact that husband and wife have to work together to build a life. In this sense, duty both preserves and enhances the emotional ties that exist between them and which enable them to carry out their duty willingly. It is both duty and feelings that keep desire alive for the duration of the marriage and yield a number of advantages. The duty is placed on both spouses as is set forth in the verse: ‘Women have such honourable rights as obligations’,²³⁷

As for sexual intercourse, this is a human instinct aimed at maintaining the species and does not require encouragement. Accordingly, in Islam this is recommended as a right to be enjoyed by both partners. Furthermore, either of the spouses may demand this right before a court of law, as we shall illustrate.

Procreation is viewed as the ultimate goal in every religion; for instance, the Qur’ān states:

Mankind, fear your Lord, who created you of a single soul, and from the pair of them scattered abroad many men and women.²³⁸

Islam’s eagerness to promote marriage and respect for woman is not confined to promoting feelings of love and compassion. The Qur’ān also set forth the need to have a harmonious relationship:

Consort with them honourably; or if you are averse to them, it is possible you may be averse to a thing, and God set in it much good.²³⁹

Choosing a spouse

If marriage is to be based on mutual love and compassion, as is stated in the Qur’ān, we should realize that this cannot be imposed on people’s minds; rather,

it is driven by instinct and knowledge of the individual features of each partner, what they have in common and where they differ. It is important to be aware of these two factors as they constitute the very foundation of marriage; without which the union would be based on mere delusion. This is why scholars such as Abū Ḥanīfa al-Nuʿmān based themselves on the above-mentioned verse in order to justify the fact that once women have reached the age of reason, they have the same right as men in choosing their spouse. This runs counter to the view according to which the eldest daughter's husband is chosen by her legal guardian because she does not know what is best for her. Our ancestors would allow underage girls to annul their marriage if they felt it did not suit them. Even though the precepts of this religious school set great store by freedom of choice, this is vitiated by the fact that legal guardians allow girls to marry before reaching the age of maturity. Indeed, one should wait for a girl to reach the age of maturity so as to allow her to exercise this right at the appropriate time. What is more, it is in the husband's interest to wait a while longer for her to make the right choice and reach an age at which she can safely bear children. This is supported by the following verse: 'Test well the orphans, until they reach the age of marrying.'²⁴⁰

Women, like men, parents and guardians can make both right and wrong decisions, yet we think women are likely to make more mistakes than men as they have gained a reputation for being feckless. However, if we look at reality, we have to concede that we are committing a much greater wrong against women in taking this attitude than if we were to allow her freedom of choice. Women should be taught the lessons of life and given a sound upbringing so as to enable them to actually exercise their right to choose, upon which they can build love and compassion, as the Qur'ān states. Instead, we choose not to broaden her horizons, thus removing from her the right to choose on the pretext of her inability, and assigning it to others like the father or guardian. How often do we not see fathers sacrifice their daughters' marriage for the sake of status, position or financial gain? Hence, the marriage is based on a naïve mistake in accordance with tradition such as marrying off a daughter to her cousin or to the *shaykh* of a Sufi lodge,²⁴¹ irrespective of how unsuitable they may be. The same is true for guardians and their wards, especially if the girl has an inheritance. Often, a guardian will cancel a marriage agreement entered into during the father's lifetime in order to marry the girl off to one of his sons or to someone over whom they have control and who will not object to their getting their filthy hands on the inheritance. So, the girls lose both property and personal happiness. This is the destiny of every girl who is burdened with an inheritance bequeathed to her by her father or a relative. And then we have not even mentioned girls who commit suicide or run away from their family or matrimonial homes when they are forced to enter into a marriage they do not agree with or are prevented from marrying the man of their choice. It is hardly surprising that the idea of forced marriages is firmly embedded in a tradition which not only applies to women but also to young men who are obliged to accept marriages arranged by their fathers, no matter how unsuitable they may be. Often, young men will bow to this decision as they are entirely dependent on their fathers, which is something that their upbringing has taught them. In acting in this way we are building on 'a crumbling bank'²⁴²

Duty

Many people believe that marriage is nothing but pleasure and sexual gratification, and have no appreciation of the responsibilities that it entails. However, once the initial passion dies down, the couple face the reality of married life and the everyday needs and requirements, and this invariably leads to disputes, and even divorce. This situation may be attributed to the lack of necessary education and preparation of young men and women for what marriage entails. What is more, they have no examples to follow.

If we were to look at the origin of the *Sharʿa* in order to understand the meaning of duty in matrimony, we would find that it is incumbent upon the man to support his wife and children financially, on the grounds that they are not able to do so themselves. With the exception of this, no duty is specified, for either the husband or the wife, to dictate how they behave within the marriage or towards each other. Whatever duties the man has towards his wife, they are equal to the duties that she has towards him. This is illustrated in the following verse: ‘Women have such honourable rights as obligations’.²⁴³

From the above, it becomes apparent that Islam accepted this duty as it ensures the continued growth of the world; it did not specify things further. For instance, the mother’s raising of children is not a duty specified by the *Sharʿa*; rather, it is her right to do so, and one she may renounce, according to the two prevailing schools of thought on this matter. As for the husband, he must in this case arrange for a guardian for the children unless the wife herself is designated for this task. Similarly, the woman may also dispense with the right to breastfeed her children. However, some Islamic scholars, such as the Imām al-Shāfiʿī,²⁴⁴ believe that the woman ought to be paid by the father for breastfeeding their children. Others, like Abū Ḥanīfa prohibit the mother from receiving payment as long as she is in a state of marriage, or during the prescribed waiting period following the end of the union (*ʿidda*),²⁴⁵ though permits it in other cases. The Qurʾān refers to the validity of payment in the following verse:

Mothers shall suckle their children for two years completely, for such as desire to fulfil the suckling. It is for the father to provide them and cloth them honourably. No soul is charged save to its capacity; a mother shall not be pressed for her child, neither a father for his child.²⁴⁶

However, the fact that this verse refers to the provision of food and clothing to the mother who is breastfeeding, means that it is talking about divorced women. Indeed, if a woman is not divorced, she is entitled to these things, irrespective of whether she is breastfeeding or not, unless it refers to the extra payment to the woman whilst she is breastfeeding on the grounds that she requires more nutrition during this time. In any case, the mother is the one who is, in general, the primary carer of the children, who gives everything wholeheartedly, without expecting payment or gratitude. Indeed, at times, looking after her children is her only solace in a marriage that she may not have desired, or resents, and in which she

has not found the happiness she had hoped for. Raising children is a woman's foremost duty as long as there are no nurseries or crèches, which have already yielded good results in producing generations devoid of the old wicked ailments, and provided children with everything they need in order to tackle life. European governments have been working together in order to bring this about in their respective countries, and their men of religion are involved in this effort.

However, no matter how important these institutions are in relieving women from certain chores, it is still the duty of the wife to work together with her husband towards building a common life in the home, such as caring for the children, even at a distance, and watch over them until they reach maturity. Among the good services that are provided by the nurseries to improve family life and the next generations, one may cite the fact that they allow women to engage in some gainful activity, such as a trade or craft, according to their abilities. In so doing, the woman fulfils her duty towards herself, her family and her people, provided she possesses the talents and ability to undertake these jobs. In this respect, a woman is equal to a man. There are no texts in the Qur'ān that oppose this; quite the contrary, as many verses enjoin people to do good to their relatives and those close to them, and to perform useful tasks for the benefit of the entire community.

Some Muslim scholars, however, regard marriage as an institution which serves merely to satisfy a man's carnal lusts, in return for which he has to support his wife financially. They also hold that there are two types of women: those of noble birth, who do not need to help their husbands in anything, and common women who have to do so. However, this is contrary to both the spirit and the letter of the *Sharf'a*. It is, in fact, the upper-class families²⁴⁷ who are deluded. What can one think of a woman who does not work, does not support her husband and has nothing to do but to squander his wealth, devoting her leisure time to the endless pursuit of pleasure and lust, twenty-four hours a day. This situation has driven many families to poverty and misery. As for these women, they are common rather than noble.

Intercourse²⁴⁸

Sexual intercourse is a natural need for a human being and the primary reason for marriage in most cases, whereas its social importance lies in procreation. It is both a pleasure and a duty. Each spouse has a right to it and is harmed if the duty is not fulfilled, while each may bring the matter before a court of Law. Islam has indeed prohibited voluntary abstinence (*īlā'*)²⁴⁹ for more than four months, with the injured party being able to obtain a divorce upon request. Within the lawful four-month period, this sin can only be forgiven by resuming relations and repenting, as is evident from the following verse:

For those who forswear their women a wait of four months; if they revert, God is All-forgiving, All-compassionate; but if they resolve on divorce, surely God is All-hearing, All-knowing.²⁵⁰

If this obligation is withheld, whether it be on purpose, because of a permanent impediment such as a contagious disease, or because of some other defect, then the marriage can be annulled if the cause predates the marriage contract. However, religious scholars have different views regarding defects afflicting the husband after marriage. They do not agree on whether the wife may request an annulment if the problem is permanent. This, in turn, is predicated on whether one views sexual intercourse (*waṭʿ*)²⁵¹ to be as necessary as food for the woman. Proponents of this hold that divorce must be granted if the wife requests it, since they believe that it is equal to withholding maintenance from her. Others do not think that divorce should be granted in this case. Without a doubt, the latter opinion poses a danger to morality, and is, in fact, foolhardy. If the aim is to avoid the much-hated divorce, it should not be done by being cruel to women, some of whom may end up committing a crime.

This dispute however, has extended to other related issues such as husbands who have disappeared or those who have abandoned their wives. The fact that a woman has access to funds, whether it be a loan or a donation in order to help pay her expenses is enough for certain scholars to impose on her the duty of waiting for her husband's return, no matter how long the absence. It is obvious that this view carries grave moral dangers since a woman needs her husband, and a husband needs his wife. Patience is a finite thing and one cannot expect people to be abstinent for years. In spite of the above, there is much discussion in our courts of law on this very subject. However, if Muslim religious scholars only went back to the Qur'ān verses that set forth the deadline of *ilā'* to no more than four months, with divorce being pronounced after this period, they would surely gain a much better understanding of this issue.

Procreation²⁵²

Procreation is a religious duty imposed on all Muslims, as the Prophet said: 'Marry and procreate, so I will multiply the Muslim nation with you.'²⁵³

Islam prohibits contraception as it delays procreation, except when there are reasons to fear for the mother's life which are to be established by specialists. Abortion is only permitted in order to preserve the mother's life.

Islamic jurisprudence has a firm principle according to which children's religion and lineage is that of their father. Religious scholars have a very famous phrase regarding this: 'The child follows his father in both religion and lineage.' A man is considered more able than a woman to bring about unity in the nation and construct the state, which are the two things that Islam desires. This is why it ruled that the offspring should follow the man. Islam permits a Muslim man to marry a woman from among the 'People of the Book'²⁵⁴ in order to increase the Muslim population. However, a Muslim woman is not allowed to marry a non-Muslim so as to ensure that her children are kept within the faith, in accordance with its rules, and that the *Sharʿa* applies to the marriage and all the rights that ensue from it. Furthermore, under Muslim law, non-Muslims under its protection are entitled to be judged by their own laws when it comes to issues involving

personal status. As for the claim that a Muslim woman is not allowed to marry a non-Muslim because of religious hatred inherent in Islam, this is entirely spurious; indeed, if this were the case how can one explain that a Muslim man is allowed to marry a Jew or a Christian and to let her practise her own religion. It is also worth adding that according to Islam the People of the Book's food is lawful for us and our food is lawful to them, as shown in the following verse:

Today the good things are permitted you, and the food of those who were given the Book is permitted to you, and permitted to them is your food. Likewise believing women in wedlock, and in wedlock women of them who were given the Book before you if you give them their wages, in wedlock and not in licence, or as taking lovers.²⁵⁵

The aim of Islam regarding procreation and population increase is as clear as the light of day; it does not want its offspring to consist of individuals that are scattered among different nations, belonging to none. Rather, Islam decrees that the children should be part of a population group with its own distinct identity, ready to meet the challenges of life, to walk a straight path, and to protect the honour and principles of Islam. This is what the Prophet (Peace be Upon Him) meant when he said: 'Marry and procreate, so I will multiply the Muslim nation with you.'

As far as marrying European²⁵⁶ women is concerned, this would lead to an increase of new elements in the Muslim nation and the addition of new morals and customs, both positive and negative. Islam permits the marriage to women 'of the Book' since their beliefs and morals are close to those of Islam, whereas it prohibits the marriage to a woman who is not of a monotheistic religion because of the vastly different customs and beliefs.

These practices in accordance with legal principles remained in force until the establishment of European laws in Muslim lands with the introduction of consular capitulations.²⁵⁷ This resulted in a shift in Muslim countries, including ours, towards the woman, and away from the man in terms of the offspring obtaining her nationality, that is, that of the conqueror. It was even made easy for a man to adopt his wife's nationality. However, this means that a Muslim man is subjected to his wife's national laws in respect of marriage issues, regardless of the difference between the law of his own country, where they also live. In this the woman serves her community,²⁵⁸ by providing a new subject. It is bizarre to find that certain courts in our country, in accordance with French law, do not oppose marriages between a Muslim woman and a non-Muslim European, since this increases their number, and is thus in the interest of the community. There are many such examples of these cases in our country, but neither the Government nor the *Shar'ā* courts have made any provisions to deal with this situation.

However, the things these occupying countries do to Muslim countries is too extensive to be included in the present discussion. And if today our laws cannot be applied, which is something we seem to accept and support, they cannot be enforced on those who are born here but who have married people from outside. If our religious scholars used their independent judgement they would see with

their own eyes that the fact of allowing marriage to Jews or Christians has resulted in our handing over our authority. This loss of authority has resulted in a loss of identity. This proves once again that in its judgements Islam adapts to changing circumstances, for better or for worse, and that it is because of this that it deserves its eternal character. However, there is a great gap between the foundations of life Islam has laid for us and the actual situation that we are living in, which mutilates our identity until it disappears completely.

Polygamy

In my view polygamy has no basis in Islam; rather, it is one of the evils of the pre-Islamic era which Islam has challenged through its gradualistic method. Most Arab men of the pre-Islamic era had an unlimited number of wives, whom they used for cultivating land, doing the housework and for pleasure. This practice still exists amongst our rural population where men take several wives for the same reasons. When Islam was introduced, one of the first things it did was to limit the number of wives a man could have at any one time. The Prophet said to a man who had several wives: 'Keep four and leave the rest'.²⁵⁹ Islam introduced the condition of just equality among the wives in order to avoid injustice, as revealed by the following verse:

Marry such women as seem good to you, two, three, four; but if you fear you will not be equitable, then only one.²⁶⁰

This verse constitutes a clear warning as to the adverse effects of polygamy. At the same time, Islam referred to the impossibility of complying with the condition of fairness, no matter how much the man endeavours to achieve it, as shown in this verse: 'You will not be able to be equitable between your wives, be you ever so eager'.²⁶¹

However, if polygamy had not continued after the revelation of this verse, the latter would have constituted the clearest prohibition. Whatever the gradual approach taken by Islam in achieving its goals and judgements, it has also proven its love of monogamy, as the text specifically refers to the impossibility of fairness to all four wives. If we return to the verse that defines marriage as an institution based on love, compassion and tenderness between two people, it is not difficult to see that one cannot divide these feelings and its effects among one man and several women. Similarly, just as a man needs to feel that his wife belongs to him alone, so too is a woman driven by the feeling that her husband is hers alone. Throughout history women have suppressed the feelings expressed by men in such an unjust way, which has disrupted the peace and happiness of matrimonial life.

We can see with our own eyes the dissension within many families as a result of disputes between a husband and his wives and between the wives and their children as a result of the fathers' injustice and the incitement of the mothers. When the father dies unaware of these struggles, they get worse as a result of the

division of the inheritance and the tricks to hide it. This has often resulted in feelings of hatred that are passed down from one generation to the next. And if the father dies without leaving an inheritance, his children curse him for seeking only his own pleasure without thinking about making provisions for them or to allow them to finish their education so as to be able to meet the challenges of life.

In this respect, I should like to relate the story of a painful tragedy, which I witnessed two years ago with my own eyes in the district of Ra's al-Jabal in the province of Bizerte.²⁶² I saw a woman carrying two small children in her arms complaining that her husband had evicted her from the marital home, at the instigation of the elder children from a previous marriage. The husband had even denied that they were married so as to exclude both her and the two children from his inheritance and to ensure his entire estate would go to the other siblings from his earlier union. The woman said that she had been neglected for the last two years, being forced to beg for money and shelter. She had appeared before the judge, who had been a classmate of mine at al-Zaytūna and told me the following: 'Her case had initially been dealt by me but just before the ruling it had been transferred to the capital by order of the *Sharī'a* tribunal judge. The poor woman could not afford to go to Tunis to pursue her claim, but I could not do anything except help her financially as much as I could, and encourage others to do the same. On several occasions, I also wrote to the judge in Tunis about her case, but never received a reply.'

This is but one example of the misfortunes and calamities caused by polygamy. Yet, in spite of this, many men are keen to engage in polygamous marriages, under the protection of the *Sharī'a*. How miserable and ignorant we are!

The Prophet's wives

The fact that the Prophet had many wives does not mean that he legislated for this practice, or wanted the Muslim community to follow this path. Indeed, he had taken these wives before the limitation had been imposed. It is worth bearing in mind that the Prophet was also a human being, and as such was subject to human tendencies as regards issues that had not been sent down to him as revelation from the heavens. As soon as the revelation came to cease this practice because of its wicked effects, he did not hesitate to impose it, even on himself, as witnessed by the following verse:

Thereafter women are not lawful to thee, neither for thee to take other wives in exchange for them, though their beauty please thee.²⁶³

However, the reason the Prophet did not leave a certain number of his wives and keep only one or four as he prescribed for the believers is because the Prophet's wives were regarded the Mothers of the Believers, as shown in the following

verse: 'The Prophet is nearer to the believers than their selves; his wives are their mothers.'²⁶⁴ In another verse, it is stated:

It is not for you to hurt God's Messenger, neither to marry his wives after him, ever; surely that would be, in God's sight, a monstrous thing.²⁶⁵

If the Prophet (Peace Be Upon Him) had left some of his wives in accordance with the injunction, he would have exposed them to a life of destitution, and driven them into an abyss of immorality.

The Arabs traditionally loathed the idea of their wives marrying again, even after their death. Some of them even left their wives she-camels and gold so that they would not need to remarry. Indeed, if the widow did remarry, the new husband would have to pay back any money to the family of the deceased. It was considered shameful for her and a betrayal to her first husband if the wife remarried and broke her pledge to him. These beliefs and traditions were rooted deeply in the Arab psyche, and were inherited from their ancestors in the pre-Islamic era. It is clear that the Prophet behaved to some extent like them in order to make them respect him and retain his standing among them, since his sole objective was to spread the faith among them. When it came to divorce, the Prophet only accepted this for two of his wives, at their request and prior to the consummation of the marriage.

This is not the place to discuss the criticism levelled at the Prophet regarding the fact that he married more than four women, placing himself above his people and in a quest to gratify his own personal pleasures and lusts whilst denying others the same perceived pleasure. It is impossible that someone would behave like this to spread a new religion among the people and establish a state which has endured and grown through the ages, and whose effects have become evident over the centuries, all the while adapting to changing living conditions. If only Muslims understood the real meaning of their religion and their duties towards it. Unfortunately, I cannot see the day when Muslims will do this.

3 Prior to divorce

Companionship

The Prophet rightly expressed his aversion to divorce, referring to the fact that it is hateful in the eyes of God: ‘Of all the things that are lawful, divorce is the most hateful to God.’²⁶⁶

The Qur’ān encourages harmony in a relationship, discouraging men and women from behaviour that could lead to divorce, as is clear from the following verse:

Consort with them honourably; or if you are averse to them, it is possible you may be averse to a thing, and God set in it much good.²⁶⁷

The Holy Book also forbade man in the strictest possible terms from inflicting harm on his wife by mistreating her, as shown in this verse:

Do not retain them by force, to transgress; whoever does that has wronged himself. Take not God’s signs in mockery.²⁶⁸

This is due to the fact that mistreating one’s wife leads to the marriage losing its meaning and can, in some instances, lead to divorce, or worse, resulting in women losing their morality and purity. The Qur’ān has the same advice for both men and women, mentioning and praising those who are virtuous: ‘Righteous women are therefore obedient, guarding the secret for God’s guarding.’²⁶⁹

Islam is more concerned with preaching to men than to women as it recognizes the influence the men have over women and their ability to correct the latter or corrupt them. This is why the Qur’ān gave the husband the right to discipline his wife, using various methods over a period of time, should the wife exceed the boundaries of decency, as set forth in this verse:

And those you fear may be rebellious admonish; Banish them to their couches, and beat them. If they then obey you, look not for any way against them.²⁷⁰

It is not surprising that as women were not educated during the pre-Islamic era, they neglected their husbands, family and homes, and even themselves through laziness, because they were terribly spoilt in their upbringing. Islam gave the man

the right to discipline and correct his wife so as to avoid him having to divorce her. The ways of disciplining are clearly determined and graduated. It starts with verbally admonishing the wife and setting the right example. It continues with the man leaving the marital bed for a short period and, finally, if all else fails, the man may strike her. All the interpreters of the Qur'ān agree that the beating should not be violent or brutal. As a result, some religious scholars interpret the hitting to involve no more than rubbing the seam of his garment against her so as to make her ashamed of her behaviour, to lead her back to the right path and a peaceful married life and thus avoid divorce, as is illustrated in the following verse: 'If they then obey you, look not for any way against them; God is All-high, All-great.'²⁷¹

This is one of the issues where Islam takes into account woman's backwardness in comparison with men in terms of education and intellectual capacities by giving the husband the right to hit his wife, but with fairness, just as he has the duty to provide for her needs and give a dowry. It should not be deduced from this that Islam allows men to harm women by beating them, or indeed by doing other things, as some people would like to make out, thus generalizing an act committed only by brutal and ignorant men. There are numerous verses in the Qur'ān and Islamic injunctions that vindicate Islam of this accusation as they impose the duty to respect woman and to treat her well when dealing with her and being in a relationship with her, to the extent that to harm women is tantamount to mocking the divine scripture. If a woman has been harmed in any way or had a right she has received under Islam violated, she is able to bring her case before a court in order to have it restored to her. As for the right of men of integrity to discipline their uneducated wives only to maintain a good and happy marital life, there is nothing evil in this as long as divorce is avoided.

Arbitration

To reconcile a couple's differences, the legislator instructed that two arbiters, one from each family be sent lest there is discord between them and to increase the chance of agreement between them. The arbitration takes away the fear and restores peace to the couple, or identifies the guilty party, ensuring that the latter does not overstep the mark any more. The reason for having arbiters from both families is perhaps to influence the couple and make them return to their senses, as becomes clear from this verse: 'And if you fear a breach between the two, bring forth an arbiter, if they desire to set things right; God will compose their differences.'²⁷²

4 Divorce²⁷³ in Islam

The meaning of divorce

Marriage is closely associated with life; the two are interdependent and their purpose is to ensure procreation and provide good conditions for raising children in harmonious homes. This is accepted from both a religious and a social point of view. Nevertheless, the fact that the husband and wife have different dispositions may result in these hopes being dashed, irrespective of the variety of remedies that exist. Rather than having couples live together in distressing conditions of daily arguments, and hypocrisy cloaking deception and sin, it is preferable for their own sakes to release the bond that exists between them. It is only in these desperate situations that the legislator envisaged divorce, as prescribed in the following passage of the Qur'ān: 'Retain them honourably or set them free honourably'.²⁷⁴

Human beings are fallible, which is why Islam has allowed the first separation in marriage to be revocable and required the husband to continue with all his duties towards his family and wife as he did before the break-up, with the exception of sexual intercourse. However, this waiting period (*'idda*) is limited, whereas the resumption of normal marital life is contingent upon their having a sincere regret over what has happened and a desire to make things right and pursue a harmonious relationship in the future, as indicated in the following verse:

When you divorce women, and they have reached their term, then retain honourably or set them free honourably; do not retain them by force, to transgress; whoever does that has wronged himself. Take not God's signs in mockery, and remember God's blessing upon you, and the Book and the Wisdom He has sent down on you, to admonish you. And fear God, and know that God has knowledge of everything.²⁷⁵

The Qur'ān shows us that divorce is not meant as an act of revenge carried out by a man against his wife in anger. Rather, it is a separation that is decided when agreement between the couple proves to be impossible, and it is a decision that any reasonable man takes with much regret. The Qur'ān enjoins that the pain of the separation should be limited as much as possible through the

payment of sufficient compensation to the repudiated wife, as prescribed in the following verse:

There shall be for divorced women provision honourable- an obligation on the god-fearing.²⁷⁶

Women are entitled to this payment even if the marriage has not been consummated, as indicated in the verse:

O believers, when you marry women and then divorce them before you touch them, you have no period to reckon against them; so make provision for them, and set them free with kindness.²⁷⁷

If the type or amount of compensation to be received by a woman has not been specified before the marriage, then it must be proportionate to the man's ability or the divorce conditions, and as such its determination is left to the independent judgement of the judge, as stated by al-Qāḍī al-Bayḍāwī in his exegesis of verses relating to this issue.

In pre-Islamic Arab society, divorce involved humiliation of the repudiated woman, to the extent that the husband could ask her to reimburse the dowry (*mahr*)²⁷⁸ so that he could pass it on to his next wife. This state of affairs has continued in rural areas of our country to the present day, and does not seem to bother the law courts that can be found all over the land. The Qur'ān denounces this base custom as follows:

And if you desire to exchange a wife in place of another, and you have given to one a hundredweight, take of it nothing. What, will you take it by way of calumny and manifest sin? How shall you take it, when each of you has been privily with the other, and they have taken from you a solemn compact?²⁷⁹

Islam did, however, exclude women guilty of immoral conduct from the benefits of such compensation, as explained in the following passage:

neither debar them, that you may go off with part of what you have given them, except when they commit a flagrant indecency.²⁸⁰

Final divorce²⁸¹

Islam enables the couple to reconsider a misguided decision to divorce by allowing them to return to one another twice, making the divorce final only after it has been pronounced a third time. Islam punishes the husband who takes the decision to divorce lightly by inflicting a penalty that is extremely abhorrent to the Arab mentality; before the woman is allowed to remarry her first husband, she must first marry another man. In fact, the law also states that she can only do so if she has been repudiated by her new husband and both parties agree to this, while they both have to undertake to pursue a harmonious relationship and live

within God's bounds. It is also possible for the wife to leave her husband in return for the payment of an indemnity if she is not happy in her marriage to him. In this case, this should not incur any losses to the husband, as is explained in the following verse:

Divorce is twice; then honourable retention or setting free kindly. It is not lawful for you to take of what you have given them unless the couple fear they may not maintain God's bounds; if you fear they may not maintain God's bounds, it is not fault in them for her to redeem herself. Those are God's bounds; do not transgress the bounds of God – those are the evildoers. If he divorces her finally, she shall not be lawful to him after that, until she marries another husband. If he divorces her, then it is no fault in them to return to each other, if they suppose that they will maintain God's bounds. Those are God's bounds; He makes them clear unto a people that have knowledge.²⁸²

Those who believe that divorce can be final when it is pronounced the first time by some specific wording in the same way that it is after three times, are clearly wrong. There is a huge difference between what the Qur'ān sets forth as punishment for those who take the decision to divorce lightly, and the interpretation by certain *mufṭīs* in Tunisia and by the general population in Muslim countries. They regard it as a minor matter that a woman marries a new husband for a night or an hour and then divorces him in order to return to her original husband.²⁸³ There is nothing mentioned about this in the Qur'ān. Indeed, if we take a close look at the text, we can see that it supports the view that there is nothing to be gained by the couple from getting back together after the divorce has been pronounced for the third time. This is explained in the following verse:

Divorce must be pronounced twice and then (a woman) must be retained in honour or released in kindness.²⁸⁴

This verse is based on the fact that after the spouses get divorced and fail to reunite twice, the marriage has no chance of being restored. However, this does not preclude the possibility that the couple may subsequently get back together again. Indeed, with the passing of time, the parties may change and destiny may bring the couple back together again in order to live a peaceful and harmonious life based on mutual devotion, which is a precondition in Islamic law for reconciliation, as indicated in the verse already quoted: 'If they consider that they are able to observe the limits of Allah.'²⁸⁵

The fact of resorting to interpretations of Qur'ānic verses that involve stripping them of their true meaning is against Islamic law as the aim of the legislator is to punish those who do not respect the law. As for those who have pity on couples devoid of happiness, why do they not reduce the threefold pronouncement to a single one, but at the same time offer couples the benefit of the multiple pronouncement as put forward in the verse and thus simplify matters for couples, while still acting in accordance with the Qur'ān?

While acknowledging that all men are fallible,²⁸⁶ I do not believe that a scholar of the standing of Abū-Ḥanīfa would have accepted the use of stratagems that are practiced in this country under the cloak of religious permissibility. The Prophet (Peace Be Upon Him) said: 'Cursed is the one who makes a wife lawful for another, and the one who and he who benefits from it'.²⁸⁷

The right to divorce

Islam left the decision of divorce to the husband, as described in the Qur'ānic verses. It is endorsed by the law, which recommends that it should be used only as a last resort, while condemning it and encouraging a harmonious marital life, as already shown elsewhere. At the same time, it entrusts the right to divorce to the husband on the basis that his judgement is more balanced than that of a woman. However, in Islam the wife is protected by the judicial system, to which she can have recourse for any offence against her rights. The courts will protect her from any harm that she may suffer, and may impose a divorce on the husband, even in cases where the complaint results from involuntary and unpremeditated behaviour on the part of the husband, such as a material or sexual incapacity or when the husband is afflicted with a defect or infirmity incompatible with normal marital life.

Several scholars granted women the right to seek a divorce without going to court, just as in the case of the husband being afflicted with a defect of some sort. The wife may also seek a divorce when the husband fails to fulfil a condition of the marriage contract, for example, if there is a clause stipulating that he should not take a second wife. This is the view taken in the Ḥanafī school of law.

However, if we take a close look at the reality of today and in the past, irrespective of whether the authority to pronounce divorce rests with a husband who is of superior intellect or with the wife, we can observe a number of distressing situations in which there are always many innocent victims. Consider a trader who when dealing with his customers in the market, or with his friends swears at them with divorcing his wife in every possible way, whether it is to make them trust what he is saying or to threaten competitors. On the other hand, we have a man, who after an altercation with his wife in a sudden flurry of anger curses at her and pronounces the formula of repudiation not three times, as determined by Islam, but hundreds or even thousands of times. However, once their anger has abated and their sick tempers have cooled down, they will cry, lament and bite their nails in regret. In spite of this, they have no choice but to go ahead with the divorce which they have pronounced during their outburst. At this point, the man must resort to choosing a 'one-night or two-night husband' in order to allow his repudiated wife legally to return to him. This practice is made legal by a *fatwā* that is delivered for this purpose by a religious scholar of the *Shari'a* Court. Jurisconsults have exacerbated this problem by viewing divorce not as a decision followed by an effect, but as something pronounced in a state other than that of sleep, inattentiveness or under duress. Once the formula is pronounced or even implied, there is no way back. Other jurists have taken an

even more extreme attitude, regarding repudiation as irrevocable even if the husband said it once or twice without any real intention to pronounce it three times. Even more bizarrely, there is a group of scholars who consider the utterance of the formula in a state of alcoholic intoxication to be binding, as a way to punishing the man for his unlawful behaviour. They do not realize that this punishment affects above all the innocent wife and offspring, who are condemned to a life of deprivation and misery. Do they think it is acceptable to drive a mother from her home and replace her with another woman, and to disperse the poor weak children? This is not what God wants! God forbid that Islam is the cause of such abominable evil! Nothing is more hateful to God than divorce. How can we allow divorce to be used by men with such a lack of concern and consideration?

Everyone knows that Islam accepts that divorce is necessary when agreement between two people proves impossible. It is an ultimate solution to be adopted only in case of absolute necessity. It is not intended to give the husband a free hand to act according to his inclinations and fickle whims, with the woman being entirely helpless and at his mercy. Unfortunately, this has been the situation for many generations over many centuries. Our religious courts still allow this and thus endorse the chaos, disregarding the adverse effects it has on marriage and the family. Our religious scholars are adamant that matters should stay like this, claiming that such practices are part of our religion. How can we accept the permanent threat to our homes and our wives, forcing our children to grow up in a family torn by unhappiness and disaster? It is unfortunate that we have jurists who impose such narrow views and even more unfortunate that we go along with them and accept judgements which give rise to such ruin.

Yet, if we examine the texts of the Qur'ān carefully, we can see that it does not set any store by idle chatter. It only accords value to good and bad deeds for which people are responsible, whereas it always treats offences with forgiveness and clemency, as shown in the following verse:

God will not take you to task for a slip in your oaths; but He will take you to task for what your hearts have earned; and God is All-hearing, All-knowing.²⁸⁸

How far we have deviated from the Qur'ān, whose spirit has been distorted by the rigid views of unenlightened jurists whom we follow!

Divorce courts

Further examination of the issue reveals that there is no other way of dealing with matters relating to marriage or divorce cases, except through the courts so that everything is done in conformity with the spirit and the letter of the *Sharī'ah*. No longer will an unhappy word uttered by a married man destroy his home and tear apart his family without anyone being able to save them from this deplorable situation, which is typically lamented by the culprit himself shortly afterwards as he may well have uttered the unfortunate divorce formula in a fit of rage, a state

of intoxication or out of sheer ignorance and stupidity. If we want to uphold justice and safeguard the true ideals of Islam, it is imperative that we establish divorce courts that truly comply with the objectives contained in the *Sharīʿa*. This is the duty that Muslims today are faced with for the following reasons:

1 Islam is in favour of marriage and wishes it to continue, even if it means putting up with the difficulties it may entail so as to have a chance of a good life, as shown in the following Qurʾānic verse:

But consort with them in kindness, for if ye hate them it may happen that ye hate a thing wherein Allah hath placed much good.²⁸⁹

Islam also tries to discourage believers from divorce by proclaiming that it is considered hateful by God, as becomes clear from the following saying by the Prophet: ‘Of all the things that are lawful, divorce is the most hateful to God.’²⁹⁰ On no other legal grounds than the Prophet’s words alone, a great number of Islamic jurists have concluded that divorce should be regarded as an illicit act. Consider the case, however, of a Muslim husband who deviates from moral principles in a momentary lapse and in a moment of madness – a fit of rage, or something similar – utters the divorce formula, which has huge consequences for his home and offspring. On the other hand, we have many cases to this day of men who, in order to satisfy his carnal desires, marry a white-skinned woman today, and a brown-skinned one the next, and acquire virgins by offering riches and substantial dowries to the girls’ parents. They, in fact, buy women as they buy any other objects for the sole purpose of sexual gratification and swap them for others when they are fed up with them. We can imagine the situation of children born from such unions; indeed, the victims can be seen wandering our streets today. Muslim jurists were accordingly unanimous in rejecting a marriage concluded under such circumstances as it runs counter to the Islamic texts, which view marriage as something that supports and encourages moral virtue and obviates wickedness. The Prophet (Peace Be Upon Him), said: ‘Someone who is married already possesses half of his faith.’²⁹¹

If all of what we have mentioned remains widespread among us in spite of the fact these practices are opposite to the intentions of Islamic law, then surely it is the duty of Muslims to put a stop to it to establishing divorce courts that aim to comply with the intentions of the *Sharīʿa* regarding marriage and divorce, in order to lessen the distress caused to Muslim men and out of pity for the women whose hearts continue to be trampled by men, either by mistake or with contempt. Muslims today deplore their situation, but do nothing to change it, for fear that any change might make matters worse!

2 Any legislation derives its strength from the law courts that protect it against the foolish actions by human beings. Muslims today often behave in ways which are totally incompatible with Islamic law. It is not their duty – especially that of their leaders, who are wont to proclaim their strong attachment to the principles

of our religion – to safeguard the laws of the *Sharīʿa* and its intentions in the same way as this is done by the religious courts?

3 The establishment of divorce courts should not be regarded as something inimical to the husband's rights. Rather, they play a moderating role in ensuring that these rights are exercised in accordance with the lawful intentions under Islam and in determining which party is in the wrong. They are able to reason with the party requesting the divorce, to calm the applicant's anger and bring him to his senses. This course of action is successful in most divorce cases.

4 The rights of the individual will be respected as long as he does not misuse them to harm the nation. Although the creation of divorce courts may be considered to be genuinely detrimental to the rights of men, it will safeguard the family and society from fragmentation and ruin. In this case, the loss of the rights to the individual is subordinate to the rights of society as a whole. The Islamic attitude towards the protection of society as a whole is clearly expressed in one of its rulings which permits the sacrifice of one-third of the population to save the remaining two-thirds, provided this is the only course of action possible. This principle is recognized by Mālik Ibn Anas, a leading scholar from Medina and the founder of the eponymous school of law. Even if we cannot find a text that explicitly precludes the man's right to divorce without a court ruling, should we not be guided by the general principles of Islam in addressing the shortcomings in our lives?

5 The individual has the right to use his wealth in any way he sees fit. However, if he misuses his wealth and acts against his own interests, it is possible under the *Sharīʿa* to place this wealth under the guardianship of a third party. Indeed, this is currently applied by the *Sharīʿa* courts, who appoint legal guardians in cases where the owners are deemed incompetent to administer their estates. It is important here to realize that property is something static and does not really harm anyone, except the owner, himself. So, if this is the case with property, how can we allow the husband a unilateral right to file for divorce, given the consequences this has on his wife, his children and family, without seeking ways to ensure that he uses this right responsibly? Is it more important in Islam to safeguard wealth or marriage, bearing in mind that marriage is the cornerstone of human existence and the breeding ground for future generations of our society? God forbid that this is the case in Islam! I, for one, cannot imagine that this is true and I have not found any texts that support it. Quite the opposite! All our texts support marriage, which is something Muslims would understand if only they were aware of its religion's gradualistic approach.

6 To leave decisions about divorce in the hands of the husband amounts to leaving the destiny and emotions of the wife to the whims of chance, thus condemning her to a life of degradation. She enters her husband's house full of anxiety and doubts about the future. Even as a child, I often heard older women wishing young girls well by saying 'May our Lord enhance your happiness, little one!' This undoubtedly reveals the prevailing feeling that a woman cannot expect anything except what fortune brings her in marriage, both good and bad. These apprehensions often become a reality. Many women are

faced with divorce, sometimes more than once by one or several husbands. This causes them to give up all hope for themselves, marital life and the sincerity of men. The necessities of life often drive these women to prostitution²⁹² and to taking their revenge on men, especially youngsters who confuse love with lust. These are incidents we witness on a daily basis, and the situation is getting worse all the time.

7 The decision to give authority to decide divorce cases to the courts is not alien to Islam. Both now and in the past, *Sharī'a* courts have frequently judged husbands to be in the wrong in divorce cases, when necessary. The judge has always been able to rule cases of *ilā'* and *zihār*, acting as conciliator between the couple, and to settle their differences through sending arbiters, or by other means. Divorce is only granted in the event mediation fails and once the guilty party has been identified.

As these courts may pronounce the hated divorce when necessary, it is only right that their authority should extend to all cases to oblige husbands to reflect before taking a decision as serious as divorce, and to prevent certain men²⁹³ who simply want to taste different women, just as one tastes different types of food, only to satisfy their sensual desires, from making a mockery of the sanctity of woman granted to her by Islam. Indeed, all religious scholars agree on the fact that this is forbidden. Although we are for the most part driven by our selfishness, we pretend that we are defending religion and the rights it has granted to men.

8 In many passages, the Qur'ān encourages us to reflect on the conditions of our ancestors and the punishment received by those among them who strayed, but for which there are no Qur'ānic verses, while recommending that we draw lessons from everything around us. This is expressed in the following verses: 'Therefore take heed, you have eyes!',²⁹⁴ 'And in your selves; what, do not see?',²⁹⁵ and 'Man shall be a clear proof against himself'.²⁹⁶

What are the lessons that the Qur'ān invites us to learn today, except those that allow us to avoid loss and degradation? What is the purpose of widening our scope of vision in order to know more about distant worlds if not to gain a better understanding of ourselves, where we are in life and where we are heading?

9 If we entrust the courts with divorce, we can arrive at a book containing the causes of marital disputes and statistics on the main factors, which would enable us to draw important social lessons about the causes of our misfortune and how to remedy them. At present, we do not know the causes of the problems afflicting marriages in our country, let alone study them or solve them. I went to the *Sharī'a* Council in order to find out whether there was a department that kept statistics regarding marital problems and divorce. When I got there, I was told that nothing of the kind existed, but the registers contained a few cases that had been examined by the *Sharī'a* Court. Unfortunately, no statistics existed of those, either. We are in dire need of introducing reforms in this area of the type that have already been carried out in divorce courts all over the world.

It is surprising that Muslims in general are still reluctant to establish divorce courts and continue to accept a formula uttered by a husband to his wife,

irrespective of whether this is unjust and cruel on the wife and children, considering that because it is a law text it must be observed and applied to the letter since otherwise we would be living in sin. However, today we can see with our own eyes that in the majority of cases, the utterance of the divorce formula by the husband is most thoughtless and runs counter to the judgements of Islamic law and its objectives. Similarly, one must reject the view that by applying the verse to the letter the one who pronounces the formula does so to support and defend the *Shari'ah* and its objectives, and thus protects the couple from living a life of sin. There is no contradiction in this because among Muslims the *Shari'ah* does not change, which is the really surprising thing.

It is even more astounding to know that certain Muslim jurists allow a man to marry a woman with the intention of divorcing her after a short period, and without informing her of his intentions or specifying in the marriage the circumstances which could lead him to take such a decision. This is in spite of what the Qur'an says about the meaning of marriage:

And of His signs is that He created you of dust; then lo, you are mortals, all scattered abroad. And of His signs is that He created for you, of yourselves, spouses, that you might repose in them, and He has set between you love and mercy.²⁹⁷

One may also refer to a saying by the Prophet in this context: 'Among all the things that God has made lawful, none is more abhorrent to Him than divorce'.²⁹⁸ Those same Muslim legal scholars prohibit men from regarding women as dishes they can sample as they wish, referring to the following *hadith*: 'God's curse upon the one who tastes and then divorces'.²⁹⁹

Despite all this, scholars allow any man to follow this path, and thus to use marriage as a means of satisfying moral depravity that can be used over and over again. This situation continues to be tolerated in Muslim society to this day. Our *Shari'ah* Courts are not interested in looking at these issues, nor do they appreciate the adverse effects these practices are having on our lives. As long as it is allowed to harbour the intention of divorce from the day the marriage contract is signed, we have to entrust divorce to the court and prohibit the husband from being involved in it, except when necessary.

The above reveals that we are talking at random and attempt to breach Islam when we talk about divorce courts after what religious scholars consider to be lawful for a man. Woe unto us, Muslims!

Divorce courts are not a panacea for the chaos resulting from the spread of divorce and the collapse of the family unit. The most important thing is that their establishment should be accompanied by a solid unified education of both sexes in order to elevate us, which is what European countries are working towards today. Morality is both the basis and the ultimate objective of the *Shari'ah*, and thus if problems occur, it should be possible to find solutions.

Financial compensation in divorce cases

Compensation is recognized in Islamic jurisprudence. Our legal system governs all that harms a person's property or right, whether intentional or not, as is expressed by the following famous saying among legal scholars: 'There is no difference between intention or mistake when it comes to people's wealth.' As far as the law is concerned, loss of wealth is treated just like the damage resulting from the killing of a person, with blood money being paid by the perpetrator to the victim's family. However, we are not used to hearing about financial compensation in divorce cases, even though it is set forth in Qur'ānic verses, that is, those relating to *fidā*,³⁰⁰ and *imtā'*,³⁰¹ as we shall explain later.

When divorce becomes inevitable and one party is identified as having harmed the other, and if this is the man, it is incumbent upon him to provide maintenance, as shown in the following verse: 'There shall be for divorced women provision honourable – an obligation on the god-fearing.'³⁰²

If, on the other hand, the woman is the guilty party, then she forfeits her right over the household belongings, as stated in this verse:

neither debar them, that you may go off with part of what you have given them, except when they commit a flagrant indecency.³⁰³

In case the divorce is requested by either the husband or wife without either one having legitimate cause, the following applies. If it is the wife who requests it and the husband agrees, he is entitled to compensation out of her share of the household effects. This is what legal scholars refer to as *khul'a*,³⁰⁴ as in the following verse from the Qur'ān:

If you fear they may not maintain God's bound; it is no fault in them for her to redeem herself.³⁰⁵

If, however, it is the husband who requests the divorce, he is liable to pay compensation, regardless of whether the marriage was consummated, as set forth in the following verse:

O believers, when you marry women and then divorce them before you touch them, you have no period to reckon against them; so make provision for them, and set them free with kindness.³⁰⁶

Furthermore, the Qur'ān orders payment of half the dowry to the woman if the marriage was not consummated, as prescribed in the following verse:

And if you divorce them before you have touched them, and you have already appointed for them a marriage-portion, then one-half of what you have appointed, unless it be they make remission, or he makes remission in whose hand is knot of marriage; yet that you should remit is nearer to god-fearing. Forget not bountiful one towards another. Surely God sees the things you do.³⁰⁷

The Qur'ān also prescribes compensation to a woman whose dowry has not been specified prior to marriage and who is divorced before the consummation of the marriage. The amount of the compensation is dependent on the circumstance of the husband, as shown in the following verse:

There is no fault in you, if you divorce women while as yet you have not touched them nor appointed any marriage-portion for them; you make provision for them, the affluent man according to his means, and according to his means the needy man, honourably – an obligation on the good-doers.³⁰⁸

For this reason the amount of compensation is left to the court to decide after examining the matter. Payment of compensation, as well as half the dowry, as the Qur'ān prescribes, to a woman who is divorced before the marriage is consummated is intended to compensate her for the chances she has lost to build a future with someone else, as well as to relieve her disappointment. This is what the Qur'ān states. Generally speaking, our *Shari'a* courts do not, however, award anything to the divorced woman, irrespective of the type of divorce, except when the divorce takes place shortly after the consummation of the marriage, in which case she is entitled to the household goods of the marital home. This is perhaps supported by our *Shari'a* courts since they are guided in this by the view of some legal scholars who hold that the husband is only liable to pay for maintenance and shelter during the required 'waiting-period' (*idda*) before the woman can marry again, and that this, in fact, constitutes the compensation. This interpretation is not supported by the Qur'ān, since it clearly refers to maintenance and clothing during the waiting period, and even extends it to women who are not subject to the waiting period, that is, those who are divorced prior to the consummation of the marriage. The extent to which woman is respected and treated with justice in the Qur'ān corresponds to the humiliation she suffers in reality.

If we really wanted to respect women and consider them our equals in what they deserve in life, we would also grant them compensation in cases where a woman falls victim to mendacious marriage promises which are likely to upset her when they do not come true and vanish in front of her eyes like a mirage. In cases such as these, European divorce tribunals grant financial compensation, even if a sincere marriage promise was not kept due to circumstances beyond the control of the man who made them, since the damage is real whatever the man's intentions. The complexities of this situation are obvious in the diversity of cases which it covers, and the judgements differ with each one. However, the basic principle is that a woman must not lose her rights because of a man's action without there being any consequences for the latter.

Returning to the foundations of Islamic law in respect of harmful loss, we can see that it cannot be assessed. And if we allow compensation for damage inflicted by a man to another person's property, no matter how small, is it not reasonable and logical that we should award compensation for the damage a man's actions cause to the life of the woman and her peace of mind? And if reasoning by analogy³⁰⁹ is a sound legal indicator in Islam, is it not reasonable and logical that

we first turn for judgement to what is written down on the issue? However, we are used to not seeing the damage subjected to women in their marriage or divorce, as if they are soulless shells, despite the fact that the Qur'ānic text generally sets forth means of achieving justice between man and woman. In view of the fact that we have neglected to heed the Qur'ānic texts relating to the duty of compensation to divorced women, it is only logical that we do not apply them to compensation resulting from a mendacious promise of marriage either, so that the damage affects both parties!

5 Opinions of Tunisian ‘*Ulamā*’ on woman and marriage

In order to obtain the views of present-day legal scholars, we submitted a number of questions regarding the position of woman and marriage in Islam in the hope of getting answers from them that would elucidate our position and where we stand in our reform of the judiciary which is necessary for the benefit of justice and progress for women. These are the questions:

- 1 Does the woman have the right to choose a husband, or is this the right of her legal guardian, and who has the final say?
- 2 If after consummation of the marriage one of the spouses becomes afflicted with a defect that could give rise to an annulment should this be viewed as an inescapable tragedy?
- 3 Does the deprivation of conjugal relations because of a long absence by the husband give the wife the right to request the divorce, or is she precluded from doing so as long as she receives maintenance payments? Does the same apply if the husband is missing?
- 4 Does the divorce take effect if the formula is pronounced by the husband in a fit of rage or if it involves a conditional repudiation,³¹⁰ or should it rather be a question of a couple’s inability to live together any more?
- 5 Does the woman have any protection against the husband’s right to divorce, or does he have the right to divorce the woman whenever he likes, and without any restriction?
- 6 Does the law allow woman to ask for divorce on the grounds of incompatibilities in character, morals and aspirations between her and her husband which prevent a happy married life?
- 7 Does the woman have the right to *li‘ān* just like her husband if the latter has committed adultery, or is this the sole preserve of the man? If not, what are the grounds on which this privilege is conferred?
- 8 Is a man allowed to marry a woman with the intention of divorcing her from the very beginning, that is, when the marital contract is concluded, and is the marriage valid in this case?
- 9 In the marital home, should the woman be considered an equal partner of the husband with whom she shares all duties, or is she under his tutelage and an object that is there simply to carry out his orders? What happens if she refuses to do the things he forces upon her?

- 10 What is the extent of freedom the woman enjoys in managing her own money in trade and other transactions when she is of age, and does her husband have tutelage over her in this respect, or does he have the authority by law?
- 11 What is the social consideration in which woman is held generally and is she permitted to lead the prayers as imam, hold judicial office, or have any other responsibilities beside those in the marital home?
- 12 Which parts of her body must the woman cover in order to preserve her moral virtue?

I went to see some of our scholars at the Zaytūna mosque and jurists attached to the *Shari'a* Court and submitted these questions to them in order to obtain their opinions and lead us to the truth. All of them kindly agreed to my request and were most eager to guide us in this subject. The *shaykhs* who agreed to provide replies to the above questions were: the honourable Sīdī³¹¹ al Ḥaṭṭāb Būshnāq,³¹² who teaches Islamic sciences and the principles of the Ḥanafī school of law; Sīdī 'Uthmān Ibn al-Khūja,³¹³ who is first-class *mudarris*³¹⁴ in Islamic sciences and the Ḥanafī law school; the Honourable³¹⁵ Sīdī 'Abd al-'Aziz Ja'īt,³¹⁶ teacher and Mālikī *Muftī* at the Dīwān Court;³¹⁷ the honourable Sīdī al-Ṭāhir Ibn 'Āshūr,³¹⁸ former judge and a leading scholar of the Mālikī school of law;³¹⁹ the honourable Sīdī Bilḥasan al-Najjār,³²⁰ teacher and Mālikī *Muftī* in the Dīwān Court; and the honourable Sīdī Aḥmad Bayram,³²¹ the *Shaykh al-Islām*.³²²

Below are their answers to the questions, without the preamble.

Answers of Sīdī al-Ḥaṭṭāb Būshnāq

Answer to question 1

A free woman who is of legal age and sound mind may marry any man she chooses and conclude the marriage contract by herself. Her legal guardian cannot oppose her marriage nor can he force her to marry another man. It is said in the *Kanz*³²³ that marriage of a free woman who is legally competent is valid without permission of her guardian and no woman who has reached the age of majority can be forced into marriage. According to the *Baḥr*:³²⁴ 'whoever is permitted to manage their own assets, is also entitled to enter into marriage by themselves. Therefore, any woman who is of legal age and sound mind is allowed to manage her own wealth in every respect. Nevertheless, it is advisable that she should delegate this authority to an agent so as to avoid criticism of impudence. The legislator grants the guardian of the woman the right to oppose her marriage if he believes that the man she has chosen is not suitable for her, in which case the guardian may request the judge to instruct the dissolution of the marriage if the latter is able to establish the unsuitability of the union. However, this request cannot be taken into account if the woman is pregnant, lest the child's welfare be harmed.'

Answer to question 2

If either spouse is afflicted with a defect, the other party is not given a choice as long as the defect does not prevent sexual intercourse as contractually prescribed.

According to the Imam Muḥammad Ibn al-Ḥasan,³²⁵ a disciple of Abū-Ḥanīfa, if leprosy or madness appears in the husband, the wife is given the choice to divorce, but not the other way around, because the husband is able to avoid the problem as he has the right to divorce her.

Answer to question 3

The woman does not have the right to request a divorce if her only grievance is the poverty her husband of and his inability to provide for her. Indeed, she is even required to borrow money on his behalf. The same situation applies when the husband is absent and does not provide maintenance, or if he is rich. Jurists of the Ḥanafī school of law approve of a judge appointing a delegate in order to look into the couple's affairs when the husband refuses the divorce because he is indigent and does not find it easy to take up a loan, whereas the wife cannot find anyone to give her a loan either if her husband is not likely to have any funds in future. In this case the separation is necessary if the wife requests it. However, if the husband is absent, then the divorce cannot be pronounced in the absence of information on the circumstance of the missing husband. In the case of a husband who has disappeared, the judge appoints a guardian who will provide for the wife and her children. Some of my colleagues are inclined towards the view that the marriage is to be dissolved if the husband remains missing for a period of four years.

Answer to question 4

There is no doubt that the husband has the right to make use of his wife in exchange for the dowry he has paid. This ownership right ceases upon divorce which takes effect from the moment he pronounces the formula, except if this is done in a fit of great anger and rage that exceeds the bounds of reason, with the divorce being invalid on the grounds of his insanity. Certain jurists do, nevertheless, consider that divorce is not allowed except if it is absolutely necessary, invoking the following *ḥadīth*: 'The lawful thing which Allah hates most is divorce'.

Answer to question 5

The husband has the right to divorce whenever he likes, as was shown in the previous answer. However, the woman may impose a condition when the marriage is concluded to the effect that she is her own protector,³²⁶ in which case divorce becomes one of her rights which she may choose to exercise at any given time.

Answer to question 6

A woman is always entitled to present evidence of the attacks perpetrated against her and any harm which she has suffered. When this is established before a judge,

he may force the husband to divorce the woman, or pronounce the dissolution of the marriage himself. However, when it comes to demanding divorce based solely on incompatible characters and aspirations, these do not constitute sufficient grounds upon which to force the husband to dissolve the marriage.

Answer to question 7

This is one of the rights peculiar to the man, who may accuse his wife of adultery without any proof being established. It is linked to the right of the man to use his property as he sees fit, while he does not allow anyone else to share in it. If the husband thinks that his wife gave herself to another man, he has the right to make a sworn allegation of adultery (sc. *li'ān*). However, the wife does not have the monopoly over the use of her husband, as is borne out by that the fact he may marry other women, whereas she cannot, and hence cannot have recourse to *li'ān* and accuse him of adultery. Furthermore, if the woman commits adultery and she falls pregnant, the child born out of this will be unduly attributed to her husband as it will be born 'in his bed', and he will incur damage because of this. Islamic law has conferred the right of *li'ān* to the man with the aim of protecting him from this damage, whereas this does not apply to women, as is explained.

Answer to question 8

This is indeed allowed and the marriage is executed. Jurists hold that this is acceptable when a man marries a thrice-divorced woman and immediately after consummation divorces her so that she may lawfully marry her previous husband again, and thus the act is committed with the intention of reconciling the woman with her previous husband.

Answer to question 9

Woman is not a mere object in the home that the man can order around as he pleases; rather, she enjoys the same rights he does. Ibn 'Abbās³²⁷ had the following to say on this issue: 'I like to make myself attractive for my wife as much as I like her to make herself attractive for me'.³²⁸ The husband has no authority over his wife, except when it comes to his conjugal needs or to prevent her from leaving the house. Apart from these two things, the wife is under no obligation to carry out her husband's orders.

Answer to question 10

When a woman has come of age, she has the right to manage her own money and put it to use in commerce, or other activities, without there being a need for a guardian, as we explained in the answer to the first question.

Answer to question 11

Contrary to men, women are not able to engage in all occupations, and cannot, for instance, rule a country because of their inability to administer the affairs attendant upon a king. In addition, it would lead to women neglecting their expected duties namely, giving birth, raising the children, taking care of the home, etc. It is true that Abū Ḥanīfa did not have any objection to entrusting women with positions in the judiciary, but he excluded them from imposing physical punishments in view of the fact that their sentimental weakness might perhaps compel to leniency and compassion for the criminal and lead them to forgive him and rescind the punishment. As for a woman leading the prayer, this is only allowed if the worshippers are women and she stands in their midst. As regards a woman bearing witness by herself, she is only qualified to do so in matters relating to virginity, pregnancy and other women's issues. In all other matters, her testimony can only be accepted if it is corroborated by male witnesses.

Answer with question 12

With regard to the parts of the body a woman is allowed to show and whether her voice is allowed to be heard by others or not, it is generally recognized that the face is not part of the shameful areas (*ʿawra*) and that others may look upon it, except in cases where there is a fear of provoking temptation. Al-Quhistānī³²⁹ prohibited a young girl from revealing her face in order to curb the spread of immorality; the *ḥijāb* elicits chastity and protects women from accusations of being a harlot. As for the female voice, which some say is part of the *ʿawra*, this is a spurious allegation; however, the woman should not make it rough or smooth in such a way as to seduce men.

Answers of Sidi ʿUthmān Ibn al-Khūja***Answer to question 1***

If a young woman has not come of age, then her guardian may marry her off to whomever he chooses. As soon as she comes of age, the choice belongs to her, and she may either agree or disagree with her guardian's decision. However, this only applies if the guardian is not her father or grandfather, in which case she has no choice in the matter. When a woman comes of age, no one needs to act as her guardian, except her father, and she has the right to choose whom she will marry. Nevertheless, her guardian may still oppose the marriage and request its annulment if he believes the woman is entering into an unsuitable alliance.

Answer to question 2

If a defect appears in one of the spouses after the marriage is consummated, then neither may request an annulment on the grounds of this defect.

Answer to question 3

The disappearance of one of the spouses does not lead to the divorce being pronounced, even if there is no longer any financial support from the missing party, until most of the husband’s contemporaries have died.

Answer to question 4

When the husband pronounces the divorce formula, the divorce is valid, irrespective of the state he was in, except if it was made when he was asleep, a minor or mad.

Answer to question 5

The woman does not have any guarantee against the right of divorce bestowed upon the husband. He can exert this right whenever he wishes.

Answer to question 6

The woman may not request a divorce on the grounds of incompatibility between her and her husband in terms of attitude and morals, since we know that she enjoys the right to choose her husband without being subject to someone else’s authority.

Answer to question 7

The woman cannot use *li‘ān* as this right belongs to men alone because one of the prerogatives of men is that they can have several wives, whereas this does not apply to women; a man is allowed to marry four women, and can have an unlimited number of bondmaids.

Answer to question 8

The fact that the husband keeps to himself what is mentioned in the question has two aspects, a legal one and a moral one. From a legal point of view, the contract is valid and so are the provisions ensuing from it, such as the children’s lineage, the lines of inheritance among the spouses, etc. Legally, the fact that the husband has bad intentions does not vitiate the contract. From a moral point of view, we can say that the person will be repaid by God according to his intentions, both good and bad, and his punishment (or reward) will be proportional. The law only takes account of what has actually occurred between people in deciding its worldly judgements, which amounts to prohibiting things or making them compulsory. The moral standpoint is based on what takes place inside a human being in order to arrive at judgements regarding the hereafter, which involve repentance and punishment. The legal position is based on set conditions and principles and is concerned with what is there and what is not. The moral position is concerned with whether the intention is good or evil.

Answer to question 9

From a moral point of view, the wife is the partner of the husband and shares with him the duties and responsibilities in the management of the household and all matters relating to it. However, from a legal point of view, the wife does not have any rights on her husband other than the right to maintenance, clothing, housing and shelter, whereas the law provides that she has to grant her husband the conjugal rights he is entitled to, that is all. The husband may not use her as he sees fit when it involves other matters.

Answer to question 10

From a social point of view, a woman is considered a human being just like everyone else, and as such is entitled to the same things. However, she cannot lead the faithful in prayer, that is, act as imam, but this is not because of any lack of humanity on her part; rather, it is related to the fact that when praying the worshippers must be able to free themselves of everything in order to surrender themselves to God the Almighty. The legislator precluded woman from assuming the role of imam for fear that men may look at her in a way that is not in conformity with the purpose of worship, which is to empty the heart. However, 'as she is like every other human being', she has the right to occupy posts in the judiciary and pronounce judgements since the office of judge is a social one in the strict sense of the term as it is related to the structural framework of society, rather than being subject to the heart and at getting closer to God. So, if a woman is allowed to administer justice, then she can also hold any other position for which she has the required skills.

Answer to question 11

Once a woman has come of age, she is free to manage her wealth as she wishes. Her husband does not have any authority over her in this matter. The wife is her husband's equal in all matters, with neither being subjected to the other's will.

Answer to question 12

Legal scholars base themselves on the chapter on 'Sight and Touch' (*al-Nazar wa 'l-Lams*) in *Kitāb al-Karāha wa 'l-Istiḥsān* ('The Book of What is Hateful and What Is Approved')³³⁰ when stating that the man must not see any parts of a woman's body except her face and hands, for fear of temptation, whereas a man should not stare at a woman, as stated in the following verse of the Qur'ān: 'Say to the believers, that they cast down their eyes.'³³¹

This is the legal stance on this issue; however, there are differences of opinion regarding the morals and manners attendant upon this issue, and the content of the relevant text. Therefore, I should like to respond to this question in some detail.

There is no doubt that there is no difference between a woman and a man in that both need to broaden their scope, fill their lungs with fresh air, go to different places,

pursue their goals, examine the features of existence and free the soul, provided this is done in a way that does not infringe upon a woman's dignity. This view is shared by all wise men regardless of whether they are of the Muslim faith or not, since there is no religion which makes woman inferior to man in the above. It is recognized by all scholars among the civilized world that Islam both supports and legislates for the preservation of good moral conduct and against the rending of what covers a woman's shame, which is why it instructs women to cover their bodies in public, so as to avoid the glances of men. Among the parts of the body that attract the attention of men and which should not be uncovered, there is the chest, the wrists and the legs – in short, the entire body except the face, the palms and feet. All wise and civilized people agree that the showing of non-exempted parts is immoral and reveals a lack of concern for manners, whereas Islam condemns the provocative dress of some women in other societies as being nothing more than shameless and dissolute behaviour.

It is for these reasons that one of the principles of Islam is that women are forbidden from appearing in public in revealing clothes, acting in a manner that stirs the heart by, for instance, wearing kohl around the eyes, pencilling their eyebrows and wearing perfumes, and doing similar things which arouse natural lust. It is no secret that such behaviour by women in front of men is not condoned by wise people, both Muslims and non-Muslims alike. Indeed, the teachings of Islam in this matter agreed with the principles adopted by wise men in other civilized societies.

The support of Islam is yet more proof that it is a religion that is not limited to the exercise of worship and ritual ceremonies, but a religion that is heedful of worldly and social matters; it encourages the safeguarding of moral values, in particular, but always strikes a happy medium in all its proceedings. For instance, Islam did not give women freedom so that they could abuse it, by behaving in a licentious manner and flaunting themselves in public, nor did it take away women's vital rights to the extent that they are buried alive. There is no doubt that this is wholeheartedly accepted by all sensible people.

Islam is also falsely accused of oppressing women by forcing them to veil their faces when they are in public. This is mere idle gossip, springing from the minds of certain exegetes and religious scholars influenced by popular customs and the environment in which they grew up. These people even went so far as to believe that it is a religious duty for woman to veil her face in public. They even invented the glorious name of *ḥijāb* for this custom and traced it to the Qur'ān, going so far as to say that such an event had taken place before or after the revelation of the verse relating to the *ḥijāb*. Thus, anyone going by the words of these scholars would arrive at the conclusion that Islam indeed oppresses women by forcing them to wear a veil in front of their faces, and that this is clearly indicated in the Qur'ān. In reality, however, it is the result of these scholars' rigid minds, influenced by popular customs, and the fact that they interpreted the Holy Book in such a way that it corresponded to their own mindset, corrupting the word to suit their positions. They suppressed the truth of the verses in the same way that they suppressed the faces of beautiful women. There are those who employ

grammatical stratagems in order to make the words suit their interpretations. In so doing, these scholars acted rashly and blindly in their analysis of the text. The worst of it is that they claimed that their corruption of the spirit of the Qur'ān was driven by religion. Fortunately, it was ordained a long time before, and they did not succeed.

It is incumbent upon those who know to explain the verses whose meaning has been subverted, such as:

Say to the believers, that they cast down their eyes and guard their private parts; that is purer for them. God is aware of the things they work. And say to the believing women, that they cast down their eyes and guard their private parts, and reveal not their adornment save such as is outward and let them cast their veils over their bosoms, and not reveal their adornment save to their husbands, or their fathers.³³²

The technical meaning of the word *khimār* (veil)³³³ relates to any fabric that a woman puts on her head, and is equivalent to a man's turban. The word *jayb* for 'bosom' refers to the opening in the upper part of the dress resulting in the showing of the throat. So, the text instructs a woman who appears in public to veil her throat and the upper part of the chest since leaving this uncovered gives rise to reactions among people of the kind already mentioned. Furthermore, she should not attract attention to herself, behave in a way that is immoral and attracts the gaze of men to their faces in particular. The word *khimār* is taken to mean something that covers the face, but this is a mistake since the fabric which covers the face is called a *burqa*^c,³³⁴ which does not appear in the Qur'ān!

As for the part in the verse enjoining women 'not to reveal their adornment (*zīna*)',³³⁵ the meaning of *zīna* is clear; when a woman is in public, she is forbidden from showing anything except things that do not attract attention to the face, that is, new sandals or a silk dress. Islam is above the criticism that it instructs a woman to wear worn shoes and a shabby dress whenever she appears in public. Rather, Islam prohibits women from wearing clothes that reveal her hidden beauty and arouse the senses. At the same time, this injunction does not apply to those for whom women make themselves pretty, that is, their husbands, and those from whom hiding their beauty is too difficult because they are members of the same household or because there is no need to do so, that is, all those that are excepted in the verse. All other interpretations which prohibit a woman from showing her face and hands in public are nothing but a distortion of the meaning of the texts and the result of erroneous grammatical analysis. I wish I knew how they interpret *zīna* ('adornment'), which is mentioned again towards the end of the same verse ('nor let them stamp their feet, so that their hidden ornament may be known').³³⁶ Another text that they corrupt the meaning of is to be found in the following verse:

O prophet, say to thy wives and daughters and the believing women, that they draw their veils close to them.³³⁷

They interpret the word *jilbāb*³³⁸ as veil, but this, in fact, denotes any long or wide dress (*qamīṣ*) or garment without any other kind of cover that is worn over clothing and has nothing to do with the veil which covers the face. This verse is intended to instruct a woman not to dress in a way that there are openings, since it is clear to all wise men that a breeze could sweep away the garment and as a result reveal what ought to remain hidden, and thus this is regarded as flaunting, which is loathsome. In fact, this verse does nothing but encourage the respect of ethics and the safeguard of virtue, which is something that is praised by all wise men. It is known that when a woman appears virtuous, this dampens the ardour of wicked people, dissuading them from following her and making lewd remarks, as is made clear in the remainder of the verse: ‘so it is likelier they will be known, and not hurt’.³³⁹

Also consider the following verse: ‘And when you ask his wives for any object, ask them from behind a curtain.’³⁴⁰ This passage refers to the fact that if someone wanted to ask the wives of the Prophet for something, he should refrain from entering their home unannounced since the woman could be revealing something of her body, making herself up, or be engaged in any other activity she might be doing in the privacy of her own home. It is thus shameful for a man to enter a woman’s house when she is in a state she does not appreciate to be seen in by a stranger. Therefore, the Qur’ān instructs that if one wants to ask a woman a question it should be done behind a door, a wall or any other physical barrier in order to avoid embarrassing her. While this injunction is made in reference to the wives of the Prophet, it does not exclusively apply to them, as is well known. It is clear that the interpretations of the texts of the Qur’ān stipulate that the wearing of the veil in public by the woman is nothing but an exaggeration. Indeed, the origins of the practice lie in popular tradition and it is in no way related to Qur’ānic regulations. By this I do not mean to encourage people to abandon their customs and to swap their national identity. Quite the contrary! What I am trying to say is that we are wrongfully blaming religion for something which is rooted in tradition. It is even stranger to hear some religious scholars take an even more exaggerated stance by prohibiting women from speaking in public under the pretext that her voice is also something that should remain hidden. If only these people reflected on the following verse:

(Wives of the Prophet) be not object in your speech, so that he in whose heart is sickness may be lustful; but speak honourable words.³⁴¹

If they did, their ardour would be dampened as they would realize that it is not a prohibition of gentleness and submissiveness, since these are natural inclinations, but rather that the verse enjoins women to speak nice words when they are among people, and to avoid speaking in a way that arouses lustful feelings, which is why the verse states: ‘but speak honourable words’.

It is then obvious that women are permitted to speak in public as long as they speak honourable words, while what is said about the wives of the Prophet (Peace Be Upon Him) applies to all Muslim women, as is well known.

Answers of Mufti ‘Abd al-‘Aziz Ja‘it***Answer to question 1***

If the father of the woman is deceased, she has the right to choose her future husband. The role of her guardian in this case is limited to approving this choice except if the husband-to-be is not suitable. If the father is alive, he chooses his daughter's husband if the girl is a virgin and has not come of age; otherwise, she has the right to choose her future husband.

Answer to question 2

The answer to this question differs according to whether the defect affects the husband or the wife. If the woman becomes afflicted with the defect after the marriage contract has been concluded, it is regarded as a misfortune the husband has to accept, even if the marriage remains to be consummated. If, on the contrary, it is the husband who has contracted an ailment such as lunacy or leprosy, the wife must be given the choice to divorce. If the husband has contracted a disease affecting his genitals, the wife may obtain a divorce if the disease was contracted before the consummation of marriage; otherwise, the illness is regarded as a misfortune the woman has to accept, except if the husband had a certain responsibility in the matter, in which case the wife has the right to divorce.

Answer to question 3

A long absence of the husband which entails the wife being deprived of her conjugal rights for a period of more than three years gives her the right to divorce after submitting a request to the tribunal to instruct the husband to return to the marital home or to take his wife near him. If the man does not obey this order, the divorce is pronounced. This applies when the husband's whereabouts are known and the letters from the court can reach him. This procedure was followed by ‘Umar Ibn ‘Abd al-‘Azīz³⁴² with respect to a group of men who had emigrated to Khurāsān.³⁴³ If the husband is in a place where the court order cannot reach him, the majority of the Muslim legal scholars agree to pronounce the divorce if the wife complains of the fact that she is deprived of intercourse and if she fears that this situation may result in fornication, which is something only she can determine. The above only applies to an absent husband. If the husband has disappeared without any news, the divorce is pronounced if he has disappeared in a non-Muslim country outside of war, or if he has not left any provisions for the wife. However, if the husband has left enough resources for his wife to survive, she must respect the marital bond for the remainder of her life. If the missing husband went missing somewhere in Muslim lands in peacetime, the judge will attempt to establish his whereabouts, failing which the woman is allowed to remarry after a period of four years, from the date of his disappearance. In order for this to be lawful, however, the wife must go through a waiting period (‘idda). The Caliph ‘Umar³⁴⁴

(may God be pleased with him!) fixed this waiting period in agreement with the Companions of the Prophet. If the husband is missing in a country which is at war, and if the war is between Muslims and Unbelievers, it is said that his wife can remarry only after waiting for a period that does not exceed the life expectancy of the husband. Others recommend a period of only one year after it has proved impossible to find the missing person, in which case the wife may lawfully remarry. In the case of a husband who has disappeared in a country where there are hostilities between Muslims, it is left to the judge to make a decision on the basis of the remoteness of the battle, who has left the battle, and who is among the dead, after which the woman may start the waiting period prior to remarriage. Otherwise, the woman has to wait for one year for the husband to return, though others claim it should be four. It is also said that it depends on when it is established what happened to the husband, for which there is no predetermined limit.

Answer to question 4

The fact that a divorce becomes binding as soon as the husband pronounces the divorce formula even in a state of anger runs counter to the Ḥanafī school of law. In fact, divorce is linked to the occurrence of a relevant event, and as such the divorce becomes binding as soon as this has taken place, without taking into consideration whether or not the couple finds it impossible to live together any more.

Answer to question 5

The woman does not have any practical guarantee against the right of divorce enjoyed by the husband. Nevertheless, the law grants the wife a moral guarantee which protects her from any misery that would result from her husband being forced to keep her as his wife. The right of divorce lies with the husband and he may use it on his wife whenever he wishes.

Answer to question 6

If the wife establishes before the legal authorities that she and her husband are incompatible in morals and aspirations, her request for separation cannot be granted. She will only be awarded a divorce if she provides proof of maltreatment at the hands of her husband.

Answer to question 7

The woman cannot have recourse to *li‘ān*, but her husband can. The reason behind this is that, if she were the one committing adultery, the husband would suffer harm since it would lead to his being considered the father of a child born out of the adultery and thus to the introduction of a foreign child into the family. The woman is not subject to this kind of damage if the husband commits adultery.

Answer to question 8

If the husband does not divulge his intention until the marriage contract is concluded, the marriage remains valid.

Answer to question 9

The wife has a duty to take care of her husband's home, to make sure there are enough provisions and the home is properly managed so as to enable the husband to devote himself to his occupations outside the home. In so doing, both partners share and help each other in managing the family unit, which is one of the main objectives of marriage.

If the husband orders his wife to do something that falls within the domain of the home, this is governed by custom, and even if it involves something that a wife is supposed to do, she may still force her husband to do it. However, the woman cannot be forced to carry out all of the domestic chores. The extent to which this is based on custom varies between country and city women, just as it differs between noble families and the common rabble.

Answer to question 10

If the woman is of age, she has the right to manage her own wealth freely without any interference from her husband. He does have a say, however, if it involves donations exceeding one-third of her total wealth.

Answer to question 11

The Mālikī school of law clearly prohibits women from acting as imam and from taking up office in the judiciary.

Answer to question 12

When there are strangers, a woman should cover her entire body, with the exception of her face and her hands. However, even the face has to be covered if it is feared that this may give rise to temptation.

Answers of Muftī al-Ṭāhīr Ibn ʿĀshūr

Answer to question 1

The woman has the right to choose whom she marries. Her guardian cannot force her to marry someone she does not approve of. The woman's father, however, has the right to decide for her if she is underage and, as the Mālikī school of law specifies, if it does not cause her any damage.

Answer to question 2

Defects that may require the dissolution of marriage are enumerated in the Islamic legal texts. If it is the husband who is affected, the woman has the choice to stay in the marriage or ask for a divorce after a period during which it can be determined whether the man is innocent in the matter and whether the defect is an old one or a recent one. If the wife is afflicted with the defect and it predates the marriage contract, then the husband has the choice between accepting it or divorcing her, in which case he may request the return of the dowry from whomever among his wife's relatives acts as her guardian, provided the husband can prove that the latter was aware of the defect and chose to conceal it. In the event that the woman's guardian is not a close relative and was unaware of her condition, the wife has to refund the dowry. If the marriage has been consummated prior to the separation, the wife is entitled to keep 25 per cent of the dowry.

Answer with question 3

The fact that a husband is absent travelling does not constitute a reason for the wife to divorce him, on condition his whereabouts are known and he provides financial support to his wife. The wife is however entitled to divorce an absent husband if this is provided for in the marriage contract. A wife is also entitled to ask for divorce if the husband's absence causes her hardship, especially if he is away from home for a period of one year, or more. If this causes her difficulties, the judge will write to the husband instructing him either to return home, or to send for his wife. The husband is then granted a period during which to comply, after which the judge pronounces the divorce. The same applies if the husband does not appear before the judge, unless he has a valid excuse preventing him from attendance, such as an illness or imprisonment. However, if the whereabouts of the husband are not known, the divorce cannot be granted as long as the husband's wealth is sufficient to provide for his wife's needs. Nevertheless, this situation should not exceed four years, whereas the wife is able to request a divorce if the husband is presumed to reside in a Muslim country. If he has, however, disappeared in an enemy country in wartime, the divorce can only be granted once a period equivalent to his life expectancy has elapsed. If the husband has disappeared in a Muslim country in a state of war with another Muslim country, the divorce can be granted after a period not exceeding one year.

Answer to question 4

Divorce becomes valid as soon as the formula is pronounced by the husband, regardless of whether it is linked to the realization of a fact or not, and even if the formula was pronounced in a state of anger. However, the divorce is not valid in cases where the husband is mentally ill, delirious, affected by epilepsy or another condition which diminishes his responsibility.

Answer to question 5

The law does not provide any guarantee to the woman against the man exercising his unilateral right of divorce as he is responsible for safeguarding the marital bond for the duration of the marriage. However, the husband is only supposed to resort to divorce if he has exhausted all other means to save the marriage. As the guardian of the marital bond, it is to the man that this decision devolves. The legality of divorce is then based on the fact that it is no longer desirable for the couple to remain together. God says in the Qur'ān: 'But if they separate, God will enrich each of them of His plenty.'³⁴⁵ In another verse, it is stated: 'unless the couple fear they may not maintain God's bound'.³⁴⁶

Answer to question 6

If mutual incompatibilities between the partners lead to disagreement which cannot be resolved, God instructs them to seek arbitration as is prescribed in the following verse:

And if you fear a breach between the two, bring forth an arbiter from his people and from her people an arbiter; God will compose their differences surely God is All-knowing, All-aware.³⁴⁷

This is why legal scholars thought it politic that the couple should seek arbitration by honourable and trustworthy individuals from among their people with a view to determining which of the spouses is at fault, in an effort to reconcile them.

Answer to question 7

The woman does not have the right to *li'ān* if her husband has committed adultery since this legal instrument is only available to the man in order to deny paternity of a child, born from an adulterous act by his wife. The procedure is not available to the woman because she cannot suffer the same damage in the case of her husband committing adultery. Nevertheless, the woman may employ *li'ān*, but only as a member of the Muslim community denouncing a hateful deed and thus gain a reward in the hereafter. When the woman is accused of adultery, she has to pronounce an oath to defend herself against the oath uttered by the husband. The Qur'ān refers to the formula that the woman should use in order to protect herself against whomever falsely accuses her.

Answer to question 8

It seems that this question relates to a man who marries a woman with the intention of divorcing her at a later date. If he keeps it to himself, without a condition being

specified between the couple, then the marriage is sound. Imam Mālik (may God have mercy on him!) said:

Such an attitude is considered immoral even if it were subject to condition since this amounts to a usufruct marriage,³⁴⁸ which is null and void and must be dissolved, even after consummation of the marriage, as agreed by Sunni jurists.³⁴⁹

Answer to question 9

A woman is the companion of her husband in marriage, which is why the two of them are referred to as ‘couple’, since both are part of a pair. It is incumbent upon both to live with each other in harmony and to respect each other’s rights, since the man has rights over the woman, and vice versa. This is referred to in the Glorious Qur’ān: ‘Women have such honourable rights as obligations, but their men have a degree above them.’³⁵⁰ These rights are also mentioned in law books, and if either of them is prevented from fulfilling his/her rights towards the other, they may be forced to do so, irrespective of whether it is the man or the woman.

Answer to question 10

The woman may manage her financial affairs in the same way as the man. If she is of age, she is free to trade with her money as she wishes, except if she wishes to donate an amount exceeding one-third of her total wealth, in which case the husband has a say in the matter. So, except in this case, the husband does not have any control over his wife’s wealth.

Answer to question 11

The woman is entitled to the same respect in Muslim society as that enjoyed by men as long as she observes Islamic regulations and its moral values regarding the behaviour of women, as the Almighty said:

Do not covet that whereby God in bounty has preferred one of you above another. To the men a share from what they have earned, and to the women a share from what they have earned.³⁵¹

The woman has the right to educate herself and others. She may interpret the Prophet’s sayings if she is endowed with a just mind. She may, in the same way as men, testify in lawsuits with other women. However, her testimony must be supported by that of a second woman and the testimony of both women counts as that of one man. She is entitled to testify on her own when it involves women’s issues such as pregnancy, breastfeeding, etc. She may practise nursing and tend to casualties of war. She may also take up duties in law enforcement, etc. but not when it involves judging people. The caliph ‘Umar Ibn al-Khaṭṭāb (may God be

pleased with him!) entrusted Umm al-Shifā'³⁵² with a post in the guard. Contrary to the Shī'ite point of view, most Muslim legal scholars decree that a woman cannot be caliph, king, prince or rule an army, The majority of legists also agree that a woman cannot be appointed to an office in the judiciary. Abū Ḥanīfa stated that a wife could judge matters to which she has been witness, whereas according to the Mālikī school she is not allowed to act as imam and lead the worshippers in prayer. The latter view runs counter to Ibn Ayman³⁵³ who stated that women could act as imam, especially in front of female believers, which is something that is also endorsed by al-Shāfi'ī and several other Muslim scholars.

Answer to question 12

A freewoman must cover all parts of her body down to her knees except for her face, neck, arms and hair. When in the presence of her husband and close relatives, she may show her elbows, hair and what lies beneath the throat. When it comes to her father and son, a woman may show more than she does to others, but not her sacred parts. She does not have to cover her face or her palms in front of anybody. In *al-Muwatta'*³⁵⁴ Mālik said that there is no harm in a woman eating in the company of people who know her; even if it involves a stranger, she still needs to have her face and hands uncovered (to eat).³⁵⁵ As far as Mālik and other scholars are concerned, the woman's face is not to be considered a part to be hidden (*ʿawra*), and they refer to the following verses: 'Say to the believers, that they cast down their eyes'³⁵⁶ and 'And say to the believing women, that they cast down their eyes.'³⁵⁷

However, it is preferable for a woman to cover her face, as stated by al-Qāḍī ʿIyād³⁵⁸ in the same way as it is sinful for a man to look at a woman's face with licentious desire. As for the sight of a woman's feet, opinions are divided on this subject. Views on the parts a woman may show vary according to the era and geographical area, and even more so in accordance with the morals, customs and manners as regards women among the general population. Attitudes tend to become more rigorous as there are more cases of debauchery and immorality. Hence, it is clear that the cultural and educational level in the various Muslim countries is the main criterion underlying these judgements.

Answers of Mufti Bilḥasan al-Najjār

Answer to question 1

The woman has the right to choose her husband if she feels he is suitable. Both Mālik and al-Shāfi'ī hold that this does not apply if the father is alive and the girl is still in puberty or has not come of age, in which case he has the right to choose, albeit in consultation with her. In the event the father and daughter do not agree on the same person, then the father has the final say.

In the *Ṣaḥīḥ* by Muslim³⁵⁹ it is stated that ‘The woman who has been married before (*ṭhayyib*),³⁶⁰ has the right to choose by herself, whereas a virgin girl must be consulted and if she remains silent, this will be regarded as consent.’³⁶¹ In his *Sunan*, Ibn Māja³⁶² recounts the story of a young girl that came to see the Messenger of God (Peace Be Upon Him) and told him that her father had married her off to his nephew in order to atone for an infamy he had committed. The Prophet replied that she had a choice, to which the girl retorted that she had been compelled to submit to her father’s decision, but that she had come so as to let other women know that it is not up to their fathers to decide in this matter.³⁶³

Answer to question 2

The discovery of a defect in either spouse that predates the marriage contract entitles the other party to either maintain or dissolve the marriage. If madness or leprosy manifests itself in the husband after the conclusion of the marriage contract, only the wife is entitled to request the separation, in accordance with the views of legal scholars. Conversely, if the defect affecting the husband precludes sexual relations, then this is a tragedy the wife has to accept.

Answer to question 3

In the case of a husband who is absent – either because he has been taken captive or for another reason – or missing in non-Muslim territories – whether in wartime or not – his wife can only remarry after the expected life expectancy of the man has passed and he has been declared dead. However, when a man has gone missing in a Muslim country which is not in a state of war, his wife may remarry after a period of four years has passed since the notification of his disappearance. If the Muslim country where he is presumed missing is in a state of war and if the battlefield is not in a remote place, the husband is declared dead as soon as it has been established who has left the battle, and who is among the dead, after which the wife can start her official waiting period and then remarry. If the battle took place in a remote place the wife has to wait for one year, provided there is a witness who has seen the husband in the course of the battle. If the husband has been taken captive, the wife must await his return until his actual demise, or until such time as he is declared dead. In the case of an absent husband whose whereabouts are known, the Mālikī school of law holds that, if he intends to harm his wife by this separation, he must be summoned to either take his wife to live with him, or grant her a divorce. If he refuses to comply, the divorce is pronounced after four months. However, the divorce cannot be granted if the intention of causing harm to the wife has not been established. Conversely, some scholars hold that the wife has the right to obtain the divorce on the assumption that she suffers damage by the absence of the husband. The husband is notified of this if his whereabouts are known, with the judge fixing a waiting period before granting the woman a divorce.

Answer to question 4

Divorce becomes binding by the mere utterance of the formula by the husband, regardless of whether he expresses it literally or figuratively, even if it was said in a state of anger. This view is opposed by Ibn Qayyim al-Jawziyya,³⁶⁴ who states that the divorce is not binding if the formula is pronounced in anger. According to others there is no difference between a divorce that is effective or pending. Conversely, Ibn Taymiyya³⁶⁵ and Ibn Qayyim al-Jawziyya differentiate between, on the one hand, a divorce that is pending on condition that it was not meant, except as a deterrent, and which may be likened to taking an oath that needs to be atoned for if it is broken, and, on the other, a divorce based on genuine intention.

Answer to question 5

Only the man has the right to divorce, but he should heed the view of the legal texts in respect of the hatefulness of divorce, as in the following saying by the Prophet: 'Of all the things that are lawful, divorce is the most hateful to God.'

The husband should exert this right wisely and after careful consideration, as God says in the Qur'ān: 'But if they separate, God will enrich each of them of His plenty';³⁶⁶ 'Then retain them honourably or set them free honourably.'³⁶⁷ The legislator also grants the wife who is separated compensation, as recommended in the following verse:

Yet make provision for them, the affluent man according to his means, and according to his means the needy man.³⁶⁸

All of this shows the extent to which Islam commands moderation and wisdom when dealing with divorce.

Answer to question 6

If this question is about whether or not the woman has the right to complain about being maltreated, the answer is that the legislator has set forth clear guidelines to deal with this problem in order to enable both partners to solve their differences and live in harmony. If the dispute between the two parties is of such intensity that it has become impossible to determine the guilty party, the judge sends two arbiters, as stated in the following verse:

And if you fear a breach between the two, bring forth an arbiter from his people and from her people an arbiter, if they desire to set things right; God will compose their differences.³⁶⁹

Answer to question 7

The woman does not have the right to *li'ān* since this was set up in order to avoid filiation disputes. If the man is afraid that his wife has committed adultery, he may

use this procedure in order to refute paternity. This problem does not affect the woman if the husband is involved in an adulterous relationship since the child is not born to her, thus precluding any problems relating to lineage.

Answer to question 8

If the husband conceals his intention of divorcing his wife when entering into the marriage contract, this does not vitiate it, but as Mālik says: ‘This is not moral’.³⁷⁰

Answer to question 9

The woman is a partner to her husband in the home and they should work together, as stated in al-Bukhārī’s *Ṣaḥīḥ*:

All of you are guardians and are responsible for your wards, the ruler is a guardian and the man is a guardian of his family; the woman is a guardian and responsible for her husband’s house and his offspring. All of you are guardians and each is responsible for his wards.³⁷¹

Women have as many rights as duties, and if the man enjoys a certain authority in the home, it is because of his moral strength and perspicacity in discovering trickery which enable him to defend his family and its integrity, as God the Almighty says:

Women have such honourable rights as obligations, but their men have a degree above them.³⁷²

It is this authority that gives him a sense of duty to protect and safeguard his family and provide for their needs, as expressed in the following verse:

Men are the managers of the affairs of women for that God has preferred in bounty one of them over another, and for that they have expended of their property.³⁷³

Pursuant to this mutual support and cooperation in married life, each partner fulfils his/her role according to his/her natural physical and emotional qualities, as a result of which the marital bond is the strongest of social bonds as it also includes the bond of filiation. This explains why the woman is to be treated with respect, as the Almighty states:

Consort with them honourably; or if you are averse to them, it is possible you may be averse to a thing, and God set in it much good.³⁷⁴

The Muslim law texts urge women to obey their husbands, but within the limits of the respect of each other’s rights and without giving the man a free hand to

abuse his authority and act as a despot whenever he feels like it. Consider the following words of the Prophet, as reported in the *Sunan* by Ibn Māja:

If I were to order someone to prostrate before anyone except God, I would order women to prostrate before their husband. A woman will not have fulfilled her duty towards her Lord until she has done so for her husband.³⁷⁵

God recommends fathers confer with their wives regarding the length of the breastfeeding period, as shown in the following verse:

But if the couple desire by mutual consent and consultation to wean, then it is no fault in them.³⁷⁶

It is clear that the husband does not have absolute authority over his wife, and that all decisions require agreement between the two parties subsequent to consultation.

In the *Ṣaḥīḥ* by Muslim it is reported that a woman called Asmā' Bint Yazīd al-Anṣariyya³⁷⁷ came to see the Prophet while he was sitting with his companions and said: 'O Messenger of God, you are like my father and mother to me. I have been sent to you as a representative of the women and I have been requested to ask you, whom God has sent to both men and women and we all believe in you and your God. Yet, we women are confined and restricted to your homes, doing your housework and carrying your children. As for you men, you have been honoured above us when it comes to performing the Friday prayer and the congregation prayer, visiting the sick, attending the funeral procession, performing the *ḥajj*, and most of all to conduct *jihād*³⁷⁸ for the sake of the Almighty God. And if any of you went to perform the *ʿumra*³⁷⁹ and *ḥajj*, we stayed at home to guard your wealth, spin your clothes and raise your children. And what is our reward in this?' The Prophet (Peace Be Upon Him) turned towards his Companions, and said: 'Have you ever heard any issue regarding a woman's religion expressed as well as this?' The Companions replied: 'O Messenger of God, we never thought a woman would be guided to such a question.' The Prophet (Peace Be Upon Him) said: 'Hearken, and tell all the women behind you that because of all the good things you do for your husbands, for your compliance with their requests and for pleasing them, you are equal in all the things you have mentioned.'³⁸⁰

Answer to question 10

The woman has absolute freedom to manage her wealth; she has the right to buy, sell, make donations, choose an agent and conduct any transaction. She is free to acquire income and enter into commutative contracts without the supervision of her husband, whereas the marriage contract has no bearing on the woman's wealth, and she is not liable for her husband's financial dealings. However, her expenditure is limited by the principle of good practice with a view to avoiding intemperance and extravagance, which is why she may only donate up to one-third of her wealth. If she wants to donate more than this, she requires the

approval of her husband, who is committed to look after his wife's best interests, with the aim of safeguarding her wealth from being squandered. Apart from that, the husband has no authority over her or her money and may not act on her behalf unless he is officially appointed by her, willingly and without duress. The wife may even elect to appoint someone else as her representative.

Answer to question 11

Women make up half of mankind and the woman's personality complements that of the man. A woman's character is gentle, kind and compassionate, easily influenced and impulsive in acting on her desires, whereas in Muslim society she is granted all rights from which her natural features do not exclude her. The three Imams, Abū Ḥanīfa, al-Shāfi'ī and Ibn Ḥanbal³⁸¹ all agree on the lawfulness of women leading other women in prayers as an act of supererogation. Abū Ḥanīfa also allowed women to serve as judges in commercial cases based on the fact that she is permitted to bear witness. Abū Ja'far al-Ṭabarī,³⁸² for his part, even allowed women to assume the office of judge in all fields in view of the fact that the essential prerequisite for magistracy is the legal capacity to resolve disputes between people. However, he excluded women from occupying the supreme office of Caliph.

The testimony of a woman is accepted, in accordance with the law texts and views of legal scholars, albeit with a great deal of caution in view of the ease with which women may be influenced, their emotional nature and sensitivity. When it comes to women issuing formal legal opinions (*fatwās*), there are many famous examples of women's ability for independent legal judgement and of the soundness of *ḥadīths* transmitted by them. For instance, after taking out four thousand dubious transmitters from his *Mizān al-I'tidāl* ('The Balance of Moderation'), al-Ḥāfiẓ³⁸³ al-Dhahabī³⁸⁴ said: 'I have not heard of any woman being accused [of being a weak transmitter] or having been omitted.' As for al-Ḥāfiẓ Ibn 'Asākir,³⁸⁵ he mentioned that among the *shaykhs* he listed in his book there were some eighty-odd women because both during the age of the Prophet and afterwards, women performed good deeds and attended Muslim gatherings, whereas they were present during battles to assist the injured and dress their wounds, as is reported about Ummayya Bint Qays al-Ghafariyya,³⁸⁶ Umm Ayman³⁸⁷ – a Companion of the Prophet (Peace Be Upon Him) – al-Rubayya^c Bint Mu'awwadh,³⁸⁸ and many others, as recounted in many reliable historical accounts.

Answer to question 12

The woman must cover her face and her entire body when she is in the company of strangers, and only her eyes should be visible, as God says in the following verse:

O Prophet, say to thy wives and daughters and the believing women, that they draw their veils close to them so it is likelier they will be known, and not hurt.³⁸⁹

The *jilbāb* is wider than the *khimār* and it is said that this is the garment that a woman should draw over her face so that only her eyes are visible, though some scholars hold that it should be only one eye. Consider the following verse: ‘So that they may be recognised and not annoyed.’³⁹⁰ This is a reference to the fact that freewomen should be veiled in order to be distinguished from bondmaids, who are bared.

Answers of Mufti Aḥmad Bayram

Answer to question 1

Both the man and the woman have the right to choose their future spouse, with the choice being based on physical or moral qualities. However, the guardian may interfere in his daughter’s choice if he feels she has chosen an unsuitable partner.

Answer to question 2

A freewoman cannot be repudiated on the grounds of a defect.

Answer to question 3

The woman does not have the right to a divorce in this case. This right belongs to the husband alone.

Answer to question 4

The divorce becomes binding as soon as the husband pronounces the formula, except in those cases when it is declared null and void by the legislator, for instance if it involves the divorce of a fugitive.

Answer to question 5

The woman is entitled to compensation, as prescribed in the following verse:

Provide for them, the rich according to his means, and the straitened according to his means, a fair provision.³⁹¹

Answer to question 6

The woman may ask whatever she wants to, and provide a basis for what she wants, but God will decide.

Answer to question 7

Only the husband can have recourse to *li‘ān* in order to protect himself against false paternity. This is clear.

Answer to question 8

Putting a time limit on a marriage makes the contract null and void according to the Ḥanafī school of law, as is stated in the *Kanz*:³⁹² ‘A temporary or usufructuary marriage is null and void’.

Answer to question 9

The man is the protector of his wife when it comes to sound judgement, the protection of her rights, etc. Apart from that, the woman is considered a partner to her husband. The husband does not have any authority over her, except when it comes to the marital rights.

Answer to question 10

A woman who is of age is entitled to manage her wealth in the same way her husband is.

Answer to question 11

The woman occupies the second place after her husband since it is he who helps in the procreation of the children and it is his wife who raises and looks after them. Women may not congregate to pray unless one of them leads them in prayer, as al-Ḥāmidī³⁹³ says: ‘They do not pray together, and if it does happen one of them mediates as imam.’ Women are not entitled to dispense justice.

Answer to question 12

A woman must cover all parts of her body, even her face and palms, especially at a time when immorality has spread. As for which parts have to be covered in the case of a freewoman or a slave, this is only of relevance to the lawfulness and validity of prayers; if any part of a woman’s body is uncovered, her prayers are no longer valid.

Conclusion: return to Islam

If we look carefully at the Islamic legal texts and their aims, we realize that they want to make woman equal to man in every aspect of life. Woman came very close to achieving this for a short period of time. Previously, women were not aware of the extent or meaning of equality, never mind demanding it as one of their rights. To this day women in Muslim society are ignorant of the abundance of rights and freedom Islamic texts set forth for them, whereas even European women are deprived of the rights and freedom Islam wants Muslim woman to enjoy. In making this statement, I am not oblivious to the fact that the *Shari'ah* accords a lower status to woman than to man in certain situations. I am also well aware of the general conditions in the Arabian Peninsula which forced the legal texts to be laid down gradually, especially those concerning woman since she at that time did not have any of the rights we have mentioned.

In the early days of Islam, the question of woman's rights was not an urgent priority that needed to be resolved. This was even clear to women themselves. Let us not forget that the initial purpose of the Prophet's mission – both politically and socially – was to eliminate the internal strife that was raging on the Peninsula in order to establish national unity upon which to build the Arab state that would expand across the entire world, spreading the Islamic faith and propagating its fine principles. All of these events are well documented in history. Islam was concerned with reforms and taking precautions so that men would not oppose them, and it did what was needed since men are the source of power and money, which are required in order to achieve Islam's noble aims. Despite the precautions Islam took in introducing its rules gradually, it was not immune from initial fierce opposition. The Prophet (Peace Be Upon Him) endured much hardship and was forced to flee to Medina in order to escape the attacks of the unbelievers from among the Quraysh, his tribe, who in the beginning rejected the message that the Prophet was trying deliver. He was forced, along with his companion, Abū Bakr al-Ṣiddīq³⁹⁴ to hide in a cave³⁹⁵ during their escape from those who were chasing them away. In spite of this, the great Prophet continued to try and win over the Quraysh, both by force and gentle persuasion, until they gave in and he was able to lay the moral and spiritual foundations that are at the heart of the religion. This is clearly shown in the following noble verse of the Qur'ān:

Today, I have perfected your religion for you, and I have completed My blessing upon you, and I have approved Islam for your religion.³⁹⁶

Even though Islam adhered to the rule of gradualism, it did not leave us in doubt, making us believe that in essence it favoured men over women. Despite the fact that Islam did not at that time make this clear to us in all of its rulings, which were related to general issues, it did prove that its highest aim is equality among all God's creatures. God defines the rewards of people in accordance with their deeds, and enjoins them to perform righteous deeds, which is the only criterion

for preferring one individual over another, regardless of their sex, as is evident in the following verses:

“We indeed created Man in the fairest stature”,³⁹⁷

“And that a man shall have to his account only as he has laboured”,³⁹⁸

“O mankind, We have created you male and female, and appointed you races and tribes, that you may know one 'nother, Surely the noblest among you in the sight of God is the most god-fearing of you.”³⁹⁹

Unfortunately for Muslims – and this has nothing to do with Islam – the majority of religious and legal scholars did not heed the objectives behind the gradual introduction of its laws pursuant to women and the fact that woman was accorded a lower status than man, not realizing that this was a way of preparing man to achieve perfection. Instead, these scholars have allowed these shortcomings to multiply so that there are differences between men and women in all rulings, and those differences tend to grow rather than diminish in all matters of life. It would seem that the psychology of the Arabs, and the majority of Muslims regarding woman was stronger than what Islam wanted, which is, respect and kindness. This is not the first instance where Muslim scholars went against the original intended aims of Islam. In order not to deviate from the topic at hand, we shall confine ourselves here to the discussion of two issues, namely slavery and woman.

As for slavery, the centres for this trade expanded and its markets spread more than at any time previously, to the extent that the purchasing price of a female slave reached tens of thousands of dinars through competitive bidding. The ways in which female slaves were exploited for enjoyment varied and led to illicit conduct. What is more, it also resulted in freewomen competing with slaves in the flaunting of their beauty in order to attract men, which brought about the spread of fornication, as is well documented in history. In his book entitled *al-Qiyān* ('The Singing Girls'),⁴⁰⁰ Abū 'Uthmān 'Amr Bin Baḥr al-Jāḥiẓ, who died in 255 AH,⁴⁰¹ gave a description of the life of a songstress in his time and before. He mentions how the lives of these singing girls were filled with lies and deceit when dealing with clients, feigning their pure undying love and longing for them:

How indeed could a singing girl be saved from falling prey to temptations and how is it possible for her to be chaste? It is in the very place where she is brought up that she acquires unbridled desires, and learns her modes of speech and behaviour. From cradle to grave, she is nourished by such idle talk, and all sorts of frivolous and impure conversation, as must hinder her from recollection of God; among abandoned and dissolute persons, who never utter a serious word, from whom she could never look for any trustworthiness, religion or safe-guarding of decent standards.⁴⁰²

After discussing the singing girls, al-Jāhīz went on to discuss the merchant dealing in them (*muqayyin*), and put the girls in a house where they can receive 'visitors':

Why is it that he abandons jealous surveillance of the girls [though choosing his spies well], accepts the room rent, pretends to doze off before supper, takes no notice of winkings, is indulgent to a kiss, ignores signs [passing between the pair of lovers], turns a blind eye to the exchange of billets-doux, affects to forget all about the girl on the day of the visit, does not scold her for retiring to a private place, does not pry into her secrets or cross-examine her about how she passed the night, and does not bother to lock the doors and draw close the curtains? He reckons up each victim's income separately, and knows how much money he is good for; just as the trader sorts out his various kinds of merchandise and prices them according to their value, or as the landowner knows his land to be proper soil for vegetables, or wheat, or barley. When he has an influential customer, he takes advantage of his influence and makes requests from him; if the customer is rich but not influential, he borrows money from him without interest. If he is a person connected with the authorities, such a one can be used as a shield against unfriendly attentions of the police; and when such a one comes on a visit, drums and hautbois are sounded.⁴⁰³

Several centuries passed and Muslims remained ignorant about the true meaning of Islam and what its aims are, until, that is, the arrival of European civilization, which extended its dominion over Muslim countries and managed to prohibit slavery by law. The Europeans abolished the slave markets so as to put an end to the demeaning and disgraceful practice of man shackling his fellow man. It also liberated freewomen from having to compete for their husbands with singing girls.

According to some legal scholars, a number of Islamic precepts put woman on the same level as slaves; consider, for example, the condition that the person executing the marriage contract must be both male and free. Indeed, Ibn ʿĀṣim⁴⁰⁴ states in his poem: 'And the contractor of the marriage shall be a free male.' When comparing slaves to women, he stated that when they are guardians, they are allowed to conclude the marriage of an underage boy:

When a slave or a woman are legal guardians they may be signatory to the marriage contract of a youth.

This idea of a woman being equal to a slave goes back well before the advent of Islam. Shortly before his death, the Prophet reportedly requested that these two weak beings, that is, slave and woman, be looked after, and thus slaves and women are associated with weakness.

However, instead of socially equipping woman so as to enable her to make use of the rights granted to her by Islam, Muslims have confined her to the deep

recesses of their homes, hidden from the outside world, thus turning her into the ultimate example of ignorance and naivety. It is to this creature that we entrust the raising of our sons and daughters and the future of our people. The results of this can be seen today in ourselves and our children, just as it will be the case for future generations.

One of the results of the woman's isolation at home is that the man has assumed control over her property and investment of her money in a variety of activities, either by acting as her guardian, executor or agent, until she is deemed to be mature. This is what the legal scholars have decided for her, while the courts ruled accordingly. We need not ask what happens to the woman's wealth afterwards, as the man finds various ways in which to appropriate it, without, of course, his wife's knowledge. In any case, the woman does not know how to assert her rights in view of her ignorance of the business and financial world. As if this was not enough, the tutelage of men even extends to marriage, which is yet another means of controlling a woman's future in accordance with the interests of her guardians, who make sure they take whatever they can get from her money, as we have already discussed. How can we harbour any expectations for woman after we have inflicted these cruel injustices upon her? Even though we can see the influence of this in all areas of our lives, we remain indifferent; indeed, it is as if we are deliberately striving towards this result. What are our legal scholars and legislators doing? They, too, can see the general condition of Muslims today. What are the legal and judicial measures that need to be taken in order to remedy the situation?

For many centuries and with very few exceptions, the majority of legal scholars in Islam have based their rulings on legal and moral precedents laid down by their predecessors, often going back centuries, oblivious to the changes Islamic society has undergone through the ages. They are inclined towards literal interpretations of the texts, instead of establishing various ways of applying the texts to the needs of their era. This is due to the fact that they are not concerned with studying the social conditions that Muslims are experiencing with a view to finding out which rules are actually appropriate to their society. It is this blatant ignorance that has prevented them from recognizing the needs of Muslim people for rules and regulations adapted to the developments in their lives in order to enable them to understand the spirit and aims of the *Sharʿa*, which is filled with life's treasures and offers succour to those who require it. Naturally, there are men of learning today, who realize that the kind of development that is needed in our lives is protected by the *Sharʿa*, and who do not object to it. Unfortunately, it would seem that their deep-rooted reverence for the past has precluded them from speaking their minds, preferring to keep a low profile, like their fellow *shaykhs*, for the sake of a peaceful life, away from controversy. Both in the past and today, there are very few exceptional individuals who have acted on what they believed to be the truth, and challenged the prevailing ideas of their environments. The overwhelming majority of our legal scholars, to some extent or another, represent the ignorance and confusion in the Muslim world. There are a few exceptions, but their voices are not heard, as if they were lost in the desert. This state of affairs in

our history has been the main reason behind the stagnation of Muslim law and the justice system in Islam, linked to the end of independent judgement⁴⁰⁵ in either. The result has been sterility and inertia. Those among us who attempted to find a remedy for this situation are regarded as immoral, as if they are waging war on Islam and the *Sharī'a*. In so doing, we have enabled the enemies of Islam to discredit Islam and those who love life to revolt against it. This is what we have been reduced to today: a nation ruined by its ignorance, the stagnation of its scholars, and the deceit of pernicious elements. How terrible it is to see that Islam is something alien and misunderstood among Muslims!

This is what I have been able to glean about the status of women in Islam from the legal texts and jurisprudence. I should also like to express my heartfelt gratitude and appreciation to all scholars who provided their views on this subject when requested to do so. I recognize that the multi-faceted and profound nature of the topic meant that a number of elements could not be dealt with. I hope that we will draw the necessary lessons from history and work towards educating woman so as to enable her to exercise her legitimate rights before the courts, as stated in the Qur'an and intended by Islam, before we are forced to do it in ways determined by others. This is not a distant prospect, as is clear to anyone looking at the events and ideas that surround us. There is a lesson to be learned by a people that is able to comprehend it.

Part 2

Woman in Muslim society

6 Educating girls to be wives and mothers⁴⁰⁶

People are used to educating their children the way their ancestors did, without the slightest encouragement for critical thinking and development. This is the way of a people who worship their traditions and regard them as a means of honouring their ancestors and as a symbol of their identity. They believe that to lose these traditions would result in a loss of that identity. Yet, in the course of time, other factors that consolidate the spirit of the nation are added to them and as they are gladly accepted by people they, in turn, become fixed traditions. And so customs spread and are adhered to blindly. While they may be all good and useful, the fact that people misinterpret them and blindly imitate them out of self-delusion as a result of a general decline in the nation, vitiates the very meaning of these traditions, whose beneficial influence is subsequently lost.

Vocational training

In all the towns of the kingdom⁴⁰⁷ female schoolteachers receive young girls into their homes in order to teach them needlework, embroidery and crocheting and they gradually make progress in these activities until they reach the age of marriage. Afterwards, they stay at home with their mothers who train them in the chores of the house, which completes their education as a housewife. In the capital there are many of these teachers, scattered across all districts. All of them work alone from home and perform their task in exchange for modest presents they receive from their pupils' families on the occasion of special feast days. However, the teacher's work should not make her forget her own household chores and she is not averse to having her little pupils join in. In fact, it is often the case that the pupils do the work while the teacher supervises them, proffering guidance when required. The training allows girls to prepare their trousseau. However, a girl from a poor background is needed by her parents and she has to pay for everything herself. So, she ruins her eyesight and tears her fingers by sewing; yet, even then, this is not enough to provide for what she needs. There are also Christian (foreign) women who hire the girls on behalf of stores⁴⁰⁸ for a profit, while paying our girls, who actually do the work, a miserable and humiliating wage. The girls accept it because they have to, and throughout the

week they work from morning till night for no more than twenty francs per day. Things are no different in the *chéchia*⁴⁰⁹ industry in the capital.

Large-scale industries, such as those of wool-weaving and silk, pay better salaries. The wool industry is particularly important in the Jerid oases, Gafsa, the Aradh, Kairouan, and in all other areas where there are sheep. The mothers instruct their daughters in the art of weaving, and Jerid is famous for the manufacture of high-quality, but also expensive, *burnous*⁴¹⁰ and *jubbas*.⁴¹¹ In Gafsa they make very fine smooth fabrics. The same is true for the Aradh region, which is also famous for the production of *halis*,⁴¹² *mergoums*⁴¹³ and *kilims*.⁴¹⁴ Kairouan, for its part, is known for the weaving of *zarābī*,⁴¹⁵ which have quite a reputation outside of Tunisia as well, and the industry continues to grow as long as there are people who appreciate it. There are big profits to be had in these industries for those who own the wool (or are able to purchase it) or silk. There are many households who can provide for themselves for a whole year from this women's work, for which very little starting capital is needed, and which can grow quickly as a result of market conditions. At the same time, many of the men, who rely on the home weaving, waste their time playing games or in idle chatter. This work helps prepare the girls for household chores, while effectively contributing towards building a marriage based on the mutual cooperation of the spouses.

As for girls in the countryside,⁴¹⁶ they work in the fields alongside their mothers and fathers, ploughing the land or watering gardens; their physical constitution equips them for outdoor work, modest food provisions and strenuous exercise. As a result of their abject poverty they, like their fathers and husbands, often end up working in the fields of foreign farmers and colonists. Things get even worse when their husbands take the earnings to buy tea,⁴¹⁷ alcohol or drugs. As a result, the condition of poor country women is more miserable in that it is much harder for them to find work, while the jobs they do are the meanest and vilest.

All these tasks may rightly be considered the most precious dowry for a married existence built on fruitful cooperation, especially when there are children and the parents have to pay for a good education for them.

However, there are limits to handed-down instruction in that these traditions do not follow the changes in thought or development, nor can they be transferred to regions where they did not exist previously. Indeed, if this were possible, it would have resulted in women attaining a higher status within Tunisian society as a whole. Whatever the case may be, these activities performed by women are an element within the cooperation between spouses as they offer powerful protection, averting evil from both the women themselves and their children in case the husband should die, or be afflicted with a chronic illness preventing him from working. Pity the woman who finds herself in need and does not enjoy any protection from evil; despite being kind-hearted and of a pleasant disposition, she will be faced with immeasurable tragedy. After having led a sheltered life and enjoyed a social status, the only thing left for her is to work as a servant in rich people's houses and seek employment as a cook, seamstress⁴¹⁸ or housemaid.⁴¹⁹ In some cases, even this is not enough to provide for her needs and so she has to

farm out her daughters to work as maids for other people, just as she herself does. She finds it difficult to cope with the hardships she has encountered in her life because of poverty and destitution. As a result, these women become driven by boundless self-indulgence and desire, thus making them easy victims for men who prey on them to satisfy their carnal appetites.⁴²⁰ The cities in our country are filled with victims of this kind, and one can see them day and night.⁴²¹ All of this is to be attributed solely to the fact that in our culture the training of women is neglected and not widespread. Indeed, the training of women constitutes a force that can protect her dignity and safeguard her honour from debasement and degradation. This is especially true in a country like Tunisia, which until the present day has remained bereft of a spirit of sympathy for the victims of society. As a result, the foundations were never laid for a social security system for families whose breadwinner has died, who have been left confused and too weak to defend themselves, and will all too soon fall prey to wicked individuals.⁴²²

Looking after the home

It is the mother who instructs her daughters in household tasks such as cooking, washing, cleaning and tidying up, as well as providing for the children's needs. The fact that young girls inherit these skills from their mothers has a nefarious effect on the marriage and may cause disputes between the spouses. In many cases, it may result in clashes ending in divorce or the husband taking a second wife. Often, it is the things that husband and wife disagree on, such as ways of preparing the food or keeping the house tidy, that sour relations or cause the collapse of the marriage. Everything that stems from the perception the husband or wife have of how the household should be managed, or the introduction of luxury and comfort can be the source of differences and disturb peaceful marital existence. In this context, it is the wife who, in pursuit of her happiness, will insist on having more of life's luxuries, which, of course, require great expense. The man wants the home to be as neat as possible, while the woman likes nothing better than to buy new things, without thinking about the cost as she believes that happiness lies in the appearance of beauty. Some women rely on these disputes in order to escape from a marriage they did not want and subdue the husband – though the reverse is also possible. However, as far as the women are concerned, this attitude is more apparent because it reflects their feelings of inferiority and the inability to sublimate them.

In cities the number and types of household chores are more abundant, whereas in the countryside they are more severe and difficult.⁴²³ A woman in the countryside gathers firewood from the forest, carrying it on her back in bundles. She fetches water from the well and carries it back in a dripping jar on her back over a distance of many kilometres. She tends the oven until the bread is cooked and in her hand mill grinds seeds for her family. Yet, while performing her arduous duties, she sings with resignation and in distraction. The husband, for his part, is to be found in the coffeehouse or canteen (*kanīna*),⁴²⁴ drinking tea and wine, whiling away the time by spending what is in his pocket on card games with his many counterparts!

In spite of this, women in the countryside are more obedient to their husbands and submit to them more than their urban counterparts because of the natural harshness of the Bedouin man. As for women in the cities, they are able to put up more of a fight so that they rule the roost, rather than being the subjects. They are, however, beset by ignorance and weakness and do not distinguish between their rights and their duties. Consequently, control is based either on their humiliating defeat or paralysing victory; in both cases it results in a breakdown of the very foundations of the household.

Intellectual education

Children are the most receptive of creatures, and their minds are easily shaped and influenced by what is impressed on them. Little boys live in a male environment where they receive knowledge and instruction which prepare them to become a member of this community; as for little girls, they spend time with women who do not have much to teach them, except a never-changing series of superstitions and fairytales. The world of women, especially in our country, is filled with ignorance and drivel. The first thing they learn is to believe in the existence of ghouls;⁴²⁵ the use of amulets; the fact that the sea was originally sweet until mosquitoes drank it and when they vomited it all out again, it had become salty; that the earth rests on the horn of a bull, in turn resting on a whale and that the bull places the globe on its other horn every hundred years. They believe in the fact that a stone is able to give people what they desire, or that someone's house or mountain is 'possessed';⁴²⁶ in the power of magic; in secret letters and talismans; in dead people manipulating existence in a hidden way; in the ghosts of dead people appearing in the shape of snakes; in getting blessings from shrines and the fact that they will grant whatever people ask for; and any other old wives' tales that mothers tell their daughters for recreation.

However, these superstitious tales have an effect on children's unformed minds, and they are eager to hear more about these strange stories. Today, we can see the result of this in, for instance, men who are prone to listening and believing frightening stories in the news, even if they are far from credible. We find the men in the coffeehouses listening to itinerant storytellers talking about passion and desire and when the listeners go to sleep they are still filled with sorrow and grief if the hero of the story ended up in prison or came to any harm.

I still remember the story recounted to me by an old woman who visited us when I was a little boy. It was about the Qāf mountains,⁴²⁷ which surround the world beyond the seven oceans, and the snake that is wound around them from top to bottom that God uses to torture the unbelievers on the Day of Judgement as it sucks their tongues until they are done for by its poison. Fantasies such as these fill the impressionable minds of children and halt their mental and intellectual development. Tunisian families are not concerned with what is called intellectual development and do not encourage their children to reflect upon things and to become discerning individuals; rather, their influence is limited to these fantasies and the maintenance of inherited traditions and delusions. As a result,

our youngsters grow up in ignorance and stupidity, whereas they fanatically cling to what has been inculcated since childhood. The children⁴²⁸ have a disposition towards intelligence and want to become acquainted with what they see and hear around them, but this is ignored. Rather than preoccupying themselves with encouraging their children's curiosity, driving them towards the right condition and increasing their strength and progress, or, instead, entrusting this to an educator who is able to do so, the families do the opposite in that they consider this kind of curiosity a bad omen, imagining that it is defiant devils⁴²⁹ talking through the children since this is not a common habit among them. As far as the families are concerned, the only 'treatment' consists of stopping the children from knowing things or asking about them, even by violent means until even the slightest glimmer of discernment is obliterated and the child is returned to a state of ignorance, controlled by superstition and dangerous habits, just as their fathers before them.

If it is difficult to weed out these poisons from the mind of a young man and to rid his brain from them, one can imagine how much more difficult it is to do so when it involves a young girl, who is isolated from the school environment and from society as a whole. And how can we begin to stop these ruinous fancies and traditions when a young girl becomes a wife and a mother and proceeds to instil what she has been taught into her children?

Moral training⁴³⁰

It is in the same fanciful poisoned environment that morals are taught. The imaginary world strikes fear and dismay into the hearts of children, making them spend their nights struggling with fearful nightmares, frightening them out of their sleep. Far worse, however, is the greater fear instilled in boys by the women, in order to get them back to sleep and stop their crying. They will represent their children's fears through sounds that frighten them in order to shut them up. When they grow up they discover these tricks, but the damage is done since they leave a lasting effect.

The principle of imbuing children with a sense of obligation and preparing them through punishment and persuasion to act accordingly and strive towards moral excellence is far from the minds of fathers and mothers. Instead, they believe that the basis of education lies in the imposing their authority on their children and the duty of obedience towards the parents at every command. In so doing, they instil in them selfishness and greed. And as the parents make many mistakes in their commands, they are quick to bring their children to heel through harsh penalties. The severe punishment meted out by the fathers and mothers in anger and as a reaction to offences committed by these children makes it more difficult for the children to distinguish the right moral conduct. Rather, they are covered into a state of weakness and defeat in front of those who frighten them, while it may also result in violence and cruelty towards those whom they deem weak. To this we may add the marital troubles that children witness. In most cases, the disputes and unrest result from fathers who get drunk and gamble.

This, in turn, leads to shouting and painful and abusive events taking place in the home. And then, there is the social misery that bedevils Tunisian families. As it continues to spread it affects the tranquillity of the home and the material living conditions, and contributes to the disintegration of the household. As such, it is the main reason of suffering in the home. The problems in the home also lead to wicked morals and bouts of madness, while today they constitute one of the causes behind the scourge of immorality. The madness is sometimes added with epilepsy when drums are beaten during special ceremonies, at which young boys and girls are present, and often participate in. As a result, they retain a lasting belief in such things. Equally base and unedifying are the celebrations held on the occasion of weddings, in the presence of licensed prostitutes, dancing and singing debauched songs and serving wine to those around them. The wine floats around in the heads of the partygoers and you don't hear anything except things that offend morality, that is if the drink does not lead to any bloody acts. All of the above takes place in the family home, and is witnessed by the women and young lads through the windows of the houses and by small children among the celebrants. All of these scenes are renewed every day when there is another wedding, or for some other reason. This is the worst example of morality to give to growing children. The strangest thing in our society is that the educators teach their children to use foul insults to other people and encourage them to do the same thing by giving them a present if they say those naughty words. This is done for no other reason than for the adults' enjoyment and merriment at hearing this bad language from the mouths of children, who are the victims of this despicable spectacle.

It is possible to give plenty of other examples if we wanted to follow the moral training of children in the family, both boys and girls. However, the subject that concerns us is the excellent culture that sends a girl in a special direction and has an influence on her general education,⁴³¹ preparing her to become a spouse and mother in accordance with the boundaries that we have established for her.

As a result, we prepare her in such a way that she can only connect with the outside world through her home, which is the 'fortress of her purity and honour and if she leaves it for a moment for anything other than an urgent need, it will impair her dignity in life'. This is nothing more than the man's jealousy and suspicion dressed up in attractive terms. Instead of relying on the woman's moral purity, her conscientious adherence to proper upbringing and to sound education that prepares them for both, the husband chooses to surround her home with a wall that soothes his pathological suspicion. However, this doubt only yields bloody thorns in his life and that of his spouse. While a man may be subject to jealousy, so can a woman to the same degree, or even more. However, she does not enjoy the man's freedom outside the house which may fuel her jealousy and suspicion. Indeed, a man is able to connect with life in a direct and lawful way. He can enjoy himself far from her, and may roam the world alone, without his wife, for no reason other than the fact that he is a man, and a male is not like a female.

So, the poor woman remains secluded, her mental abilities ossifying, while her breathing slows down, her body becomes bloated from the inactivity and she puts on weight. Then languor sets in and she is reduced to a mere mass of flesh without bones or soul. And so her youth passes quickly, as does her health as a result of childbirth and household chores, and illness and decrepitude descend upon her. Often, many men start thinking about changing their luck and entering into another marriage with somebody younger, healthier and more beautiful, who, however, quickly goes the same way as her predecessor.⁴³² You can see women like that suffering as they get on or off a tram (*trām*)⁴³³ carriage, and become confused as to where to put their legs, where to put their hands and how to free the ends of their wraps from the doors of the carriage. And when the poor woman falls at the slightest movement of the carriage, her entire frame collapses onto the floor like a sack of potatoes, at which stage the shouts of the men multiply and they stand around the scene of the accident, gazing at the painful and shameful spectacle, frequently giving ample opportunity for some foreigners to scoff at our traditions!

One of the characteristics of women is their bashfulness, which we have taught them. However, this timidity has reached a stage of permanent shame, and often when we see her she is veiled even from her close relatives such as her father, elder brother, uncle, and any other older member of the family. They only see her furtively, and vice versa. This lack of self-confidence mars all her activities that require volition and sincerity, even when it involves agreeing or disagreeing to something relating to her life such as her marriage to such and such a man, who has been chosen for her. This weakness also means that she suppresses her real feelings when she is among members of her family, and is not allowed even to shout at her husband when she sees him coming down the street since this runs counter to demureness as it is perceived by families in our country. Her features fade, while she disappears completely into the background, and it is as if there is no connection between her emotional life and her soul. This is why some young people are full of life and energy, which is clearly visible in their features and reflects their souls.

The weakness of women permeates all matters of life that are not related to the home. She is alarmed at the slightest official paper that is delivered by the postman calling on her husband or anyone else among her (male) relatives to give testimony or appear in a civil action. Instead of thinking about the matter in order to resolve it, her innocence and remoteness from life mean that the only thing she can do is feel anxious, lament, be confused at the state of her husband or relatives, and to give into weeping. As for patriotism and sacrificing oneself for it, this is something that fills her with fear, especially if it involves her beloved sons instead of her daughters, who are not educated for anything except weakness and seclusion. The same attitude can be found among fathers in respect of the mothers. All of them are the enemy of young people who are driven by the strength of their convictions to serve their country, but who have to endure what is handed to them in this respect: that fathers are strong and mothers are weak and delicate.

If we examine how this female timidity has developed and what has come out of it, we see that in its present shape, it is the real cause of women's failure in life and their position as victims of weakness and iniquity. A lot of people hold that shyness in a woman is a sign of her fragility and weakness. They see it as a sign of her femininity which drives them towards retaining it. However, in reality this is nothing but the source of male domination over women, who willingly submit to it. It pleases the man that she takes refuge with him in her fragility and asks him for compassion and help; when she does, his smile is that of the strong dominating the weak, while he interprets her behaviour as female delicateness and affection. This is the meaning of shyness and love to people of that ilk.

Being a good spouse

The way we bring up our children and prepare them for matrimonial life is just as bad as the education they receive prior to marriage. The woman is led to believe that men are tyrants who dominate by force and use her like a household effect once the first flush of marriage has passed, while they have to submit to their men's will and commands. The men do not view their wives favourably, except when they remarry. To the men, women are presented as cunning and wily creatures, who may overpower and dominate them if they are kind and forgiving, in which case they will stay with him until he is like putty in their hands.⁴³⁴ They may also break their men's hearts, and take away their honour⁴³⁵ if he does not have the usual male cunning and wariness. Hence, from the start, the two spouses enter into a competition, with each one trying to gain the upper hand over the other as regards the management of the household and anything else that concerns their conjugal life. This rivalry often leads to stubbornness and disputes, which may entail unexpected grave acts of revenge. This destructive attitude has led to the ridiculous and simple-minded belief, as a warning to all couples, that victory belongs to the spouse who, during their first encounter, first puts his/her foot on that of the other party. This superstition is very widespread among many simple people. There is also a popular proverb that is said to those who pass their time trying to overcome their partner: 'You imbecile, the wedding night has passed you by!' The newlyweds approach each other with caution, but this is not because they knew each other beforehand.

Naïve women are subjected to the influence of these tensions at the hands of swindlers and cheats, who write formulae on pieces of paper and plates, and prepare concoctions from herbs and insects. They imagine this will help her gain control over her husband, and make him obey whenever she commands, and completely yield to her. This contest between the couple may lead the woman to put something into her husband's food which destroys his mind and causes him to lose his senses, in order for her to gain control over him and do whatever she desires. However, women would not resort to such stratagems if they did not feel inferior to man and were not precluded from divorcing them. Women in the countryside are subject to the roughness, callousness and severity of their

husbands. It is quite common among them to find that on the wedding night, the groom uses a thin stick made of olive and walnut wood, with a tuft of silk at the tip, with which he strikes his bride several times when they meet for the first time as a sign of his power and status, which she must recognize and honour. This practice is performed to make her more obedient and caring. Naturally, this is nothing more than an ancestral tradition.

The above reveals the suspicion at the slightest event, which can be blown out of every proportion. For instance, the absence of one of them gives rise to suspicion, especially on the part of women nowadays who want their husbands not to be able to imagine life except at their side, and who live in constant fear of themselves or their husbands as a result of the suspicion with which they have been raised. Sometimes, the doubts are confirmed in reality, but often they are not; nevertheless, the poor woman is always on edge.⁴³⁶ How can there be peace in this kind of restive couple, whose existence starts with distrust and ends with the justification of it!

Healthcare and hygiene⁴³⁷

The issue of health and its protection are not of great concern to men and women in our society. People only start worrying about health and hygiene in case of illness, when mothers generally consult old experienced women who provide them with information regarding various types of treatment that they have tried themselves or heard about. In many cases, the cure becomes a poison and aggravates the illness, delaying recovery or leading to an early grave. How wretched are the homes that are afflicted with disaster! Things are no less wretched as regards our lack of attention to children's hygiene, especially when it comes to their faces, bodies and clothes, as anyone can see. They live in filth and are surrounded by a multitude of mosquitoes and flies. On top of that, there is no supervision on what the children eat, whether it is harmful or difficult to digest for them. They just eat what they find in front of them, or what the adults in the house give to them, inadvertently.

As for physical exercise, this is not something mothers are concerned about even if they are aware of its benefits to the growth of the children and their health. Quite the contrary! The mothers regard this as a bothersome activity and are quick to warn them, while children who do not restrain their boisterous play are thought to bring bad luck and evil unto themselves and their families. Rather than promoting this kind of activity in children and encouraging it to develop their minds and bodies, the mothers do the opposite, punishing and reprimanding the children so as to completely eliminate this activity and keep them quiet, which is perceived as a sign of intelligence and stability in children. Men's views on this do not differ from those of women. As a result, children are likely to become victims of ignorance who do not know right from wrong, and behave badly. Let us imagine the influence that this will have on descendants, with some of them dying early, while others are debilitated and paralyzed, inflicting hardship upon others rather than enjoying life. What do a people do with these victims

when they make up such a large proportion of the population, especially when it is bedevilled by various other factors, all of which are working towards its disintegration and the extinction of its identity?

If we only look at marriage-related sciences, a woman needs to know a great deal in order appreciate her duties. At present, she is taking a path determined by a legacy that is both wicked and iniquitous. We should not waste any time or brook any excuses for not setting up schools for girls alongside those for boys so that the gap between the two sexes can be bridged. The obstacle lies in our contempt for the condition of women and our ignorance of the impact of this contempt on our daily lives, which are already filled with distress and disappointment of which we do not know the origin. Everything in the world has a price, but where are those who heed this?

7 The authority in the household

The marital home is the aim and cornerstone of the family. The spouses are the ones who provide the basis for peace and tranquillity by ensuring they agree on common goals and an understanding of their duties. Married life is not simply a means towards achieving a fixed goal, and it does not have an end like other activities; rather, it is a combination of spirit and goal that unite the couple in life. It is an open-ended obligation facing both spouses. Marriage constitutes a sign of reason and implies both parties understand their duties and are prepared to bear their share of the responsibility. However, in our country, marriage remains firmly under the tight control of the wife's family or that of the husband. It is the mothers and fathers⁴³⁸ who choose a spouse for their child, determine the wedding day, and afterwards interfere in the couple's life.

The husband's parents, in particular, believe that they have the right to arrange their son's household affairs, and in so doing have control over his spouse. They believe their son is incapable of organizing his own affairs, unless he does what they want to. This kind of interference increases especially when the son is unable to provide for himself and his wife. In many cases it is the mother who, after hurrying her son along to marry whomever she has chosen for him, is the bane of his life by entering into dispute with his spouse regarding which of the two is actually in control of the household affairs. This situation can only end in one of two ways; either the husband divorces his wife, which often happens, or he severs ties with his family. However, it must be said that the attitude of the wife's family is not far from that of the husband, especially when it comes to the girl's mother, who will do anything she can to make sure her hopes in respect of the marriage are realized, or sew discord between the spouses in order to bring about a divorce so that she will be able to marry her daughter off to another man, who will please her and be more accommodating to her wishes.

One of the pillars of modern educational methods consists of enabling both young girls and boys to independently perform certain tasks on which they have to rely and which, in the view of their teachers, prepare them to take responsibility, though this may not be clear to them. And if children are unable successfully to complete tasks, they are still rewarded, with the teachers praising what they have done well in their work, in order to instil in them a love of work and organizing it themselves, which is the beginning of the road to perfection.

Conversely, the teachers turn a blind eye to children breaking minor prohibitions, for instance, regarding unsuitable games that may result in harm. If they then hurt themselves, the teachers tell them that it is their punishment for not obeying instructions. On the whole, this kind of approach develops young people's feelings about the value of a job well done and of taking responsibility, which clearly and firmly enhances education. Europeans take an even greater interest in the future of their children; they deposit a certain amount of money in the bank as soon as the child is born. The day he graduates and enters the real world armed with what his upbringing has equipped him, this sum of money, which is registered in his name, has grown into a nice little capital which he can use in the career for which he has been prepared. Afterwards, the young person does not receive anything from his parents anymore, even if they were sitting on mountains of gold. The youngster is free to choose his job, or the house or country that suits him and where he wants to live.

In our country, however, the education and culture do not prepare our children for the future; they are under the authority of their fathers, who pay for their food, clothes and house. The parents hold splendid parties to celebrate the birth of their children, spend a lot of money on them without any real benefit, and afterwards the only thing they think about is the children's obligation to their parents in everything. If the parents should die, their children fritter away the inheritance until it is all gone, incapable of investing it for themselves, or, in case they are minors, they find themselves under the tyrannical control of their legal guardians.

Returning to the issue of marriage, we currently find ourselves on the cusp of two things: either the parents of the couple take control of the marriage and arrange everything relating to it – which does not allow the couple to attain the objectives of marriage, nor to carry out their duties of the home – or the couple obtain their independence and tie the knot with a person of their own choice, and accept the consequences and duties, which is only logical. However, the truth of the matter is that our sons and daughters do not have the knowledge and culture in order to assume this responsibility, and are therefore not equipped for matrimonial life upon which to build a solid home. These nefarious factors are the main reasons for the destruction of so many marriages in our country and the single most important factor in the spread of divorce, chaos in the family and mental distress which takes away peace and happiness.

The mothers and fathers who are unaware of the benefit of education in preparing their children to lead an independent existence, have to accept their share in the responsibility, as they raise their children to obey their every command. As a result, the latter leave the home incapable of making any decisions and with confused minds. What is more, the education that is currently dispensed by our mothers and fathers will not improve matters, as it is devoid of anything that could prepare children to enter the marital home or to function in society. We need to work towards countering the threats of the growing disintegration of society.

Forced marriages⁴³⁹

We want the woman to have the same place in the house as the man and have the same obligations, which is one of the underlying reasons for peace and tranquillity. We also want mothers whose culture is sufficiently strong to raise children that are ready to take on life and its duties. We want women to feel good about themselves, to be aware of the honour of their homes and take pride in their people. In order to achieve this, the work a woman does at home and outside it must consolidate these feelings so that she can pass them on to her children.

The reality of being a woman in our country is, however, quite different. As she is led in solemn procession to her marital home, she is both perplexed and ignorant of what the future will hold, and anxiously awaits the result of this adventure that has befallen her out of the blue, with a husband who may be an old man, a great deal older than she is, and whose repulsive appearance is far removed from her beauty. Alternatively, she may have to live with a man with wicked morals or a dry soul and cold heart. Like a flower on a branch, this beauty wilts and dries up, blighting her radiant existence while she is in the prime of her youth, filled with hope and expectations. The blame for this must squarely be put at the door of her family and those close to her. How can this be justice? How can she be expected to make her husband happy, and provide a peaceful home environment and a good upbringing for her offspring? We all know that out of death can come no life.

There is no way for a woman to improve her lot. She leaves the home of her tyrannical father for the house of a husband who is her 'king' in whose custody she finds herself and who has acquired her through a dowry which he has paid for! This indebtedness lasts for as long as he feeds her, clothes her and provides a roof over her head, whereas she does not have a right to say anything.

When a woman finds herself in this situation, there is a powerful sense of bitterness that takes control of her and leads her to neglect matters of the household and her husband, or even to deny him certain pleasures. For this purpose, a special institution has been set up in order to deal with recalcitrant women. It is called the 'House of Improvement' (*Dār Jawād*),⁴⁴⁰ which is a special house in which the judge places a man of probity, called the *jayyidā*, and his wife, the *jayyida*. A husband places his wife in the house of this couple at the instruction of the judge, who limits the amount of food and clothes the woman is allowed to receive. The fractious wife is kept in isolation at night and is denied all visits except by special approval, which is not easily obtained. All this is done for the purpose of subduing the wildness in the woman's heart and make her beg to return to the marital home filled with remorse, asking for forgiveness and avowing her submission, in order to escape the fierce horrors that have been inflicted upon her. However, it sometimes does not take long for discord once again to flare up after the wife's return, as a result of which she is again sent off to this 'reform school'. What is left in this kind of disturbed and dysfunctional couple beset by madness? This is how things were and continue to be. The fathers want happiness

for their daughters by force and compulsion, whereas a judge aids and abets them through this reform institute in order to bring the wives to heel, again by force and compulsion, rather than by persuasion and reconciliation.

When a man wants to divorce his wife, even if it is unexpected, without her knowing it, this is considered lawful behaviour at any time, even if it occurs after twenty years of marriage which have destroyed the woman's youth as a result of her service to the union and obedience to her husband, or when there are children, irrespective of whether they are small or grown up. What is more, the husband is entirely free to try his luck again and add some variety to his pleasure by taking another wife! The judge will not oppose this, nor will he force the man to pay any kind of compensation. And so, the wife leaves the marriage, once again by force and compulsion.

Unfortunately, most men believe woman is the source of evil, and that intrigue is an integral part of her nature. This idea is reinforced by the criticism levelled at her by poets, as witnessed by the following verse, for instance:

Truly, women are devils, created for us
May God preserve us from the wiles of devils⁴⁴¹

Even the philosophers, throughout history, have participated in censuring woman, viewing her as a creature composed of wicked passion. It goes without saying that the philosophy of these scholars did not deal with the subject of woman, otherwise they would not have condemned half or more of humanity as having been created to inflict harm or as a wicked pastime.

Today, more than ever before, it is incumbent upon us to work towards improving the status of woman to which she has been subjected since the dark ages, and to consider woman as our (i.e. men's) active partner in life in the same measure that their cultural and educational background has prepared her. We have to cease the rule by duress and compulsion to which we subject her at present. The only guarantee lies with the foundation of a special court which can examine matters related to divorce and the reasons for matrimonial disputes, as is the case for the issue of marriage (i.e. marriage courts). In this, we should act emulate governments in Eastern Muslim lands who are struggling to lead their people to life and freedom.

Traditions as obstacles to marriage⁴⁴²

Marriage constitutes an emotional bond whose goal is mutual assistance in life. However, customs have transformed its meaning into amusement, decoration and extravagance in the dowry, furniture and fancy clothes that add unnecessary splendour in order to impress the wedding guests. This is in addition to a series of banquets for all the visitors and day- and night-time parties until the family has spent a fortune on the guests and well-wishers at the never-ending wedding to which people come from all quarters. All of this is done to make sure that there is not the slightest criticism, which is what the couple and their families fear most. All of them work together in order to prevent this out of concern for their

reputation and in order to be the talk of town, they show off the luxury and opulence they are able to afford. This leads to rivalry among families when it comes to the trousseau and the luxury of the banquets, with a total disregard for their limits and what is appropriate and reasonable.

If this practice were restricted to the moneyed classes and within the boundaries of the possible, it would not be a problem. However, the habit developed out of a terrible misconception pushes people into a rivalry with those of the same status and wealth, while the lower and middle classes attempt to emulate those who are of a higher station. This results in a rapid bankruptcy of many of these families. Often, a man will spend everything he has saved on the wedding. As for the girls, they are generally a burden to their fathers until they marry and leave the house. Just imagine the heavy financial burden that a father of daughters has to bear when preparing their wedding. All of the women in the household support him when he does not want to involve the men in this, and he chooses the lesser of two evils in that he prefers to pay the money in any way in order to avoid any family quarrels. As for the groom and his family, they may disparage the trousseau or lose some of the items in it and refuse to accept it. In some cases, they may impose specific conditions on the furniture, demanding it has to be of this or that type. Often the marriage is nullified when some of these conditions are not met. Yet, it is possible that the couple, out of desire and love, either approve what is there, or insist on it in order for the marriage to go ahead. However, the families that believe that furniture or certain household effects constitute a necessary basis for their decision will deny the couple this, and annul the contract, with the spouses employing every trick in order to meet the required conditions.

This situation places a much greater burden on the shoulders of the lower and middle classes than it does on others. When they do not find a way to pay for this custom, they will sell their house or a piece of land, take out a loan or re-mortgage their land, and thus become debt-ridden. There are so many people who experience the oppressiveness of these traditions and their nefarious consequences. However, they cannot resist giving in to this and go to extremes because of the love of appearances between the families, the love of their children and women, and the fear of provoking a dispute. And who does not know the women in our country? They are passionate about, and slaves to traditions and keeping up appearances. What is this other than proof of their naivety and ignorance which we have wished for them, and which many men still wish. Through this naivety and ignorance, women today impose their wishes upon men in support of these harmful traditions, without their being any benefit from them. The husbands have no choice but to fulfil these wishes for the sake of the family so that its foundations do not crumble as a result of a wife insisting on things that her spouse does not want to give her. This is inexcusable, but then there is a price to be paid for everything in this world.

As for poor families, who cannot afford to keep up with others in this respect, they await the time when they will be able to organize a wedding. This explains the spread of celibacy among the majority of young men and women, whereas it may be considered the single-biggest obstacle to marriage. However, it is not as

if those who manage to get married in the circumstances we have outlined above are any less miserable than the ones who cannot. Indeed, the former find themselves facing a mountain of debt and interest⁴⁴³ from the first day of their married life, which immediately affects the happiness of the home as their comfort is restricted by the expenditures and they discover the truth behind the hypocrisy. Some of them have to sell off their untouched trousseau in order meet their debts. Often, this situation is blamed on the woman bringing bad luck by those who expected her to bring good fortune. As a result of this kind of reaction, the woman early on feels that her hopes have been dashed, and a sense of boredom grows within her. As for the husband and his family, they also play a huge role in causing the dislike, making it impossible for the couple to lead a life of peace and tranquillity, and in many cases things end in divorce. To this one should also add the terrible fight that often rages between the husband's family and that of the wife regarding the trousseau. The husband, for his part, wants to extract some booty⁴⁴⁴ from a marriage that did not work out for him. One can observe the opposite in the woman. Both of them are constantly in search of legal tricks and stratagems on offer in the various schools of law⁴⁴⁵ that are allowed in the Magistrates' Court, in order to evade the claims of the other party. The divorce cannot go through until the wife surrenders her entire trousseau, or pays a specific sum of money⁴⁴⁶ to her husband as *khul'*⁴⁴⁷ in order for him to sell his authority over her⁴⁴⁸ which he is entitled to by virtue of the dowry, which reverts to him when the marriage is dissolved. But there is much more to it than that. The decision taken by the religious tribunal is always to the detriment of the woman, who entered a marriage as a young virgin, but leaves it as a deflowered divorcee,⁴⁴⁹ without being granted any kind of compensation by that court.

How can this be a marriage if there is no love, affection and mutual assistance in the matters of life? In the Qur'ān, it is considered a place of rest, love and compassion, but according to despicable arbitrary views⁴⁵⁰ and customs that are part of the worship of material things, it is similar to a trade or a craft and under the influence of deceitful simulation and the love of false fame. This evidently becomes clear in the fathers' obstructing their sons and daughters. Men, themselves, are awaiting rich marriages, and rich wives. It is this which has caused the spread of celibacy among young people.

These customs which we nowadays adhere to are the reason for the destruction of our homes, on the one hand, and of the breakdown of marital conduct,⁴⁵¹ on the other. At the same time, it does not hide the moral breakdown and demographic shortfall in a small kingdom such as Tunisia, which is subject to such weakening factors to the extent that there is hardly any visible growth in its population, except through the unlimited influx of foreigners. There is no solution but to prepare people better and to reform marriage legislation in accordance with the principles of justice and human dignity.

Unprepared marriages⁴⁵²

Marriage without preparation is a crime that is committed by people, either purposefully or not, under the influence of carnal desires or other motives,

either because they are oblivious to the responsibilities facing them, or they do not appreciate the negative consequences this may have on their homes and marital happiness.

Underage marriages

There are many cases of families who are eager to marry off their underage children so that the ceremony can take place when the mothers and fathers are still alive, or to avoid the wedding from being cancelled when the girls change their minds afterwards, or for any other obstacle. As a result, the marriage contract is enacted in anticipation of consummation when the spouses come of age in the natural course of events. However, once they come of age, they realize the truth of what has been done for them, and find that they have no desire for marriage or feel any ardent youthful passion for each other. This comedy of errors is lethal for the couple and is like a sharp blade cutting through their hearts, causing no end of pain and sorrow. They take a dislike to each other and this casts a shadow over their entire life together, which is cold and devoid of feelings, except for the silent pain which soon results into permanent arguments and discord. While this is a cruel and terrible situation, the man has a way out through a new marriage, which takes away the terrible pain. As for the wife, her fate is quite miserable. The two warring families are of the opinion that the first marriage, which they contracted for her sake, has to continue and they force the woman, or her family, to stay and they try to change her mind through words which suppress the revolt she feels inside through misery, but which do not change anything, either for the better or for worse.

These are some of the outrages that families commit on their children, driving them towards a premature marriage.⁴⁵³ While these things befall many, it is even more horrible when it affects young girls and they are forced to marry a much older man at a time when they do not know right from wrong, or seriousness from jest. When they do become aware of the situation as their inner feelings are stirred and they have their sexual experience, they find that tragedy has befallen them like a *fait accompli* imposed by the shouting of the men and the wailing of the women. And what is the aim other than to bring the two families closer together since they both need each other, or one needs the other, with the girl being sent as payment in order to bring this rapprochement about?

There are families who need someone to take care of the household chores and for this reason choose to marry their eldest son to a girl who is much younger than he is so that she can do the housework.

Families believe that the girl who remains in her father's house until she comes of age may be driven towards doing something that tarnishes the family's reputation, or go against her father and mother when they choose a husband for her she deems to be unsuited, or if she has her eye on someone else. A lot of men prefer their future spouses to grow up in an environment where she does not know anyone except him, and live a life of desire and contentment, before she knows the meaning of what it is to be part of a couple, or the meaning of love and someone to love, and before she understands other aspects of life she may not want to give up afterwards. Yet, all of these objectives that families and husbands set for the wife

prove to be futile, as this kind of premature marriage collapses under the weight of disappointment, and is overcast by dark clouds which cause it to be plunged into vice. This leads to cold hypocrisy and, eventually, divorce. The only way to remedy this situation is through contentment and desire and taking responsibility for one's actions. However, this can only happen when people have passed the age of reason and can distinguish between what is right and wrong.

Marriage with disability

There are some people afflicted with hidden chronic diseases, which are not visible, but may seriously damage the children's as well as the woman's health. In spite of this, those people do not refrain from marriage, driven as they are by carnal desire which they cannot control, whereas they do not feel any responsibility in the matter. In so doing, their crime⁴⁵⁴ is a double one, as it is committed against both the spouse and their offspring. The man's disease that is transmitted to his wife may blight her life and lead to many discomforts. If the wife has the disease, then the man is able to get out of the marriage much more easily. There is nothing to force him to stay with her, whether she contracted the illness before or during marriage, and there are plenty of other fish in the sea.⁴⁵⁵ From this angle, it is much easier if a man is afflicted.

When we look at the children in this context, they may be suffering from terrible pains, which precludes them from enjoying good health and physical well-being, making their faces yellow and gaunt. The same problems occur with those who are addicted to alcohol⁴⁵⁶ or other ruinous poisons;⁴⁵⁷ they also result in diseased and disabled children, crippled with pain. And if the fathers are suddenly overcome by the disease, the afflicted children are left in the custody of people who do not take proper care of them, or they end up as beggars in the street, with only the grave or prison to look forward to. Throughout their lives they are a burden on society since they do not contribute anything. This stigma on their generation is caused by the wicked passions that are raging in their sick fathers' minds. There is no benefit to be gained from multitudes; it is more important to have fewer children who are in good physical health than to have a large number afflicted with disease. Sociologists and legislators⁴⁵⁸ are aware of this problem that may pass between the couple and be transmitted to the children and handed down the coming generations. This is why they introduced detailed prenuptial medical certificates to preclude social tragedies and ensure the health of the population as a whole through the family.⁴⁵⁹ This practice has also been adopted in certain countries⁴⁶⁰ in the Islamic East, and should be observed by those who wish to get married; they need to spend money on their treatment to ensure that they are restored to health, and avoid spouses passing on the disease to others, and inflicting this fate upon them.

Financial capability

The biggest obstacle in a marriage is the inability to provide the necessary food, or other necessities. This results in material misery and hardship which takes

away the peace and tranquillity of life. It leads to illness, transforming a flexible character into severity and stupidity, both of which take away the calm that is required in marriage. The distress increases when the children grow up in this kind of dysfunctional household. Every day we hear about a huge number of men leaving their wives and homes; this is borne out by the multitude of court announcements published in newspapers, requesting information about the men's whereabouts or whether they have left some money that is keenly awaited and needed by their wives. It is strange that these announcements do not end in divorce on the grounds of poverty. If a father who has left children dies, their fate is even worse.

Quite a lot of people rush into marriage without thinking carefully about what it entails, or the costs involved. Everyone thinks in terms of complying with customs and about the money they will have to spend in order to arrange the wedding and the banquets. Instead, they should use that money to invest it in the home and for improving the life of the family.

However, customs demand that this money is spent on the wedding before anything else, and leave what comes afterwards to fate, even though fate has often taught some harsh and useful lessons. Unfortunately, it is clear today that our experience has not yielded any result. We are still not able to grasp the reality of things, and people continue to act in accordance with traditions and customs.

In truth, the issue of poverty is not exclusively a question of being prepared for marriage; in most cases it is to be attributed to the wages of the working classes⁴⁶¹ and forced unemployment.

This is the biggest cause of poverty and reason for hardship both in and outside the home, and the most difficult social problem, which falls outside the remit of the individual. In many cases, the problem is due to their laziness and the fact that they have grown accustomed to doing nothing and hanging around in this state of poverty, or to the fact that they spend rather than save money, which is governed by custom⁴⁶² rather than by wisdom and utility. In so doing, these men are committing a crime against themselves, their wives and their children, if they have any. They are driven to this by desire without paying attention to the facts or being aware of their duty, and thus we destroy our homes with our own hands, despite being told 'So learn a lesson, o ye who have eyes!'⁴⁶³

The victims of passion in marriage⁴⁶⁴

It is difficult for people who are ignorant and have had a bad upbringing to comprehend what marriage is really about and the reasons for its permanency and integrity. They have no conception of the responsibility ensuing from the cooperation between the spouses in the matters of life, the raising of the children and preparing them for life.

We get married because the ardour of youth pushes us towards doing it. In addition, we only ask for someone with a beautiful body and face, and we are driven to marriage by a desire for what we imagine to be pure love. A man sees a woman by chance or furtively and an image lingers in his mind. When he thinks

about her, he exaggerates her features until he feels passionate love for her, and all this in a couple of days. He then does everything he can in order to get married to her as soon as he can, but he does not know anything about her life, skills or suitability – nothing except what he saw, furtively, a short time before. No matter how unsuitable she is, or the man is told she is deficient, he does not see anything in her except perfection. Once his wish is realized and the first days of marriage are gone, real life begins and this burning desire which spreads like fire in straw begins to dwindle and then fades away. The man suddenly realizes that the affairs of the home are not properly organized, or that things are not being done in the way that he wants, and that his wife does not know anything. In addition to being less than obedient, she also has many faults. Things get worse when quarrels are added to the dislike between the spouses. When the marriage remains in this state, it becomes torture and pain concomitant with yelling and shouting, unless, that is, the man does not put a hammer to the woman's head first. Often, this constitutes a reason for polygamy. In these cases, when things end in divorce, this is like a liberation and relief for the woman from a painful and loathsome prison.

That which drives men can also affect a woman, if not more so, particularly if it is a naïve girl without any education or experience of life of any kind, whose emotions are guided by pure youthful attraction. She feels her heart stirring with a yearning for a relationship, which pushes her to fall in love at first sight. She immediately starts dreaming about things in her bed at night, and eagerly awaits the next encounter. These girls sometimes revolt against their parents by uttering words of magical love that she has heard from the mouths of those who are in love, and the parents end up giving in to her lest she elopes, and finally accede to her marriage. These are enticing dreams that appear in front of those who are in love and accept everything for the sake of it, convinced that everything they are looking for is there. It does not take long before these evanescent dreams laugh mockingly in the girl's face, and she is then forced to return to her parents' home from which she fled. However, she left a young girl and virgin, but returns as a divorced woman, racked with disappointment and regret at the pain she has caused her family who may not even receive her with the compassion the poor girl desperately needs. Love is not about being attracted to a ghost, rather it is a meeting of souls or a mutual understanding based on living together. This is the most solid foundation for a marriage.

As long as marriage is driven solely by youthful impetuosity, devoid of an appreciation of the required conditions for both spouses, it can be nothing more than an adventure which in most cases results in heart-rending ruin and failure and grief, with the couple being beset by wickedness and iniquity. As for polygamy with four wives, this is a manifestation of carnal appetite, even if the aim is reproduction. It is not devoid from distress and gives rise to inner hatred between the man and his spouses, and if he shows a preference to one of them, which is often the case, the iniquity of the situation increases. However, if we look at the men who have more than one wife for the sake of procreation, we see that their children become shepherds, or are left to their own devices in the streets at

a school-going age, whereas the elderly father, immersed in taking his pleasure, does not think of his duty in this regard. What is the use of offspring treated in this criminal way by society and the family? I have seen with my own eyes many fathers who are subject to a terrible punishment towards the end of their lives, often at the hands of their children, when they have frittered away all what they have earned in their youth on satisfying their desires, on multiple marriages, and on producing children without spending a single *dirham* on their education. Because of this, the children are filled with rancour and a desire to take vengeance on their father because of the way they have been brought up. What is more, this polygamy is also cruel on a woman's heart, which is the glory of the family and the source of its happiness, if it has not been shattered by despair and desolation.

There is not a single married woman who does not think about her fate with a husband and her future with him, always worrying about whether he will take another wife. This lies at the origin of a woman's fear to see her husband making money, whereas she encourages him to spend it until it is all gone and with it her fear that he will use it for a new wife while her own life fades. There are still men who are very concerned about their wives' extravagant spending, to the extent that it leads to the destruction of the home in the end, and the woman has to live with her husband in indigence and disgrace. However, the profligacy of woman cannot wholly be attributed to a fear of being 'a fellow-wife'.⁴⁶⁵ She is overcome by apprehensions and gossip, whereas her heart is filled with doubt. This drives the poor woman to consult geomancers,⁴⁶⁶ who take advantage of her nerve-racking doubts and tell her what she wants to hear. These charlatans lie in wait for their prey, lurking in their dark shops. When, they see the loot they use sand divining and guesses to put hope in the woman's mind. Woe unto the spouses whose minds are controlled by weakness and who fall victim to these scoundrels who ply their trade for gain. And so women spend their lives in restlessness, which causes no end of distress. And what is the cause of this except polygamy and the fear of it?

There is, however, a greater crime, which is that of men who want to taste several women,⁴⁶⁷ always 'take the best of everything' and get married without any reason, taking a wife here, and divorcing another one there. The only reason behind this is that they want to fill their married days with sensual pleasures and lust for as long as the money lasts, driven by excessive carnal appetites. The families of their class⁴⁶⁸ know about these men's behaviour and prohibit their daughters from marrying them, so they turn to girls from poor families and servant girls. After playing with their purity and beauty for a while, the men cast them aside, cynically and with indifference as to the girls' fate, while they move on to the next one.

There are plenty of marriage brokers who offer their services for money to those who want to get married, but who have some disability preventing them from doing so, as we have seen above. Thus, it is lust which sends destruction to our homes by debauchery, hardship, the din of disputes, divorce and mutual revenge. Let us imagine the future of children who grow up in this kind of twisted

environment, with all the pain, crimes and sins it entails and for which there is still no cure, neither through upbringing or education, nor through a reform of the law and the judiciary.

Marriage is the breeding ground of future generations of the nation. The future of this generation depends on the solidity of marriage, the sound preparation of the couple, their compatibility and ability to overcome adversity. At present, we are suffering under the tyranny of lust through our customs and our lack of appreciation of the duties in marriage, of the fact that both men and women need to be prepared in order to perform these duties. Instead, we have poisoned the land, rendering it infertile and its produce rotten. In doing so, we are the perpetrators of the crime; what is more, we are habitual offenders.

8 Scenes from married life⁴⁶⁹

How quickly those early days of marriage, which we now, after the European fashion, call the honeymoon, pass. Afterwards, the couple find themselves facing the duties and joint interests which often demand agreement and affinity with each other's character, tastes and views. Married life in our country is far removed from the type of preparation that is given. Quite the opposite, in fact; it is filled with mental chaos and everything associated with it, as a result of the cultural influence to which the spouses have been subjected in their childhood. Their families provide nothing but a bad legacy in terms of customs, destructive and simple-minded delusions and prejudices. How terrible it is for our homes to be afflicted with such ruinous elements.

The father returns home from work exhausted and wants to find peace and tranquillity there. Instead, he finds that the food is not to his liking, perhaps it is too hot or salty, while his bed does not afford him comfort. And this is the way it is with all the necessary things in the home. Then, his anger grows and he ends up abusing and cursing his wife, that is if he does not kick the dinner table over, making everything fall onto the floor. Sometimes, he will beat his wife, which often happens to rural women. Alerted by the angry shouting or the woman's cries, other people will rush to the scene in order to calm things down and restore peace between the couple. The man will then start giving them excuses for what he has done, and how his rights were violated. The woman does the same thing, claiming that she has never disobeyed any of her husband's commands, but that he will order her to do one thing, and then the opposite. These incidents recur until tempers are cooled down, with patience and steadfastness returning on both sides, or until desire leads them to a life devoid of dignity and virtue outside the house. Alternatively, the matter ends in divorce or with the husband taking another wife. And all of this is played out in front of the children! Often these events originate in a struggle for control of the household and which of the two is prepared to submit to the other. On the other hand, this situation may also be the result of one or both spouses being fed up with marital life. However, in most cases, the strife emerges out of a poor awareness of spousal duty and control over morals, and a tendency towards violence and cruelty as a result of a bad upbringing.

In our country, men who marry several wives live with all of them under the same roof. Natural instincts being what they are, the differences between the

wives and between the husband and the wives only increase. Each wife will try to harm the other by artful machinations, as if they believe that a possession of theirs has been stolen in order to destroy it or hide it. They will, for instance, throw a handful of salt or pepper in their rival's food as the latter is preparing it for the husband, invent stories about her, or accuse her of not doing her share in the cleaning of the house and chores. All this takes place amidst a dreadful din of the worst curses and insults. The battle get worse as the children join the fray, siding with their respective mothers. This aggravates the danger posed to life in the home and to the kind of morals the children learn growing up in an environment consumed by envy and jealousy, which can only lead to a life of crime for the offspring. No matter how strong and respected the husband is, he is incapable of restraining these instincts towards revolution, except intermittently.

It is our custom to build houses that are fit to accommodate a number of families, each of which has a room which leads onto a central area of the house where one finds the kitchen, lavatories, clothes lines and most of the joint conveniences, whereas there is only one door. By the very nature of the set-up, the women are in close contact with one another and share all the household chores and duties. However, as they have no training which calls for cooperation in the execution of such tasks and for refraining from interfering in other people's affairs in particular, they are constantly in a state of war during which the tongues never stop wagging. The only thing that can be heard by passers-by in the street is the constant shouting. When the husbands come home from work, wanting only peace and quiet, all they find is noise, with each wife seeking refuge with her husband to complain of the evil unjust things that have been done to her by the other women, insisting that he should protect her from the rival and fight on her behalf. And so, his period of rest is spent in annoyance and stress, which leads to a quarrel among the men over their wives. Most of the time, a truce is made, which restores calm to the relations between the women, only to flare up again with renewed vigour. This kind of irritation among the families is largely caused by the construction of a house for all, rather than a house divided into independent living quarters for each family (i.e. flats), which would safeguard against this kind of unrest and annoyance. Whatever the improvement in buildings and their suitability, this will yield only a small benefit because of our slow development, with people resorting, by long tradition, to removing all windows that look out onto the street to prevent the gazes from other people and passers-by on the women of the household if they are close to the window. However, in an attempt to avoid these imaginary dangers, we have ended up with a much worse reality.

The man often comes home after the usual time, with things on his mind and physically tired after meeting people or doing important work. What he finds is a wife who hurls abuse at him, accusing him for being late and for keeping her waiting.

Even when he explains the truth of the matter to her, she does not trust him since she is isolated and cannot find out the truth for herself; it takes many years before she realizes the husband has been telling her the truth all along. However, few men can put up with this for long. In general, it only infuriates men and drives

them towards committing an illegal act in public, after which he will spend as much time away from home as possible, or seek a divorce.

The man leaves home early in the morning to go to work and leaves his wife to do her chores and his children to go to school. The father exerts himself to provide his offspring with what they need for their lessons in the way of books and other materials with a view to giving them a better future. But when he comes home after work, what does the father see but a note from the headteacher regarding his sons' truancy over a number of days. It is then that he discovers the truth; while his sons leave home for school, smiling, they actually meet up with their truant friends and spend their days engaged in scandalous games and roaming the streets while all their poor friends are working hard to overcome their ignorance through knowledge. However, the poor father's work prevents him from taking his sons to school, whereas the mother cannot do it either because 'respectable women do not leave the house', nor are there any relatives available. And so the blood rushes to the father's head, caught as he is between working hard at this job and seeing his hopes dashed at home. Sometimes, the mother, out of a misplaced sense of compassion, hides a lot of things her sons get up to, which only makes things worse. In doing so, she prevents their father from dealing with their behaviour, which only exacerbates the distress. When the father punishes them, he does so with violence and cruelty, to which he is driven out of anger. As a result, the peace in his heart and in his home vanishes, just as his body is buckling under the strain of work. In most cases, the father is unable through this method to force his offspring to behave in a suitable fashion. The only thing that happens is that they leave the house out of fear, oppressing their emotions and become just another victim of neglect and bad parenting.

The woman usually sends the man to do the shopping and he does as she asks. The man does his best to provide all he can, but no sooner has he returned home than his wife points out the mistakes he made in the colour, shape or type of goods he has purchased. And so, he returns to the shops in the hope of coming across the item that will meet with her approval. However, it is possible that she will approve in the end since after looking around she has not found anything better than what she has. In most cases, the woman will always like what she has bought, preferring it to anything someone else got her, even if it is something from a hawker. Women are always fascinated by things that are pleasing to the eye because of their beauty or price since they like to be the topic of discussion among their peers, and to be admired by their entourage. A woman's yearning for praise for her good qualities drives her towards giving generously of the provisions of her home and its savings to whomever asks for it among her relatives, loved ones and even the old women who spend their time going around to gossip about the houses that they have visited, mentioning the generosity the lady of the house bestowed upon them. Afterwards, the old women start recounting stories of legends at night and keep the women and children company. They do not leave without their 'fee'.⁴⁷⁰ These visits have an adverse effect on the family wealth in that they increase expenditure and thus constitute a heavy burden on the future of the couple. The men complain and grumble to their wives for

being wasteful. But where should the wife have obtained an understanding of the meaning of money since in the majority of the cases she is excluded from actively sharing things with the husband in terms of the management of the household tasks and organizing the revenues? She is equally ignorant of what the man can do with his wages and the fact that the household expenses must not exceed the income, which is the joint property of the couple. The wife's ignorance of such matters and the husband's control of the purse strings leads her to believe that her share in the income is whatever she can extract from the husband. So, she continues to increase the costs until they reach a proportion which she deems appropriate as her share. It is this which causes discord and leads to fights, with the woman bewailing her lost share, if she feels she is unlucky and her wishes are not met. The way we raise our women excludes them from having an opinion on the way the household is organized to the extent that they are incapable of working out what comes in and what goes out. How can she spend the money she has on monthly provisions when she is intent on fully satisfying her desires? She endeavours to keep her husband from knowing what is in the house in terms of effects and food since she considers this to be her preserve, and it is not the man's business to interfere in the affairs of women. As women compare this situation with the work of the man and his activities outside the house and the freedom he has in organizing them, they see that they have no opportunity to take part in them. To put it more clearly: as long as the woman remains in the house, a slave to the orders of the man rather than as an equal partner, she will invent reasons for going against these orders and try to take as much as possible for herself. It is the affairs of the house and its needs which give rise to constant disputes and quarrels between the couple.

No matter if the husband is duped and disappointed, the woman complains more than him about being duped and her miserable fate. While the husband is footloose and fancy free outside the house and finds relief from his worries, the woman remains stuck at home, where she is needed more than the man. This situation leads to quarrels and fights with the (female) neighbours without any reason other than a multitude of opportunities, which, together with her naïve imagination, drive her to nervous outbursts. So, the only way she can get some relief from her burdensome worries is to head for the houses of relatives or female friends,⁴⁷¹ to whom she will complain of what she has been made to endure, or with whom she can talk about the latest fashions, what so-and-so was wearing, or other things that are worthy of amazement or praise, or of contempt. Other women may seek solace in visiting saints' shrines. There are many of them in every village of our kingdom and they are open all the time. They are also the venue for religious festivals, and they thrive upon the numerous female delegations visiting them.

However, there are certain licentious men – and there are many of them – who use these places as a hunting ground for women who are homeless or afflicted by misery, those who are angry with their husbands, or naïve. You can also find men preying on girls in front of bath houses or girls' schools. The girls represent easy pickings for the men since they are not chaperoned.

And so, the victims sink to ever greater depths. However, the fact of keeping the woman at home is neither logical nor acceptable. If it were not for the pain and distress afflicting women in the home they would not feel the strong urge to flee in search of tranquillity and recreation. Furthermore, they are faced with the temptations on offer in the increasing number of department stores, theatres and cinemas.⁴⁷² Because they are driven by boredom, one does not know where their naivety will eventually lead them. This does not mean that women should not have fun or enjoy themselves by looking at nice things with their husbands. We can easily imagine the danger when a woman is in a particular state of mind which may push her towards this path fraught with calamities. However, this is nothing but the result of the general education we provide. We must raise girls to become good wives and companions, and to work towards ensuring that the morals, aspirations and mindsets of boys and girls are the same, or at least brought closer together. It is the absence of this which has resulted in today's lack of direction and the opposite of what is desirable. It lies within our power to make the home either a place of torment, or of happiness and tranquillity, that is, heaven or hell.

Social misery

The family and the people

The moral and intellectual level of the general population is not the sole reason for the break-up of society in our time. This is exacerbated by other factors which are responsible for the destruction of the institutions of marriage and the family. One of them is the material misery, which, itself, is caused by our low moral and intellectual level.

Tunisia is an agricultural country, and most of its population is active in agriculture, whereas all its income is derived from industry and commerce related to this field. However, political and social reasons have forced many Tunisians to relinquish their land to foreign colonists and to enter into the latter's employment. In addition, the use of modern agricultural equipment has brought about the decline of old skills and crafts. There are a number of craftsmen who have been forced to turn to other activities. To this group of people, one should add those in traditional trades whose sales have dropped, or dwindled to nothing, because of the imports of European goods that have flooded the markets of the country and monopolized them. And, then, there are the merchants who no longer trade and those who have risked their capital which was not actually invested for them, but whose efforts have been exploited. All of them make up a vast section of the population afflicted by poverty and unemployment. Large-scale projects⁴⁷³ are in the hands of government enterprises, French companies and Jews. These include the extension of the road network, the railroads, the public transport system, the drilling of mines all over the kingdom, brickworks, flour mills, tanneries and dyeing works, weaveries, lime and cement factories, and all other activities that are vital for the development of the country. Most of those among the

dispossessed classes perform menial physical tasks for these companies in exchange for paltry wages. While the modern industrial machinery spreads, workers, themselves, are precluded from learning how to operate the machinery, or it is made difficult. This is the reason that their share in them is small or non-existent. This situation also increases the contempt of the efforts made towards acquiring knowledge of modern equipment by the Tunisian workers, no matter how hard and destructive their lives are in the mines, factories or fields, or how enthusiastic and energetic they may be. Access to the machinery is reserved for government officials and the project leaders in order to attract workers from Europe and their families and make it easier for them to work and settle in Tunisia. As for the Tunisian worker, who is the head of a family with up to eight children, his wages are not more than ten or twelve francs per day for working an average of ten to twelve, or more, hours a day. The wages can even be as low as three or four francs per day, as is the case for those who work in agriculture or mining. As a result, fathers are forced to buy leftovers of fruit,⁴⁷⁴ vegetables and any other foodstuffs at knock-down prices so as to be able to provide for their families' many needs, most of which they cannot pay for. The workers exert themselves for their entire lives in order to relieve the misery and wretchedness that afflict them, with only their wives and small children feeling the pain. This is one of the main reasons driving some fathers towards suicide or abandoning their families. Every day, the newspapers are filled with announcements of judicial rulings from all over the kingdom. This situation has become widespread and continues to deteriorate.

Let us imagine the pale faces of the children who are born into this misery and fed on a diet of bread soaked in water or in a hot chilli sauce, couscous with a broth made of left-over vegetables with a little bit of oil which glistens in the pot. The children's faces are sallow and pale as a result, their bodies and clothes dirty, while they play outside in the street and on cross-roads during school hours when the sons of other people are busy doing their lessons and are being prepared to face their future lives with confidence.

This is what happens when misery strikes, but it is by no means the worst. Sometimes, the fathers of these children force them to work so that they can help provide for the needs of the family at an age when they are not allowed to perform any economic activity. This increases the ruinous effect on their bodies. You can see these children at work in the food market (the Fondouk El Ghalla),⁴⁷⁵ where they offer their services to passers-by as porters. You can also see kids cleaning up animal droppings in the European quarter or sweeping the roads, with the dust covering their faces and poisoning their already weak bodies, whereas the filth in the rubbish bins causes the spread of contagious diseases. Even the city council prefers to use children since they have to pay them only half, or less, of what they pay adult men and thus they are able to make savings on their budget. It is for this same reason that the state tobacco company currently employs three hundred children, who are working with tobacco, which is filled with noxious materials. Every year many of them fall victim to tuberculosis, and collapse. I have personally seen this happen to many children. The strangest thing of all, however, is that when these children reach majority and request a permanent appointment, this is

refused and they are replaced by young children. The same thing goes on in factories, farms and mines where young children are also employed to do a man's job at cheap wages. There is no law preventing this practice, which adds to the misery of our people.

Let us not forget the equally unenviable fate of young girls, who prepare themselves for the deteriorating institution of marriage. In order to help their parents make ends meet, many of them go out to work. Some even go into domestic service in order to get some food or clothes. And when a girl reaches this point of weakness, she becomes exposed to all manner of human wickedness.

Many of the families in our country suffer from undernourishment as a result of the low wages, while underage youngsters are exploited in jobs that gradually ruin their health, and unemployment has increased as a result of Tunisian workers being replaced by those imported from Europe who have come here with their families. All of these are factors conducive to the destruction of family life both in terms of material wealth and moral fibre. And then, there is the scourge⁴⁷⁶ of contagious diseases, whose terrible effects are increased by the fact that they are passed from one family to another through marriage since it is not verified at the time the marriage contract is concluded whether both spouses are in good physical health. Often you see people with their bodies eaten away by tuberculosis, cancer and syphilis,⁴⁷⁷ and blisters bursting with blood. Amputations are common, as is paralysis. People are collapsing outside hospitals which cannot accommodate all the patients, most of whom cannot afford treatment anyway since they do not even have enough money for the bare essentials of life. Things are even more miserable for sick people in the countryside as they are cut off from everywhere and confined to their cramped dark and humid houses devoid of windows. They find themselves without treatment, or reliant upon recipes provided by old wives and charlatan *shaykhs*.⁴⁷⁸ Such people do not have access to medical treatment, or they are afraid of what the treatment will do. This situation continues to afflict families in our country to this day. These and others are the main factors underlying the high rate of mortality among Tunisians.

As a result of the above situation, women have to go through gruelling pain and their lives are endangered due to the heavy loss of blood during childbirth. Together with poverty, a lack of food and the terrible misery these people experience, the woman has to bear her confinement, slow labour and the concomitant lethal pain without getting any relief during delivery, except from the midwives, whose sole training consists of the practical experience passed on from other midwives who are just as ignorant as they are. In many cases, pregnant women and their babies fall victim to this ignorance after first enduring deathly torments at the hands of these midwives who do not know what they are doing.

In spite of this, when there are problems, the mothers-to-be, accompanied by the other women of the household, seek succour in the blessings of saints and ancestors, whose names they shout down cisterns and wells, beseeching them to make sure their child is born safely.

Not a day goes by without hearing about a calamity of this type. These tragedies, together with others combine to cut off our foundations and destroy the joy of life.

In the past, we preferred our women to die at home at the hands of uneducated midwives; today, we take them to a doctor or a hospital. Women, themselves, cling to the old ways, even when one of them is suffering greatly during delivery. Although this situation has endured to this day, there are many people who have turned away from these fossilized traditions and fetch a doctor or take women to hospital for delivery. Unfortunately, poor families, who make up the majority of the population, cannot afford to get a doctor, or even go to hospital. As a result, they are left in their misery without anyone caring about them, whether it be the healthcare system⁴⁷⁹ or their compatriots.

The material misery that afflicts us and whose causes continue to grow is beyond our control; for the most part, it is to be attributed to the decline in the family, with married life being beset by violence and base morals. This lack of morality is the single biggest cause for the increased number of divorces. If we drew up statistics, we would find that most of the divorce cases are brought about by poverty and personal despair, which lead to quarrels and disputes.

Another issue is that of the constant deprivation facing Tunisian families which makes young girls strive towards a material existence in which they can satisfy their desires. However, in doing so, they find themselves on an unknown path, driven as they are by naivety towards unexpected dangers that have serious effects on themselves, their honour, families and future marriages. The short-lived pleasures are paltry compensation for their long-term misery in life. They easily find men who try to persuade them to have an affair,⁴⁸⁰ which in many cases leads to the girls ending up in brothels⁴⁸¹ or being entered into the official register of prostitutes.⁴⁸² If we look at the reasons for the moral corruption of women, we can observe that in most cases it is men who are behind it in that they incite women to have immoral relations, or divorce their wives after having lived with them for a very short time, with single women being traditionally viewed as blameworthy and responsible for what has happened to them. The above provides a picture of the misery women have had to endure for a long time.

Some of the misery in family life and society we have talked about is enough to ensure our gradual extinction. The only way to remedy this situation and its adverse effects is to introduce widespread vocational training in all disciplines and in all economic sectors. We also need to take control of our own means of production, rather than leaving them in the hands of foreigners. Finally, we must recognize the rights of our families, appreciate the workers' contribution and pay them their dues, just like the Europeans and the Tunisian Jews who in the building of their communities pay their own kind more than they do the Muslims, even though they do the same work. Another solution would be to increase the number of hospitals and to disseminate the basic principles of hygiene in every corner of the kingdom. This must be accompanied, however, by a change in our living conditions through the destruction of all hovels and slums in which so many Tunisians live. These insalubrious dwellings must be replaced by houses conducive to good health and well-being which will guarantee our longevity and development free from defects, as much as is possible. All of this is already present in developing countries,⁴⁸³ as we can see with our own eyes in our country.

We are far from achieving that which already exists in other countries. What is more, we have not even studied these objectives, let alone worked towards achieving them. We are not accustomed to thinking about these things for ourselves; rather, we expect the government to do it for us.

To be sure, the Protectorate authorities are undertaking urban development projects in Tunis to the extent that part of the city will resemble European cities. However, government policy relies solely on European and Jewish individuals and companies for the urban reconstruction, and it is to them that all the necessary funds have been allocated. The share for Tunisians in this capital is almost non-existent, if it was not for the support by the government to one or two companies set up by some young people for the construction of houses for Muslim civil servants. Unfortunately, the population at large does not pay the slightest attention to these momentous projects and is not interested in getting their share of them. Similarly, they do not seem to care that these projects will enable the poor and average Tunisian to have comfortable housing, well-lit and aired, instead of hovels and slums. The rich prefer to waste their money on pleasurable and wicked pursuits, or to store it in their coffers and secure their legacies.

Any urban regeneration in the real sense of the word must involve the destruction of hovels and slums, the widening of the roads and the construction of new houses fit for human habitation. The Municipal Council of Tunis is gradually carrying out works to this end. The inhabitants can only wait along with everyone else until the redevelopment work is completed and their old houses are replaced by new ones. At the same time, it is not as if our houses will in any way resemble theirs (i.e. those of the rich Tunisians and foreigners) no more than a swamp is like a luxuriant garden.

There is another aspect of urban redevelopment which is perhaps even more important than others, that is, the establishment of an economic infrastructure which forms the basis for mechanizing basic manual work.⁴⁸⁴ This industrialization of the production process would yield the economic results required for the country to raise its living standard and expand its productivity. These combined efforts to improve life can only bear fruit if they are predicated on qualified manual labour in all artisanal sectors for the building of palaces and factories, the paving of roads, the construction of gardens, parks and water reservoirs, electrical plants, etc., and if the infrastructure and technical skills are used in order to enhance production. Unfortunately, it is not possible to achieve the above at present and the government and local companies have no choice but to continue to import labour from Europe in order to get the job done.

What are we to do to next, as we are left without a job or a roof over our heads, reduced to living in the streets, begging, committing crime, filling up prisons, before going to our graves.

I must not forget to say here that the government has found a way of saving a select number of Tunisians by granting them French citizenship and thus offering them the same advantages as French nationals. This policy has enjoyed the support of all the French companies in the country.

I will continue to say – and this is something I firmly believe in – that a large part of the responsibility lies with us since we have accepted this ignorance and stagnation which we continue to love. If we do not wish to stretch out our hands to grab the honey, then we should not expect the government to spoon-feed the honey while we are lying down. The misery that afflicts our people is boundless and it will be difficult for future generations to carry this burden. The task that awaits us is a huge one indeed, particularly since we have disregarded it for a long time. And if we do not heed it today, its consequences will sweep us into a mortal abyss, without anyone mourning us.

Current of modernity

The people

The history of modern development in the East is linked to the history of its contacts with contemporary Western society, more specifically to the occupation by Europeans of these countries. The conquerors impose themselves on the conquered, and drive them towards copying the conqueror's clothing and lifestyle which are perceived by the conquered as being a source of good, enabling them to improve their painful and lethargic existence. However, by the nature of things, we are no longer driven in this by a desire to learn the ways by which the Europeans have arrived at this prosperous existence in order to strive towards having a similar life. Rather, today it is merely a question of pursuing hedonism since we no longer view our lives as sound and good. It is for this reason that we focus solely on consumerism and the enjoyment of the material trappings of Western civilization, that is, their home decoration, clothes, food and drink, entertainments and all other outward aspects of their lives, especially after the Great War, which was a period of continuous deprivation. The Europeans continue to produce ever larger quantities of goods thanks to their concerted efforts, while we are eager to acquire them, spending the money our ancestors amassed with great difficulty over a long period of time. They succeeded through pillage and wealth, neither of which we were successful in. It is we who are responsible for the spread of poverty as we have frittered our wealth away without any right. This is the inevitable path for a nation that is not committed to development and does not have a leader to guide it, and sees it as its right to put the pursuit of new pleasures before its duties in life.

This reckless behaviour which we seem to be revelling in is not limited to the cities, but has also clearly affected our countryside since the Great War, when the people fled their agricultural land to live in the capital and other cities of the kingdom, leaving their land in the hands of agents or labourers. They were quite content with the revenues they received from the land, as long as it enabled them to have a good life in the city. Indeed, they cared as little about their land as the city dwellers did about their properties in the countryside. The new arrivals were, however, faced with new costs attendant upon city life, mesmerized as they were by its enchanting attractions. As a result, their annual revenue was grossly

inadequate, whereas the oppressive burden of debts forced them to sell their property, making them just another victim of misguided dreams.

The drop in the French franc and the concomitant increase in prices for agricultural produce greatly helped those who had fled the countryside, with temptation making them lose sight of the real meaning of life. All classes of Tunisian society took part in this descent into bankruptcy. However, the situation was exacerbated the day the franc went up and exports of Tunisian agricultural produce dropped, both of which constituted the main factors in the decline of our general prosperity.

Young girls today are strongly driven by a yearning for pleasurable things, whatever the cost, and they will pester their husbands to buy the things they want. The girls are dissatisfied with the old way of life and enthralled by the new luxuries they see. They complain about their bad luck and are never content with what they are given. Fractious and rebellious, they mock the views of their mothers who are happy with their lot. If they are unable to go out shopping and satisfy their desires, they will sleep and feign illness rather than do house chores, no matter if it is their duty or it is necessary. If we look at our young men, it becomes clear that they are no different from our girls in this respect. They, too, rival with one another for the most modern clothes, food and drink, and all other outward trappings, even if they do not have enough money to buy what they want. Most of them occupy lowly positions in government departments or companies and have to spend most of their salaries on paying off their new debts.

Those who are incapable of joining the race either because they are unemployed or because their meagre salaries do not stretch that far, become disenchanted with their lives and have a tendency towards withdrawing into themselves, or they waste away and slide into despair. As a result, many of them shy away from work, preferring unemployment to exerting themselves at work when life does not provide them with what they want.

When men feel empty and forlorn in this existence, they endeavour towards replacing it with pleasurable and distracting pursuits. If anything, women should feel that way as their fate is much worse than that of their husbands. They are restricted in where they can go outside the house and are for the most part deprived from seeing life and the new things it has to offer, with loneliness and isolation leading to naivety. In our traditions, timidity manifests itself in people's minds – both men and women – as silence and secrecy in order to protect oneself from the irritation and gossip of the elderly. However, city life today holds so many attractions that both sexes are driven towards being more open and forceful in their demands for pleasure and entertainment. Families from all social classes lead one another down this path without, however, being prepared for the rapid change, whether it be intellectually, morally or economically. This movement is reinforced by the advertising agencies in our country and their impressive advertisements for the products of European factories.

To date, men have not realized the degrees of this development and they are not ready for it, nor do they know where they stand. It would have

been better for women not to know anything about this since they for the most part rely on their husbands' continued assistance in all things. Women think that all they have to do is express their wishes and designs to their husbands who are there to make them come true. This oppressive burden is increased by the fact that women are not able to participate in the economic activity in order to lighten the burden of the expenses required by the new lifestyle.

We complain a great deal about Western civilization for having forced these additional expenses onto the household that we cannot afford, and for having an adverse effect on our traditional timidity which made us blush⁴⁸⁵ and prevented us from boldly moving towards an unveiled life. In actual fact, it is we who are intent on making these changes, regardless of whether we can cope with them or not. We are going about it by spending our fathers' legacy – which is not something that can last for a long time – or by evil and criminal methods, through cheating one another, scheming, malignant spying and selling our bodies to immorality, all of which have taken on frightful proportions all around us. Whatever the underlying reason for our preoccupation with the excess of women, but not men, in terms of immorality, this unveiled life is something we wanted for them. When we talk about women's flaws, we seem to be oblivious to the fact that they lead this life in compliance with our wishes. Furthermore, our women are not in contact with the European milieu and so they can hardly be encouraged by it. Women ask for our approval to claim their share in the life that we share together. If we truly hated women's immorality and unveiling and had not paved the way, they would not have dared to take this path. However, we are so used to seeing women as the source of all our evil, that we have been misleading ourselves, with our actions contradicting our words.

The flow of Western civilization has swept both men and women, despite our hypocritical affection and sympathy for our past. We cannot be saved from that merely by grumbling and seeking protection from God, which we generally think will be sufficient whenever we are struck by events. However, this does not mean that I am calling on my compatriots to lead an ascetic and abstemious life. Instead, I am saying that we seek to outdo one another in chasing the pleasures of life, to the detriment of fulfilling our duties in life. It is these duties which ensure a happy life, guide us and provide constant inspiration.

It is our right, indeed our duty, to aspire towards a nice and comfortable life, with the beautiful and enjoyable things this entails. However, we lack the joint economic efforts to enable us to build our lives on solid foundations just like those of successful nations who have extended their dominion to those who are weak and sluggish.

How can we dispel our misery, eliminate the causes of our failures in life and hold our heads up high if we do not examine and study this aspect, not to mention strive towards putting our findings into practice? The waiting period has taken long enough; in the same amount of time, other nations, both old and new, in the world have made rapid progress. I am not saying here that they are running;

rather, I am saying that they have soared both in terms of the progress of their peoples and in the prominence they have achieved. What an awesomely important lesson this is! However, what good are warning signs if we do not learn any lessons from them and act upon them?

In the home

We are used to our houses being untidy, which affects our furniture, utensils and other household effects – whether they are expensive or not. Indeed, it even applies to our clothes which are simply left where they are dropped, even though there are places where they can be properly stored. Instead, everything is scattered about in the middle of the house for everyone to see: on beds, chairs, the floor, or on top of the cupboards, that is, wherever they happened to have been put. This way of doing things is wasteful and a destructive factor as it leads to loss, while it is a burden on the household expenditures, especially if things like plates or other containers fall in the hands of the children, or if they throw them on the floor and they break because of the carelessness of mothers. The most dangerous in all of this is the presence of knives, fire or boiling water on the floor or within the children's reach. Indeed, dangerous items should be placed high above the floor, since if the children get hold of them they can hurt themselves, or get burnt by the fire or the water if the mothers do not pay attention to them. This can turn to tragedy when it ends with physical mutilation or death. This is the situation in our homes to this day. If one adds the general din and confusion, the causes for which we have set out in detail above, it is easy to see the misery that reigns in these houses and how far removed they are from what is required for peace, tranquillity, comfort and tidiness.

Many men, especially youngsters, are driven by weariness to going to European restaurants by themselves or with friends to take part in the beauty and orderliness of the attractive surroundings. While the men are enjoying the comforts, they leave their women to struggle with the misery of the family and their small children. However, these flights by the men from their houses in search of peace and tranquillity elsewhere also drive them to other places and they end up spending their leisure time in coffee houses, playing cards, in cabarets, gambling dens and houses of ill repute. The men's desire to be away from home is such that at midnight you can see men walking around the street until their overwhelming desire for sleep forces them to go home when their women and children are sound asleep. Because of this, the husband and wife have no contact with one another except for sleeping, eating, getting dressed and other human needs. As a result, the women are lost in a world that is filled with darkness, pain and incomprehensible events.

To be sure, the development does not stop here; Tunisian women who suffer these pains because of us are not considered competent in the eyes of men to run our households, and it is this which drives many of our young men to marry European girls.

Marrying European girls

European women move gracefully, their lineaments reflecting their most inner thoughts, while their smiles never fail to enchant. This is primarily due to their family and social background in which great store is set by showing one's emotions; indeed, they take pride in displaying emotion as a means of conveying love and kindness towards their relatives. In a married couple, this is a covenant in order to enable them to carry out their mutual duties, whereas it provides a clear example to their children, who are instilled with kindness and the importance of helping others. In our society, on the other hand, our daughters are inculcated with a sense of modesty to the extent of shame; this imprisons their emotions, which wither and die, making them unable to express what is in their hearts, either verbally or visually. This is what in our society is regarded as a dutiful well-mannered woman. However, it has caused our young men who seek modernity to fall under the spell of European women.

European women also have good taste and a talent for arranging the furniture in the house, decorating, cooking and clothes. They are adept at managing the household budget and balancing the income and expenditure thanks to their upbringing, education and the social environment in which they grow up. Conversely, our young women are inadequate in all these areas; they receive no guidance as their mothers hand down the time-honoured traditions that have stagnated, and disregard the need to go with the times.

European women possess the skills for raising children, preparing them for life, and providing them with the necessary information about various aspects of life. They set an example to their children through their own acts; this includes a work ethic in many areas of life which are inaccessible to Arab women.

Unlike European women, who have taken giant leaps forward as regards their role in society, our women, to this day, remain unprepared for any of this, let alone achieved anything. Young men are attracted to European women mainly because of the lifestyle which is perceived as being free and magical. Because of this, most Muslim men marry European women after having had love affairs with them, rarely because of family ties or other more traditional reasons. This kind of marriage, however, is rarely successful and does not fulfil the expectations and wishes of either party due to the wide differences in terms of upbringing, sexual desires and proclivities. In spite of the fact that European women are well versed in the ways of the world, we still do not fully realize that their culture has not prepared them for marriage with Arab men and to become integrated into Muslim family life. We have been driven towards each other by our personal desires or other circumstances beyond our control. As soon as these desires and circumstances recede after the slightest of disputes, European women flaunt their feminine pride and drag us through foreign courts established in our countries where we are judged according to laws that were not designed for us.

So, if we take a closer look at this issue from an Arab family's point of view, it becomes apparent that European women will only accept our family if they are desperate. It is impossible for them fully to accept an Arab family and become

an integral part of it. As soon as the woman becomes independent of her husband and children, his love for her makes him forget his previous life and everything connected with it. He enters this marriage, blinded by the advantages it holds out, but soon both he and the children embrace her culture, which thus becomes predominant. French nationalization law, which is in force in our country and protected by the French government, recognizes this situation and accepts these types of marriages. The children born out of such unions, both boys and girls, have the right to choose their nationality when they come of age. Alternatively, the parents may, following mutual agreement, decide which nationality the children should adopt.

In spite of all this, we still hear about Muslim men getting married to a European woman in search of the happiness they imagine such a union will bring because of her enchanting smile, delicate voice, slender build, sophisticated clothes, cooking and sewing skills, and her ability as a home-maker and decorator. But, after living in this ephemeral world of dreams, the man invariably wakes up, biting his nails in regret for having abandoned his family and people.

It is woman who gives birth to the nation and it is through her that it grows and develops. She is our main hope in preparing the new generation for life and their social duties. European women are not suitable for us and they are not prepared to integrate in our lives. We should therefore only marry women from our own culture. If they do not match the European ideal, the solution does not lie in marrying foreign girls and turn our own women into spinsters. Instead, we should strive towards enhancing the development of our women, but at the same time protect them from the obvious dangers that this may entail. They are part of us and we are part of them, and both make up what we call 'the nation'. But who will heed this?

On woman

While a man sometimes flees his home because he is fed up with it and prefers to spend his leisure time by himself, as far as possible from the chaos and din at home, the woman's captivity makes her curious about what goes on outside the house. She is eager to find out about life on the outside and see with her own eyes the places men go to and the attractions they hold. However, the only thing she finds is free life⁴⁸⁶ and complete abandon to pleasures of all kinds and the enticement of all the new fashionable things in the European community. This has caused many husbands to leave their houses, wives and children, and to court European women and to marry them.

This curiosity is the main factor behind women's impetuosity. However, if women were not secluded from the outside world, they could have ventured down this path at a much faster pace than men because of their naivety, the injustice to which they are subjected and the fact that they are financially and emotionally more deprived than men. This new life men lead clearly has had an influence on women's lives in that it made them more aware of themselves and how to entice their men to return. Women go about this according to their own naïve

understanding. As they have no-one to teach or guide them, they imitate what they have been taught in government schools, the things they learned from mixing with French teachers, from visiting their homes and seeing the unfamiliar way they are decorated and arranged, from meeting the European wives of Tunisian men and the nursemaids and governesses imported by French families, by observing the way Europeans behave in the street, by going into shops and visiting places of entertainment such as theatres and cinemas, and by reading French romantic novels. Those women who are not directly influenced by these factors are introduced to them by way of osmosis. This is a social trend in which women become captivated and enthralled by the pleasures and distractions in accordance with the developments to which the men are also subject and want for the women, without, however, the latter being in any way prepared or trained for this. After all this, women are still said to be evil creatures that one has to be wary of!

Modernity and development generally come in two guises: an imaginary picture which fully corresponds to the dreams of scholars and philosophers in that it meets the ideal of what life should be, and the real picture as revealed by the social events that befall the life of a people. A people who is used to and experienced in working towards its goals knows the various stages that must be crossed in order to reach perfection. Conversely, a people that is not used to action continue to believe in fantasy as it moves ever further away from them. These are the signs of degraded nations that are incapable of reforming their lives. If we continue to cling to an imaginary modernity without considering the social and political aspects of actual development, we will find ourselves in a wretched state that is increasingly remote from our dreams. We only have to take this matter seriously and give it due consideration in order to find out what needs to be adapted to suit our own lifestyle. It is only then that we shall be able to avoid the pitfalls in a life filled with victory and pride.

The hijāb

There is not that big a difference between the thing women use to cover their faces, that is, the *niqāb*, and a muzzle that we put on a dog so that it does not bite passers-by. How dreadful is this practice we impose on a young girl, making her feel that she is not trustworthy, except through a material screen. However, we men did not stop there; we have turned this veil into a precondition for leaving the house, permission for which is granted only on very rare occasions, such as for visiting a sick relative, attending a funeral or other such important events. If only we realized that in so doing, we have sapped women's strength and, in effect, taught them weakness. Our actions have had adverse effects not only on their lives, but also on that of their relatives, and indeed, the nation as a whole. If only we were aware of the misery we have brought upon ourselves.

For many centuries, the veil has been in common use in many tribes and nations, with a large number of them even insisting on women wearing it in the presence of male members of their immediate family⁴⁸⁷ such as their fathers or

elder brothers. However, the veil has not been restricted to women only, and to this day it is worn by men of the so-called veiled tribes.⁴⁸⁸ What concerns us here is the claim that the veil granted women immunity from the temptations of evil. Let us now examine the results of all this in our present-day society.

The *hijāb* is a custom in cities and some villages, but not among the people living in the desert where they follow their natural instincts. I, for one, only regard the *hijāb* as a way of using religion to hide our intrinsic selfishness. It becomes a wall that we are proud to build around those who stray; however, this religious pretext gradually fades away into oblivion when it suits our purpose and our desires. One need only look at the adultery committed by men and women alike. A man is praised for doing it, while in the case of women it is considered a vile and shameful deed. If we exclude the elderly and the frail, any man hates the fact that someone sullies his wife's reputation or that of his immediate family. Yet, he, himself, shows very little regard for this when it involves other people's families. Given the opportunity, he will use various tricks and wiles in order to attain his goal. It is this propensity which is the true motive behind our hatred of fornication and our love of the *hijāb*. Moreover, we, men, are not used to criticizing ourselves in such a harsh manner, and we are loath to recognize the legitimacy of this view, which is, in fact, the truth. Let us leave these matters and continue with our discussion of the *hijāb*.

It has always been an obstacle between men and women in their choice of a marital partner as it prevents them from seeing what they have in common and what is necessary in order to have a successful union. Indeed, they can only rely on the opinions of those against or in favour of the marriage, none of whom will bear the consequences of its success or failure. Some of them may have their own hidden agenda for promoting or discouraging the union. As a result, the mutual compatibility of the partners, which is a key factor in the success of a marriage, is entirely left to chance. In many cases, a man who is not related to his wife may blame her family for not providing him with enough information prior to the marriage. The result can be seen in the many cases that have been brought before the courts. All of this may have contributed to young men having doubts about arranged marriages, preferring instead to marry European girls whom they have known for some time. This does not mean that knowing a woman before marriage will automatically result in a successful marriage. However, contrary to the arranged marriage, it provides the man with some security and peace of mind. The *hijāb* has allowed men to enjoy a special lifestyle outside the home, which is denied to women. They squander a great deal of money in cafes, bars and restaurants, which has destroyed many families since their wives and children are left without any means of subsistence. The men lead completely separate lives, spending all the money they earn on immoral activities, drinking, gambling and other distractions. They are only able to do so because they are the only ones who can impose the *hijāb* on their wives, thus barring them from witnessing their dissolute lifestyle. This has led many families to the verge of destruction, and the concomitant loss of a large part of society's wealth, while affecting both health and human dignity. A woman's destiny is truly dreadful.

Just as women need to play an important role in the exercise of legal and civil rights before the courts, so too should they be fully in charge of their own financial affairs. However, she can only achieve this through meeting other people. The *hijāb* constitutes an obstacle to the realization of these rights and paves the way to perjury and fraud, as borne out by the many cases in which women have been falsely identified. The *hijāb* has prevented women from being in charge of their own financial affairs, forcing them at times to surrender their rights to male guardians. There have been many instances in the past when the property belonging to women has been at the mercy of those guardians, with women being unable to protect themselves from these men. Indeed, at times they are not even aware of their rights. It is as if both their lives and property are insignificant.

The fact that women are hidden from men has not prevented either sex from looking elsewhere to satisfy their natural instincts; what is more, it is well established that this has been one of the main factors in the spread of homosexuality, lesbianism and self-gratification. Islamic legal scholars have handed-down judgements regarding the increase in these phenomena throughout the ages.

These afflictions may be remedied by marrying at an early age. However, this has become difficult due to the excessive dowries and the high cost of weddings which are governed by tradition. As a result, both young men and women eagerly avoid this commitment, irrespective of their families' views on the matter.

Women have the duty to manage the household budget. By the same token, they are also in charge of cleaning the house and arranging the furniture in a nice and tasteful manner. More importantly, a woman has the duty to raise the children and prepare them to succeed in life, as individuals, as members of a family and of society as a whole. In all these areas she must set the example; indeed, in order to transmit these qualities to others, she must first possess them herself. Women are completely isolated from the rest of society, devoid of any social skills or knowledge of the intellectual and literary milieu, and thus, for instance, ignorant of the history and heritage of their own country, for they are not in a position to visit museums or cultural associations, or attend lectures on the ailments of society and ways of curing them. Surely, any nation that strives towards glory cannot achieve this as long as half of society is living in darkness, as a result of a traditional upbringing by their mothers.

The *hijāb* prevents women from getting an education and from acquiring the skills to manage the household budget and their daily lives. We do not care if a woman cannot count beyond ten, has no idea of time, and marks events by referring to 'the year of the plague', 'the year of the hunger', the year in which they moved house, etc. In their daily lives, women usually have to rely on ignorant boys to buy the vegetables and other foodstuffs, with unscrupulous shopkeepers selling them bad goods at extortionate prices, taking advantage of the absence of her husband and the woman's inability to do these things for herself. In this respect, it is worth noting that there are no windows in our houses and we do not clean our lavatories as we ought to.

This is particularly important for young children, who are most in need of healthy fresh air. They need to be taken out to places in the town where they can enjoy the fresh air, as European mothers do with their children. Indeed, this is necessary for a child's health and physical development. As for the fathers, they are at work and do not consider this to be part of their duties. Even though this is the primary responsibility of the mother towards her children, the fact that she is prevented from going out means that these children are deprived of this healthy exercise. Let us now turn to children who roam about the streets, where they meet their friends and play unsupervised, rolling around in the dirt, soiling their faces and clothing, fighting and screaming. In the cafes and streets they are exposed to inappropriate language they do not understand. But this does not stop them from using these expressions and imitating the adults. These street urchins are barefoot, clad in ragged clothes. It is not unusual for them to get lost, with their relatives scouring the streets, calling out for them. Sometimes, the services of the towncrier are enlisted, who will go around announcing a reward for the return of the missing boys. But this is not the worst that can happen in the busy streets of our capital, bustling with carriages and cars. Imagine the grief of a mother hopefully awaiting the return of her child behind her curtain when she receives the terrible news that her child has been involved in an accident.

The confinement of women to the home has a huge adverse effect on their health as the house is inadequately ventilated. What is more, they are deprived of physical and mental exercise in order to carry out their obligatory household chores. In addition to limiting their mobility and increasing their misery, it makes them moody and has an impact on their pregnancy.

From time immemorial, this confinement has been a heavy burden on woman. The only pastime women enjoyed were visits to saints' shrines in order to seek the latter's favour to relieve their burden outside the home. These visits have remained widespread among women to this day. At present, however, women have many other opportunities of amusing themselves.

It is apparent that the *hijāb*, in its present form, is nothing but a means of attracting attention, while serving as a mask for thieves, preventing them from being identified in the execution of their criminal acts, and being prosecuted. So, why are we still clinging to this *hijāb*?

Removing the veil

The removal of the veil constitutes a real benefit for both women and men, as we have explained above in the part on the development of modernity. However, most of the authors who have dealt with the issue did so in terms of the role of women, the possible influence on their lives, on that of the family and on society as a whole. Some are pessimistic, others optimistic, while a third group has not made up its mind yet. It is not surprising to find these differences between people if we take an objective look at our sick society, which has been invaded by an unknown modernism that completely assimilates us into a European trend predominating our current situation. We can only emerge from this if we cling to our inherent

strength and reflect long and hard before taking action to save ourselves and our way of life.

The removal of the woman's veil is a new phenomenon in our lives which has been triggered by Western civilization, under the influence of various impulses that have emerged in the course of history. However, in studying this issue, we usually restrict ourselves to mentioning the shortcomings, claiming that it is the result of an infiltration of European morals we have blindly imitated without thinking about whether women are obliged to adopt these morals in the same way as men. We do not know how to cope with this trend, or even whether it is possible. Does the answer lie in returning women to their former state and confining her to the home, or should we resort to other means that should be carefully examined in order to draw the right conclusions to ensure the most productive outcome?

More and more women are removing the veil, regardless of whether we complain about it or not, or whether or not we pay due attention to the education and upbringing of women as we should. However, our focus on the issue greatly alleviates the evil of this naïve modernism, devoid of safeguards, and whose strength may sweep us away towards the chasm.

By the way,⁴⁸⁹ I should like to say that the removal of the veil that is imposed on men and women has had, and continues to have, an adverse impact on the weaving industry and other sectors in this country. The manufacture of traditional wraps made of wool and silk, *foutas*⁴⁹⁰ and *takritas*⁴⁹¹ continues to stagnate as a result of the influx of European fabrics that now cover us from head to toe and which have flooded the entire kingdom. This situation will continue to deteriorate while we are arguing about the pros and cons of removing the veil.

If we return to the main disadvantages to removing the veil according to its opponents, we see that they consider it a frightful source of immorality, which has been opened up as a result of our mixing with Europeans. Yet, unveiling the face does not cause immorality; rather, it is the result of psychological factors we cannot reasonably avoid talking about when discussing the removal of the veil.

If we are sincere about pursuing the purity of women, we have to take issue with the dissolute behaviour of men, and avoid any instances of jealousy which break a woman's heart, and thus avoid fornication, homosexuality, polygamy, forced marriages and the fact that men can divorce their wives whenever they feel like it, without being accountable for it. There are also men who like to have several types of women and leave their families because they are not, or badly, prepared for marital life, or those who divorce their wives against the latter's wishes – sometimes even without their knowing it – for no reason other than to satisfy their lust. Consider the stupidity of the girls' guardians who have made a business out of marrying them off to anyone they wish. Unfortunately, there are plenty of men like these.

Immorality may, in fact, have other, more widespread and dangerous causes than the ones mentioned above, such as poverty. This is especially true if it affects the heads of families since they not only have to take care of their own children and wives, but in many cases, also of the grandparents. If the father has remarried

he is often unable to provide for the children out of his new union. In addition, the household includes every relative of the husband, as well as sometimes those of the wife, such as uncles, aunts, cousins and nieces. This phenomenon affects all Tunisian families who are forced into this situation due to tradition and cultural legacy for which we still have no remedy. Whatever the income of the head of the household, he barely earns enough to buy the bare necessities, never mind luxuries like decoration, which are increasingly considered important. And then, we are not even talking about working-class families who earn meagre wages. It should be clear to us that it is these factors and others relating to the general living conditions that actually cause the spread of immorality, and not the unveiling. However, we are used to looking at the exterior and to attempt to remedy what is wrong with it without reflecting upon the real underlying causes of our weakness.

We would only be able to remove the veil if it were lawful, decent and moral. If it exceeds the bounds of what is required and leads to nakedness, revealing all limbs, the face, neck, chest and breasts, with the adornment of these parts with dye, perfume and jewellery, accompanied by elegant movements and enchanted glances full of meaning and innuendo in public in front of other people, this will lead to lust, undue attention and pursuit. This is the path taken by many young European women who want to be the cynosure of all eyes because of the beauty of their appearance, their elegance and exquisite demeanour. It has a huge influence on the feelings of our young people and the way they are prepared for the future.

Women are being prepared by us, or are preparing themselves in order to face the duties and responsibilities they will be faced with. It is hardly seemly and respectful that they should appear before men as an object of temptation, inciting lustful feelings; women should always be treated with decorum when they are in the company of men. To be sure, a woman should remain feminine, graceful and attractive, but this should be achieved through cultured feelings and by soothing the souls filled with toil and pain, by being a muse to poets and artists and the melody to musicians by which they convey various emotions such as pain, joy, beauty, desire and awe. However, this cannot be achieved through vulgar and wanton behaviour in the street, where public life and work are mixed. This kind of behaviour also hampers women in the exercise of their duty and delays their progress. It also means women cannot be taken seriously as productive members of society if they are responsible for excessively and dangerously inflaming the feelings of young men.

This trend that affects European women under the influence of Western culture has been one of the main causes for the chaos in marriage, which has become almost an incurable disease in Europe. If the Europeans – who are the most powerful – have been defeated by this problem, despite the efforts of scholars and men of letters to find a remedy, how can we tackle this issue which is imposed on us by Western culture by way of modernity if we do not prepare ourselves, just as other nations do?

Despite the reverence women used to have for the *ḥijāb*, we are not able to extinguish the desire for change in their lives, no matter how much we want to.

It would not be the right remedy for women who today have to be there for their homes, children and people. The only thing left to do is to go to the heart of the matter and apply the ointment on the place of injury and pain through constructive reforms in upbringing and education, as well as in the judiciary.

There is no point in declaring our love for purity by clinging to the *ḥijāb*. This question, which is a source of pain, requires sincerity in words and action; it is not about advertising ourselves to the man in the street, who is in greater need of guidance in order to avoid delusion and temptation. I, personally, am not hopeful that the solution to our problem lies in defending the *ḥijāb*, which today has been defeated as the arguments against were more powerful than those in favour of it, irrespective of the price of this victory and the methods used in order to obtain it. What we are in need of is unity in the education and upbringing of women in order to enable them to develop, instead of engaging in sterile arguments to wile away our spare time.

9 Official education for Muslim girls

The Protectorate government thought about and began to set up institutes for the education of Muslim girls before we even recognized the need for boys' education. This indeed constituted the single most important obstacle in its path, which was surmounted by the creation of girls' schools similar to the vocational colleges where girls are trained in weaving and sewing for the making of carpets, embroidery and plaitwork. These subjects are similar to the traditional training provided in the houses of the so-called *mu'allimāt*⁴⁹² that existed before the Protectorate. In addition, however, the pupils are also taught reading and writing in French, the basics of French history, the principles of arithmetic and, finally, some geography. This is the French education part in the curriculum. As for the Arabic part, this is entrusted to teachers of traditional Qur'ānic schools,⁴⁹³ who train the girls in the memorization of Qur'ānic verses together with some exercises in reading and writing from basic study manuals. So, this form of education in these schools is more or less that of the above-mentioned vocational training, with the exception of the school in the Rue du Pacha in the capital.⁴⁹⁴ This is a primary school which prepares students for the primary school certificate, just like the primary schools for boys, added with a complementary section. One of the elements that has been added to the curriculum are classes on the Protectorate and its benefits to the administration of the country. This school is the only one to be governed directly by the Department of the Interior and is funded by the *Waqf*⁴⁹⁵ Department. Briefly, we should also like to say that Arabic language teaching is virtually extinct in all primary schools, whether it be those for boys or those for girls; there is a lot of talk about it, but nothing is done in reality. Only a limited amount of time is devoted to it, whereas the methodology is flawed, as is the selection of the teachers, who only need to be trained to primary school level. As a result, classes consist of reading and writing, filling copybooks by copying texts from the blackboard or those dictated by the teacher.

As for Muslim girls' schools, the government started setting them up first in the capital, then in other cities of the kingdom. The general development of these schools contributed to their acceptance by girls' legal guardians, and as a result the number of schools increased to fifteen, which cater for fifteen hundred female students. There are three schools in Tunis, two in Sousse, with the rest spread over Kairouan, Nabeul, Dar Chaabane, Zaghouan, Soliman (Slimane), Monastir, Mahdia,

Houmt Souk on the island of Jerba, Gafsa and Béja. The actual primary education in these schools does not exceed one year, with the rest of the time being devoted to vocational training of the type we have described. For some Tunisian girls, these schools are a stepping stone towards entering purely French schools, where they become familiar with proper school education. Very few legal guardians approve of French education; one can count the number of girls who go on to get a secondary school certificate on the fingers of one hand. As for higher education, there is, as far as we know, only one Tunisian girl registered in the Faculty of Medicine in Paris. The above clearly reveals the insignificance of the share of Muslim girls in general education, whereas there is no national education system to speak of, either for boys or for girls. We must not forget, however, to mention here the Catholic Church which accommodates a number of Tunisian girls in its schools and orphanages. Who does not know about the charitable work of the Church? The rich do not need its charity but it has a fertile recruitment ground among the poor, orphans and homeless. There are many who enjoy the benefits of Church charity, which is, however, firmly rooted in the Christian faith.

Let us now leave this subject and talk about the results of all this education in our girls, disregarding the aims that may underlie it. It has actually resulted in a change in the girls in that they have an inclination towards all things new and modern. In addition, they develop a dislike of their home environment in which they grew up, and an aversion to everything and everyone connected with it, sometimes even to their parents against whose lives and that of their society they rebel without fully grasping this modernity or understanding its good and bad aspects. In spite of this, these girls openly and loudly mock their mothers for being in a state of ignorance and stupidity and for accepting their old lifestyles, convinced that they have a better life and more control over it than their mothers. These girls naturally want a husband who is similar to them in mentality and development. If they manage to get a husband like this, reality proves that together they have no idea about the meaning of life and the mutual assistance that it entails. However, if they do not find this kind of husband or one who does not meet with the approval of the family, the girl will think nothing of running away from home, sometimes even with a European. And when these girls get married they are no better than their ignorant counterparts except in their conceit and never-ending demand for beautiful things, the need for which has been created by Western culture. In so doing, they do not care about their husbands or the interests of the marriage. It is from here that the contagion spread to their illiterate sisters. Let us not talk about the rights of sex, the family and the home to these girls since they do not know the meaning of these words, nor do they value the principles of modern education for the children. Anyone who knows some of these so-called educated girls, does not hear them talk about anything except the latest clothes and fashion colours, the right occasions on which to wear them and in which shops they can be bought, the most elegant and latest coiffures and the best hairdressing salons or hairdressers.

This situation has only taken hold of educated girls from well-to-do families and even prominent families.

What is happening to our educated girls is also happening to our young men, as it is hardly imaginable that men would rise when women are falling. This is a self-evident truth that has not yet entered our heads.

The current educational system is one of the major factors behind this rebellion against everything that is old and traditional, and the confusion that is afflicting us. Indeed, it is clear proof that we are, in fact, chasing the outward trappings of modernity in order to satisfy our material requirements by selling off our legacy without thinking about elevating the soul and mind in order to build a solid foundation for life. It is not reasonable for us to expect any other result since we are a people who are used to counting on others to pave the way for us so that we can have our share, without participating, or even being interested in it, or expressing our views.⁴⁹⁶

To be sure, I always caution against relying on the government in order to determine our destiny. However, that does not mean that I am among those who prefer to boycott the official educational system; even if there are things that we do not agree with, it does prevent Tunisian women from returning to their traditional state in the home. What I am saying is that it is necessary that we set an example for ourselves by setting up girls' schools in accordance with our needs, as a result of which we will be able to convince the government to follow our will when we present them with the result of our ability and sound preparation.

How can we call for a boycott when we have not founded a single school for girls, nor do we have any intention of doing so at present. History will not put the blame with the common man and his attachment to squalid traditions; rather, it is educated people who will bear the brunt because it is they who should raise a call to the nation to fight for life and victory. It is as if we are calling for ignorance and wish for death.⁴⁹⁷ What can we expect from this situation except to fall into the deadly abyss, at the edge of which we are teetering at present!

Our position on women's education

Most people today continue to prefer the ignorance of women over education, despite the influence this has on us and our children. Today, woman has succeeded in gaining the upper hand over men, despite her ignorance, so if she becomes educated it will give her added strength to extract herself from obedience to the man. Proof of this is provided by the girls graduating from government schools. However, there are those who acknowledge the need to teach girls a few verses from the Qur'ān, some principles of worship and their duties as a spouse and in the home. In other words, there is no objection to teaching girls about religion, language and national history so long as it does not involve sinful behaviour that is inconsistent with the reverence associated with the veil.

As for those who consider a comprehensive type of education the only way to prepare women like men, they explain their position by stressing the need for both sexes to share and cooperate with one another in life as much as possible. We should not restrict women to part of life since this destroys their understanding of what goes on outside the home, as a result of which society loses out on the huge

benefits it could derive from women's efforts, just as they, themselves, lose out when men are in charge of them. However, this home we seek for her is completely connected to public life, of which it is an extension, while it is the place where children are prepared to tackle the battleground that is life. One of the duties of women is to raise these children and so they need to know how to prepare them for life.

The fact of allowing women to go on to higher education is a sure way to achieve this objective as this would bring advantages to society, whereas it would not adversely impact on women's duties in the home. This is the case in Europe where women's access to education has been facilitated and has spread throughout the population. Despite this, the family in these countries continues to be the foundation for both men and women who are able to perform life's activities to perfection in all aspects, allowing these countries to dominate backward nations such as our own. It is imperative that women should have access to some social activities such as education, paediatrics, gynaecology, education in orphanages⁴⁹⁸ and nurseries, and everything related to literature and general culture, all of which enable women to successfully perform their household tasks, while obtaining their share in the higher sciences. Indeed, what is science except a path towards the light? It is inconceivable that it should cause harm if we know how to control morals and train the minds through an outstanding upbringing, as this is the basis of all things in this life.

One of the strangest points of view that is being aired regarding women's education in our country, is that men's education comes first since they take priority over women in this issue, or are in greater need of education than women. The proponents of this view do not realize that this widens the already deep gap between the sexes and makes it more difficult for them to agree on building a shared life in the proper sense of the term. In fact, we can see an example of this today in Egypt and other Middle Eastern countries where men's education is more advanced than that of women, as a result of which there has been an increase in, on the one hand, the number of unmarried men and, on the other, the number of marriages to European women. At present, this phenomenon is taking hold in our country as well, and it will continue to spread as long as we remain in our current state of lethargy, mocking the horrors of the future that awaits us.

Our wish for women's education has not yet yielded any results in the country, not even in part. This can only be because we are still subjected to our former lifestyle and the fact that our people are far from realizing that education is a necessary feature in the reform of our lives. Today, there is no education for our girls, except for some schools run by the Protectorate government and the Catholic Church which have been quite successful. This situation will continue as long as we confine ourselves to empty negative grumbling about everything that is done to educate women and protect them from disappearing down the chasm, and thus ensure they become a real agent in our development. What have we, Tunisians, done to fulfil our duty to wrest our lives from the claws of death? We continue to be bogged down in doubt and wariness about this duty, fearing for ourselves in this new life to which we are not accustomed. The more our agony is

multiplied, the more our feelings of confusion increase, and the less we know how to get out of this predicament and achieve success.

To be sure, we are complaining these days about the dark times we are experiencing. However, few among us comprehend the link between this disastrous present and our distant past which combines various beliefs, customs and proclivities. It is the attraction of this past and its powerful irresistible ingredient that makes everything new appear to us as a terrifying monster, its sharp claws and nails tearing away at us in order to destroy our life and carry off our historical treasures. We yearn for progress, but only in the sense of the Arabic proverb which says: 'listening to the sound of the celebration is better than witnessing it'.

This subject is, however, vast. We have referred to it in order to make clear the weakness resulting from the bad preparation of women, for whom we want happiness. The fact that we have not prepared them for it is the cause of our misery.

In previous times, science and knowledge used to be the path of truth and a guide to mankind for a successful life. Then came religions which supported good insight and knowledge.

True Islam, for one, was the first religion to proclaim the benefits of knowledge and our duty towards attaining it. As the Qur'ān states: 'and say, "O my Lord, increase me in knowledge"'⁴⁹⁹ and 'Say: "Are they equal – those who know and those who know not?" men possessed of minds remember.'⁵⁰⁰ In addition to references in the Qur'ān and the *sunna*, there are also *ḥadīth* encouraging knowledge: 'Knowledge is the duty of every Muslim man and woman',⁵⁰¹ 'Seek knowledge, even if it is in China',⁵⁰² 'Seek knowledge, from the cradle to the grave'.⁵⁰³ However, until recently, we considered learning a source of unbelief and a departure from the faith, and kept our sons away from it. This view continued until the Great War, when we began to regret it. There were few government schools to accommodate our boys and we reproached the schools for not having taken any precautionary measures in this respect. We wanted these schools to provide protection for our sons, rather than having them roaming around the streets like vagrants. However, the situation affecting our sons in the past is the same as that which is before us today, but this time it affects our daughters, whom we deprive of the benefits of education. Indeed, we regard their education at present as a contributing factor for moral depravity and the degradation of virtue. So, we have always opposed the soundness of new things just as we aided reckless novelties, even though it meant selling our dignity!

Even if we differ in our views on girls' education in the current government schools, we are not that far apart when it comes to the benefits of a national education in accordance with a curriculum established by us. However, instead of proceeding towards setting up nurseries and schools for our daughters by investing effort and money which are in short supply here, we squander our enormous funds on various new-fangled clothes and adornments, jewellery, make-up, dyes and expensive perfumes, on which the money of many families has been squandered, eventually reducing them to abject poverty. All of this is driven by men's lust for women, rather than by real respect for them and considering them an active member of the

home, the family and our society as a whole. Neither public opinion nor our preparations are any way near achieving this.

It is our old traditions that stand in the way of women becoming educated. This is based on our fears of freedom. If it was not for this, it would not have been so difficult to organize women's education, nor would there have been this stubbornness to cling to the *hijāb*, nor would the issue of women have bedevilled us to such an extent.

Life in society comes in two guises: cooperation and struggle. These concepts manifest themselves in human existence as good and evil. The former dominates advanced nations in the same way that the latter dominates in backward nations, as is the case for our country, where we can observe a selfishness as a result of which no-one among us trusts anybody except himself, and does not work for anybody's benefit but his own. Every individual attempts to extract something for himself from society, and from everyone else. If this phenomenon were restricted to economic cooperation, then the calamity would be limited; however, it has spread to all aspects of our lives, to our conjugal and family relations, even to those existing between teachers and students, and craftsmen and their apprentices. In our society, all of these ties are now founded on a spirit of struggle, rather than on mutual understanding and assistance. While men are equal when it comes to the use of the right to struggle and children gain access to this right when they reach majority, woman is the only creature that forever remains prohibited from this equality. She has no choice, therefore, but to continue to live under the tutelage of the man, receiving his orders and executing them with obedience and submission. Any kind of development is influenced by this situation and the fact that we have to fight the benefit of the selfishness that is deeply embedded within ourselves. In general, however, we are cheating ourselves by claiming that this war is in the name of religion or to protect virtue, as if we are in pursuit of religion out of altruism, or as if we are deserving in the way we live and in our work.

Let us, for example, look at the issue of removing the veil. Depending on the place, this is subject to two different judgements. In cities, it is viewed with repulsiveness, and condemned on the grounds of both religion and virtue. Conversely, in the countryside, it is a permissible habit, and when city dwellers see it, they are not offended by it. There is no justification for this contradiction in our judgements except for the fact that country women are uncovered because it is a custom that is not part of the current modernist trend. It has no influence on it, or on the position of the man in respect of the woman. In cities, on the other hand, the removal of the veil is the result of a modernist trend which has broken the old shackles so as to allow women their share of the freedom they had lost in so far as they are prepared for this new lifestyle. If we really want to help women to be better prepared to enjoy their share of the freedom in accordance with what under religion is lawfully her right and in the interest of society, our first duty is to fight this selfishness that has gripped our thoughts, either consciously or unconsciously.

Impelled by hereditary instincts, we destroy our strength and innate talents as much as we can, while at the same time calling for advancement and an end to

our suppression, which is rather like a man in the desert running away from cool water. How can we get out of this situation if we remain enthralled by a past filled with chaos and contradiction?

We must not remain in this darkness, yet we cannot emerge from it until we call the past to account, and start thinking in earnest about our actual place in the present as a nation intent on living and triumphing. However, a nation cannot be successful if half of its population is inactive and weak; the only way out of this situation is by educating its women and fully recognizing the importance of the position of woman in culture and society when drawing up the educational curriculum.

Women's education

Education is one of the greatest needs in a person's life, which is why it must be made available to everyone in accordance with individual talents and readiness to draw benefit from it. Human existence distinguishes itself by thought, and the more we think, the more facets of this life manifest themselves, while its needs are increased due to continual development. This requires cooperation between men and women with a view to enlightening these avenues and to meeting these needs so that life can smile upon them. It is, therefore, not acceptable that half of humanity should remain ignorant, inactive and stupid and live under the command and domination of the other half. While it was possible in past centuries to tolerate this lethargic state, in the present day dormant minds have been aroused by a flash of fire. All nations that are stirred by a love for life are focused on the issue of women and the furtherance of their knowledge so as to enable them to fulfil their duty as productive members of society for the good of all mankind.

This is the general meaning of education which must be provided to both men and women equally. It is, in fact, the natural right of both sexes and it should not be limited by anything other than innate talent and human predisposition. It would be a case of utter ignorance, stupidity, deceit, injustice and barbarity if we precluded women from the means to express her innate talents under the pretext of our right to decide their destiny in accordance with our wishes, especially since our wishes are mainly predicated on lust and malicious selfishness.

However, let us not talk about the issue of equality, since this remains something we are far from prepared to accept, or even think about. Let us instead discuss women's education in terms of their role in the home and society, and refer to the general things with which they must be equipped in education in order to perform their role.

If the traditional role of a woman is to produce children, be in charge of them, to be the mistress of the house and a wife to her husband, it is clear that the share of our women in these things is disappointing and regrettable. It is, however, our duty to remedy this imbalance which is only caused by the ignorance in which we spend our lives, to the extent that it has removed the soul from our bodies. Things can only be rectified by spreading the light of knowledge among our womenfolk, and we should prepare them for this so that we can be confident that the next generation, whose fate is in their hands, is prepared for a life that may be full of the pain of disappointment.

It is essential for a woman to know the basic principles of her religion and history, language and nation, the history of her country and race in order to give her a boost in life, and enable her to reconquer her former glory, to cling to it and enhance her taste for life. It is only then that she is able to instil in her children a feeling of patriotism, inciting them to learn through virtues and by choosing the path of goodness that leads towards a noble life. This is hardly the case today, when women are a stumbling block for any kind of action, running away from the whistle-blower, and wanting for the members of her family the same life in the shadow of death, just as she has been content with leading her life in the shadow of secrecy within the four walls of her home.

It is imperative that a woman should receive instruction in mathematics and natural sciences so as to enable her to train her mind in logic and a knowledge of the exact nature of things. As a result, her heart will be enlightened with knowledge, making her aware of the truly important things, and dispel nonsense such as the fact that the rain falls from a source beneath the heavenly throne, that thunder is a deaf king, magic, geomancy, the stories of derviches about the unknown and their power to do good and bad, and other such tales that spring from the imagination and which she used to believe in as if they were facts. If a woman arrives at this level, and hands this enlightenment down to the children in her charge, this will help them, and enhance their mental and psychological maturity that is brought about through education.

Women also need to receive physical education classes and activities as much as possible. If we are concerned about women's mental development and self-fulfilment, so too should we show concern for her physical fitness. In addition to enhancing the strength and power of the body, sports are also an intellectual stimulant, and a way of counteracting corpulence as a result of inactivity, and premature ageing. A woman needs to improve the strength of her body and its productivity as she is exposed to the dangers of pregnancy and childbirth in addition to her specific role in society. We do not need to expound on the benefits of sports which become increasingly linked with hygiene and health care. Sport involves movement, and movement is life. There are great benefits to be reaped by women who train their children from the day they appear until they start doing sports at school and in sports associations and clubs. This is also the principle adhered to by nations who are aware of the virtue of sports and make it universally compulsory for all individuals, boys and girls, as it is conducive towards the well-being of society and its progress. The lack of it precludes us from being part of these advanced nations!

It is vital that a woman should learn the principles of hygiene in order to enable her to take care of her children's food, drink and clothing, to know how to treat minor ailments, and when to call for a doctor. As a result, she does not need to have recourse to recipes by ignorant charlatans and healers who know nothing about children's medicine and who delay recovery or may even lead them to an early grave. In short, this kind of instruction increases the blessings on our families and their number.

Women also need to get instruction in education as much as possible since they are the primary carers for the children at a very important point in their lives, when they are pliable and impressionable to the good and bad they encounter. If woman is provided with this knowledge, she will be the first to instruct the children in virtuous and proper behaviour and to investigate what lies at its origin so that there is no contradiction with what they are taught. In so doing, women send children that are intellectually and mentally purer to school and into society. However, this does not mean that women can dispense with improving their cultural education by reading morally and socially edifying novels and plays that present a picture of the lives of real people, their feelings and morals in good and evil, happiness and misery, as well as the reasons underlying them and the consequences resulting from them. If one studies life from this kind of angle, which is closer to the mind, it makes it easier and requires less effort than merely thinking about things, while providing entertainment and recreation to the soul from hardship and toil. When a woman knows this, it is easy for her to learn a lesson and convey nice thoughts to her children by giving good examples drawn from life in accordance with their growing disposition. However, some love stories, that is, those that are immersed in the deification of love and the inflaming of passions to an excessive degree, represent a clear danger since most of the criminal love acts lead to death and suicide. These stories may also impair a person's strength and ability in life when they become weak and sluggish, reducing them to a morbid state. By this I do not mean that literature and its creators limit the depiction of life and its feelings, pleasure and pain, which is the ideal humanity aspires for. Rather, it is that the youth, who do not have a knowledge of life and what it entails, read about feelings and powerful emotions the true meaning of which they are as yet unable to comprehend, which has led to disappointment and loss of life.

As for morally depraved tales,⁵⁰⁴ these must be avoided, especially in a family environment and among our growing boys and girls.

It is important that women should learn to manage the household, keep it tidy, execute the daily chores and mend things that need mending. Hence, they must possess some skills such as sewing, embroidery, darning, patching, etc. so as to save money which can be used for the benefit of the home. By receiving education, women will be able to manage the household budget in accordance with the revenues, while knowing how to spend the budget on essentials according to their importance. This means, for instance, not spending money on clothes if it means forsaking a life's essential as this disturbs the required balance in the home and results in a confused life, while it may threaten the foundations of the home by mismanagement, as is the case today out of ignorance.

The management of a household is not an easy task for a girl confined within the home with her mother, who teaches her daughter to do the work in the way she was taught by her mother before her. I wish those who claim that the home is the woman's kingdom in order to lessen the horrors of the prison in which she spends all her life were more honest about it. If only these people realized that women need to be educated in order to manage this kingdom in a way that will

elevate them to the height of glorious women. It is our duty to be fully aware of the fact that the home is a place of work and habitation, not a prison for woman from which there is no escape. If we accepted this obvious truth we would recognize our duty to educate our girls in order to manage the affairs of their kingdom in an appropriate fashion. As things stand, this kingdom is lost, while its 'queen' lives in disappointment and failure.

It is necessary to instruct women in crafts and skills in order for them to gain a living from them so that they are able to assist their husbands in increasing the wealth of the marital home, especially if there are children, which leads to an increase in expenditure. And if the breadwinner should die and the woman is left alone with her children without money, it is clear that she must know how to make a living in order to protect her tragedy-stricken family from ruin and perdition until the children are grown up. Today, a woman and her children are either a burden to the father who works for a daily wage or, if the father should die, to her poor relatives who cannot afford to provide for her needs and those of her children. As a result, her life with them is one of paucity and misery. Alternatively, she and her children can go to the homes of rich Europeans, Jews or Muslims to look for work, offering their services for food, or sometimes even for less than that. However, this road is fraught with dangers for her and her daughters. As for the sons, they end up hanging around in the street and in coffee houses where they beg for what they can get. In the course of this 'street education' they learn all manner of wicked things like drinking alcohol and smoking hashish when they are still growing up. When they partake of these poisons, they either find recreation from their life of hardship and misery, or they engage in criminal acts and invariably end up in prison.

While it is good for a woman to receive training in the sciences and necessary crafts and skills for her integrity of conduct, and to perform her duties, she is also in great need of instruction in the fine arts, such as poetry, music and painting,⁵⁰⁵ just as we need prominence in this aspect of life. All these types of refinement are conducive to the elevation of the soul and provide emotional nourishment on which the family is built. It is through this that we are able to get rid of the vulgar art which has gained currency among us through poems that are sung within the family and in public and which express moral decadence, spiritual barrenness and feeble-mindedness.

Women are not just imprisoned within their bodies, but also in their soul and spirit. They cannot express themselves except through men; they only sing men's poetry, they cannot imagine feelings except those of men – whether it be love or hatred, or whether they are considered good or ignominious in expression or meaning. Women are like an echo that retains all of these like a phonograph record. If a woman does not hear anything in society except base and despicable sounds, she will invariably end up repeating them. If we succeed in understanding the real duties and rights of women in life, and act accordingly by instructing them in what they require, we will have done a good thing, not just for women, but also for the happiness of men, the nation as a whole and all the generations to come.

Raising girls

Only science can provide a clear clue for the understanding of the basic principles of a sound education and the methodology required for it. However, for this to be the case, these principles must be applicable in practice. It is through education, which starts from early childhood by setting sound examples both in words and deeds, that these principles can be assimilated by the mind and become firmly embedded in it. By this we do not mean that we are going to set forth in detail the types of this education and its categories, as this is a separate topic. Rather, we should like to show the directions and natural results it will provide to future generations.

Education involves encouraging children to recognize their duties in life, the advantages, the exercise of human talents, both mentally and practically, both by the individual and in society, so that these talents can be put to use as much as possible for the sake of improving life. However, how can Tunisian women, either individually or as a sex, know what their duties and rights in life are in order to be ready to benefit from them when we do not prepare them for any of this? Rather, we continue to regard them as mere tools to satisfy our lust, to use them as domestic servants to provide for our needs such as clothes and food, and to execute our orders without question. Women have no knowledge or morals except for superstitions and erroneous beliefs that are prevalent among us in the shape of inviolable hallowed customs and traditions. As a result, they are a calamity in the home and a destructive factor in our lives. However, what happens to women is the result of our men's ignorance; indeed, like woman, like man!

We should not entertain any hopes of women's upbringing leading us to victory in life as long as deep down we continue to view them with contempt, and regard them as a flawed creature, incapable of recognizing for herself what her duties are, of functioning in life without being subject to restriction, strict supervision or obedience to the husband's order – in short, to be treated like animals. This situation leads to a decline of the nation as a whole, reducing its state to that of women; indeed, men are raised by women and grow and live through them.

So, we raise our women to feel inadequate and inferior as a sex. A woman is taught that she must seek refuge with the man who feeds and clothes her, and thus prevents her from dying of cold and hunger. This is why a woman bemoans and laments the death of her husband. The man, for his part, demands that she seclude herself from life in order to satisfy his selfishness and to cope with his constant feelings of delusional paranoia. All men believe that their women's purity is predicated on the fact that they keep a close grip on them. Yet, in spite of this, many men will claim that they have fallen victim to female wiles and trickery, as if whatever acts committed by a woman do not happen to men, or are not instigated by them. How, with this kind of wretched upbringing can we demand or expect of women that they be the adornment of the home, the mother of the men of tomorrow and a help to us in life?

In this regard, we are as stupid as one who expects beautiful and fragrant flowers to grow out of dung.

Love springs from affection and kindness, which constitute the basis of harmony and mutual cooperation in life – indeed, they are the very essence of life, and women are in great need of them when they are performing their duties. We have to refine women so that they do not wilt and die under the influence of what we call Eastern modesty, which stifles a woman's spirit, by preventing it from shining, and reduces her to silence. Similarly, we have to instruct women so that they are not thwarted by womanly duties, lest they neglect the affairs of the home and spend most of their time outside, where they start concerning themselves solely with pursuing their pleasures, arousing the attention of admirers, while turning away from having children⁵⁰⁶ since they view them as a burden. This behaviour results in a woman becoming a burden to her husband and a calamity in marital life. Some women will dissuade a man from performing his duty for fear that a particular activity might exhaust him or be dangerous. Some women prevent their sons from going abroad to pursue their studies because they cannot bear to be away from them, or fear for them. These women will, if their children ask for it, feed them even when they are ill and it could affect their health, out of pity and affection, which, unfortunately, is rooted in ignorance.

Life nowadays is marked by an unstoppable trend towards emancipation driven by women, as if they want to make up for what was lost by previous generations. If we knew how this emotion governs the education we provide for women, we would recognize the right and sensible course of action to take. If, however, we prevent the trend from taking its course, we will lose our ground and be swept towards the abyss.

The progress of European women has been achieved within the general development and advancement of their countries. However, the lives of couples have become more complex because of a loss of affection between the spouses, caused by the change in direction towards emancipation and the shedding of all positive restraints that this precluded. Yet, besides these human problems, European women made great advances mentally, culturally and materially in comparison with their counterparts elsewhere in the world. Without wishing to enumerate the fields in which European women have progressed, the most relevant thing for us and that which we are in most need of is their knowledge and ability in child rearing. I am not saying that their children are able to embark upon life; rather, that their parents prepare them to tackle it successfully, to take the best from what the world has to offer and what they need. In addition, European families focus on what surrounds their children in their upbringing and on developing their physical and spiritual strength. In addition, there are the various technical institutes that have been established in Europe that produce powerful generations that are able to deal with life. God bless knowledge and education if they combine useful work with the achievement of human happiness in this life in which good things are rare for those who are idle.

As for us, our failure in life can be gauged by the extent to which our women have failed. Irrespective of the spread of some form or other of schooling today, it has only slightly changed our view that it causes nothing but confusion in our minds that are filled with a diseased past fraught with contradictions. We can

either forget about this past and sweep it aside with contempt in order to assume the character of those who have brought this education, which means living secluded from our family and people. Or we remain with our decrepit past, content with what has been decreed, and hold out our hand to the government or foreign companies in our country. It is difficult for many of our young educated people to find work to support themselves. As they are constrained by their country, they strike out to all corners of the globe, discontented and annoyed with their wretched lives, about which society does not care, whereas it is incapable of providing a life for them in the absence of the necessary productive economic activities in order to ensure prosperity for the individual and society.

Whatever the level of knowledge one attains, it is nothing but a weapon that needs personality and willpower if one is to have a successful life, whatever the difficulty of its paths and no matter how much it costs. This personality and will are the fruit of an exemplary upbringing; it begins like a seedling and ends in a fruit-bearing tree, its root firmly planted in the soil and its branches raised high towards the sky.

We currently have a number of medical doctors, but our country needs all the medical advice it can get and the protection and assistance they offer in view of the small number and size of general hospitals. The people also need guidance in terms of hygiene protection as a result of malnutrition and bad housing conditions which are responsible for the terrifying spread of diseases, especially among children. The population also needs physicians' technical expertise to cleanse many unwholesome areas in the kingdom through a purification of the water and air. There is also a need for medical studies on both endemic and new diseases, and their symptoms. Local doctors are best suited for finding the best ways of treating these diseases because they are more familiar than others with the local character, manners and customs. Perhaps, this project should start with the creation of a medical society where all new issues can be discussed with a view afterwards to informing the population through lectures and publications on medical matters and hygiene.

There are also a number of Tunisian lawyers, who have studied law⁵⁰⁷ in Paris and other places. Currently the laws of the land are not clearly defined or set up; rather, they appear according to the circumstances. The court judgements are in the hands of civil servants who are entrusted with legal actions, both the examination and judging, and generally with the way the law and Tunisian justice is administered and dispensed, whereas the means of enforcing it are withheld from everyone. All these issues must be scrutinized and examined by researchers whose duty it is to do so and who are best equipped for it.

Today, the country is slowly⁵⁰⁸ ridding itself of the present hardships and is moving towards freedom, which every nation with a throbbing heart strives for. It is the duty of our lawyers to apply themselves to this by publishing their views and opinions on international laws,⁵⁰⁹ the various national constitutions, the forms of government, the extent of the people's representation in government in comparison with our constitutions, the history of events that have led to the triumph of these principles which have made people more convinced of their rights

and how to maintain their acquisition, as well as making them aware of the best avenues to achieve them. This will also result in general civic behaviour. However, this kind of momentous social project can only start with the creation of an association of this profession in order to prepare the nation for these ends and reveal what is possible. The individualistic lifestyle that has emerged means we are not prepared to accept to work together for the common good. This is the result of our wholehearted dedication to our personal daily activities and our pursuit of recreation and pleasure as much as is materially possible. As for spiritual pleasures, which are conveyed through nobleness of spirit and the quest for human perfection, these do not appear today among our educated men, except very weakly and in a few individuals; in any case, they are not often heard in the country.

I firmly believe in the availability of our intellectual and moral resources which are as great as our innate abilities. I do not say this because I am a Tunisian but because history has borne this out. I consider our failure in science and knowledge to be nothing more than the result of our weak education in the family which has suppressed our spirit for glory and ambition for higher things. Our people grow up weak and lazy with a poor self-image, shying away from hard work, which is what life is all about. Instead, we are fond of stagnation, which is the death of us. In many cases, our women dissuade us from taking on arduous tasks in order to make a life for ourselves and accomplish things, instead of encouraging us to be daring and active, and take life by storm!

As long as we do not have this kind of spirit and we do not change the way we bring up our children, the number of educated people will not increase, with the absence of examples forcing people to continue with their individual activities, incapable of establishing collective labour entities. This is confirmed in our constant quest for sciences that produce easy earnings for the individual without much effort, such as medicine and law, while we turn away from subjects such as politics, economics and architecture since these require the setting up of companies, mutual cooperation and patience for long-term results. However, the results that these sciences may yield are of the greatest importance for the lives of the people and a guarantee for their future. The choices we make are proof that we do not understand the actual value of these fields of knowledge and the results they produce today in the nations that dominate us. We are only inclined towards individual professions.

And then, there are positions which involve responsibility in the administration, especially the Finance and Justice departments. However, are we able to prove by our expertise and ability that we can be at the head of them, and manage them in such a manner that they are run in line with the public interest? This is what we are actually requesting from our Protectors, but are we in fact ready to occupy these posts? Have we shown a love for science and work? Have made efforts towards them in order to achieve the glory that we deserve?

Little of our land is exploited, some of it not at all. This situation has become an excuse for handing plots over to French colonists in order to revitalize them. Our crafts industry is also dying as a result of the flood of imports, whereas in commerce, our companies are going bankrupt or lose business because of the

invasion of the foreigners, and even through the actions of Tunisian Jews. Despite this decline and bankruptcies which have transferred wealth to others, we continue to think about living separately, always choosing the easiest solutions and the ones involving the least effort, oblivious to the fact that it is through toil and effort that one achieves glory in life.

I respect all our educated men and I have faith in them and in the fact that their number will increase so that they will raise the head of our country high through their unified work for the benefit of the Tunisian people. I want to add that we must breathe life into the family unit in our country through the woman whom we must prepare for this. Knowledge alone does not arouse in us a spirit of glory and cause us to make efforts. As long as a woman's upbringing and instruction do not prepare her according to our wishes, it is essential to set up nursery schools and to entrust them to women who are trained in this field. It is in these institutions that we will shape the cream of our children chosen to make a success of their future lives. We are in great need of places such as these, most of them especially for orphans, and for those children who walk in front of us in the street, barefoot with emaciated bodies, pallid features and broken spirits.

We continue to dream about our hopes for the future, while we complain about the atrocious predicament we find ourselves in today. Deep down we feel the need to shake off its oppressive shackles. However, there is no way to get rid of them or to make those dreams come true until we provide our children with an excellent education. This will, in turn, only come about if we provide our women with an upbringing and education that will allow them to raise our offspring in their midst, so that the children's bodies and talents can grow and develop in front of them and in their care. Are we ready for this?

Conclusion

We have clearly explained the rights of women in Islam, and what is accorded to them in the eternal religious texts in terms of kindness and appreciation, even equality. We have outlined the situation of woman in our society, her wretchedness in marital life, within the family and in the education of our children, who are sent out incapable of performing any productive task in life. We have painted a general picture of our view on how to save women from the chasm in which they have fallen over a long period in our history, during which they were prohibited by us from having a happy life which we imagined for them but did not see. Things were different in developed nations who called their past to account and challenged what was withered and dead in it. The reason for all of this is to bring out the clear truth of our position before we fall prey to our simple-minded past.

In the course of the current far-reaching renaissance in the East about which we read so much in the newspapers, a new role has become for woman, buried in the depths of her house, like a treasure covered in dust. Schools and nurseries were built and associations set up to further the cause of women, whereas newspapers and other publications supported this movement so that it has become something for the common good. Today we hear about the leadership of women in India and female leaders in national movements,⁵¹⁰ with women in Jerusalem, Egypt, Syria and Turkey breathing new life into the nationalist struggle through their bravery and hunger strikes for the sake of the men's efforts and activities, and generally by reviving the nationalist spirit. However, what we read and hear is not enough to influence us since we are Africans and we are the only ones to have continued to adhere to what we believe to be the true religion, mocking all those nations that have gone astray and attempt to grab the sky!

So, Tunisians, what is our biggest shame among the nations of the world who strive towards life and might? It is the fact that until now we have been in awe of the vestiges of our dark history in terms of the customs and inclinations we attribute to Islam in order to conceal the shock of the triumphant truth. In spite of this, we continue to hope for a genuine renaissance which will be immune to influence, even to the storms of hell. We think of reality as a lie and then pretend to be disappointed and surprised when we skim the surface to explain why our hopes have been dashed. Instead, we should examine our inner selves to search for the weakness and eradicate it for the sake of life.

To be sure, today we are going through a transitional period, which will lead us either to death – which is the more probable in our current circumstances – or to life. If we wish to endure, we must prepare ourselves for the role that will lead us to victory over whichever factors are causing our failure in life. Either we merely hope that our wishes will materialize without knowing why this should be so, or we are aware of the sources of the strength within us and it will happen. If it does not, it will be because of our ignorance of life, our stupidity, sinful selfishness and the loss of our rights as a nation, in which case there will be nothing left for us except dissolution and death.

And so, I raise my voice as high as the strength of my conviction and the serenity of my conscience will allow me. I could have done more than what I have done. If only I had been able to roar like a terrible volcano I might have been able with my thunder to awaken from their sleep those who are immersed in their misguided dreams which make us a laughing stock in this world.

I am calling on all Tunisians, whatever their views and tendencies, not to believe what I say, since this is far from what I want. Rather, I am calling on them to, together with me, reflect upon the subject and the danger it poses to our future. We must not continue to surrender to events that befall us, and attribute them to fate which cannot be vanquished, while we are lost in the desert of the past, denying the virtues of novelties in science or thought, renouncing all work that redounds to our honour and hanging our heads in anticipation of the hereafter. This will leave our faces stained with shame that cannot be worn off through our history.

Before I conclude, I feel compelled by a strange force to salute – with a burning soul, the bow of a devout worshipper and as one filled with hope – the resurgence of woman, the Tunisian people and of the East as a whole. And if this seems far away today, I can nevertheless see in the near future a propensity towards knowledge, education and a readiness to make sacrifices in order to reach this goal. Therein lies the secret of our salvation from the pain of death and the breaking of the dawn for a genuine freedom.

Notes

Introduction

- 1 See D. Newman 2004.
- 2 Ibid., 177.
- 3 Ibid.
- 4 Ibid., 364.
- 5 The translation was published in Cairo (Būlāq) in 1833 under the title *Qalā'id al-mafākhir fī gharīb al-awā'il wa 'l-awākhir* ('Exquisite poetry of the glorious qualities of the strange customs of those that come first and those that come last').
- 6 R. al-Taḥṭāwī 1973–1980 (*al-Murshid*): II, 393.
- 7 Unfortunately, both schools ceased operation in 1879. See Y. Artin 1890: 132–136. It should be added that the very first girls' school was a short-lived school for midwives (1830), set up by Muḥammad 'Alī, who was also the first ruler to start a new trend of educating female members of his family as well as their slaves, which practice was soon emulated by the aristocracy of the country and produced the first female authors, the most famous example of whom is undoubtedly the poet 'Ā'isha al-Taymūriyya (1840–1902).
- 8 Quoted in J. Haywood 1971: 62.
- 9 M. Amīn Fikrī 1892; M. al-Bājūrī, *al-Durar al-baḥiyya fī 'l-riḥlat al-Urubāwiyya* ('The Beautiful Pearls in the Trip to Europe') Cairo, Maṭba'at Muḥammad Muṣṭafā.
- 10 For a discussion and background, also see A. Hourani 1989.
- 11 Q. Amīn 1899: 53.
- 12 In this respect, it is worthwhile adding that this word occurs only six times in the Qur'ān (VII: 46, XVII: 45, XIX: 17, XXXVIII: 32, XLI: 5, XLII: 51), but never in the sense of a garment, rather in the sense of 'screen'. Indeed, in the verse that is commonly adduced in support of the wearing of the veil (XXIV: 31) it is the word '*khumur*' (sg. *khimār*), which denotes a veil that covers the head and face. Also see F. El Guindi 1999.
- 13 Q. Amīn 1901: 199, 202–204.
- 14 On this reformist and author of the much acclaimed *Aqṭaw al-masālik fī ma'rifat al-mamālik* ('The Surest Path Towards the Knowledge of the Conditions of States/Tunis'), which was published in Tunis in 1867, see M. Smida 1970; G. Van Krieken 1976; D. Newman 2007.
- 15 Q. Amīn 1901: 177–178.
- 16 Q. Amīn 1901: 179, 196, 201.
- 17 H. Sharabi 1970: 93.
- 18 A. Hourani 1989: 169.
- 19 R. Rida 1931.
- 20 The French title of this bi-monthly magazine was *Le lien dissoluble*, and referred to Qur. II: 257 and XXI: 21. On *al-Manār*, see, for example, J. Jomier 1989.

- 21 *Al-Manār*, XXX, 610 (note).
- 22 For a discussion of women within the *Manār* commentary, see the excellent study by M. al-Shamlī 1966.
- 23 A. Ibn Abī 'l-Diyāf 1963–1965: IV, 102–103.
- 24 M. al-Shannūfī 1968; B. Tlili 1972 (= idem 1974: 95–160).
- 25 On this scholar, see D. Newman forthcoming.
- 26 On this *shaykh*, see A. Chenoufi 1977; M. al-Šādiq Busayyis, n.d.; A. Abdesselem 1975: 407–451; M. Ibn 'Āshūr 1965: 28–33; idem 1970: 117–127; idem 1972: 44ff. *et passim*; S. Zmerli 1972: 125–131; M. Chenoufi 1974: I, 501–504.
- 27 M. Chenoufi 1968: 57–74; M. al-Shannūfī 1966: 71–90.
- 28 M. al-Sanūsī 1891–1892: 94–95.
- 29 M. al-Sanūsī 1976–1981: I, 159.
- 30 M. al-Sanūsī 1976–1981: I, 223ff.
- 31 Tunis 1898. This was later reprinted in Ali Chenoufi's biography of Muḥammad al-Sanūsī (1977: 118–143).
- 32 See M. Chenoufi 1974: I, 497ff.; M. al-Sanūsī 1976–1981: II, 355–361, III, 331; A. Abdesselem 1975: 120.
- 33 Bayram's official appointments included the directorship (1874) of the Office of the *Awqāf* (religious foundations) – where his main collaborator was Muḥammad al-Sanūsī – the Government Press (*al-maṭba'a al-rasmiyya*) and editor of *al-Rā'id al-Tūnisi* (1875). In addition, he was a member of Khayr al-Dīn's Educational Commission which led to the creation of *al-madrasa al-Šādiqiyya* (see *infra*), and the driving force behind the creation of the Regency's first modern hospital, *al-mustashfā al-Šādiqī* (1879).
- 34 M. Bayram 1884–1893: III, 46–47.
- 35 A graduate (and future teacher) at the Šādiqī College, Šfar had studied at the Parisian Lycée Saint Louis and headed the Tunisian student mission in Paris (until forced to return following the withdrawal of grants under the Protectorate). Afterwards, he joined the administration and became head of the Accounting department (*qism al-muḥtasabāt*) and then director of the Central Office for *Awqāf* (*Jam'iyyat al-Awqāf*). Besides being the principal of the Šādiqī College, Šfar was the editor of *al-Hāqira*, to which he contributed articles on various subjects, ranging from science to history and politics, as well as social affairs. Like the other 'young Šādiqīs', he was greatly influenced by the school around *al-'Urwa al-Wuthqā* and had met Jamāl al-Dīn al-Afghānī during his Paris stay, while having long discussions with Muḥammad 'Abduh during the latter's visits to Tunis between 6 December 1884 and 4 January 1885, and in August–September 1903. Cf. M. Ibn 'Āshūr 1961: 34–38; S. Zmerli 1967: 15–29; B. Tlili 1974: 662–665; J. Abun-Nasr 1978: 296–297.
- 36 A former student of the Šādiqiyya and al-Zaytūna, al-Ašram (Lasram) also, like Šfar, attended the Paris Lycée Saint Louis (1881–1883). Upon his return, he became a teacher at the 'Alawiyya school. In 1895, he was appointed head of the *Ghaba* (= *ghāba*), namely, the olive trees forestation (*ghābat al-zayātin*) surrounding the capital, within the newly created *Direction de l'Agriculture* (Ministry for Agriculture), led by Paul Bourde (1895–1911). He subsequently became a teacher at the Khaldūniyya, as well as its director. He was the only Tunisian representative at the Marseille Colonial Congress (1906), at which he presented no fewer than fourteen (!) papers on subjects ranging from education (four), to Islam in Tunisia and the administration of *awqāf* (two). His paper at the 1908 Congress on North Africa (which he did not attend) was entitled *L'état de l'enseignement supérieur en Tunisie – la Mosquée de l'Olivier et la Khaldounia à Tunis*. He was also one of the co-founders of the magazine *Le Tunisien*. In 1905, he was the only Tunisian representative at the International Congress of Orientalists in Paris. In 1924, he was a member of the Commission (headed by Muṣṭafā Dinqizlī for the restructuring of the Zaytūna curriculum. See M. Ibn 'Āshūr 1970: 237–246; S. Zmerli 1967: 87–99; C. Khairallah

- 1957: 72–85. His speeches at the 1906 Congress were collected in one volume under the title *Questions tunisiennes* (Paris 1907), with a preface by R. Millet.
- 37 See S. Zmerli 1967: 33–42.
- 38 On the movement, see, for example, M. Ibn ʿĀshūr 1972; M. Lejri 1974: I, 104 ff.; C. Khairallah 1934. For biographical details on the protagonists, see M. Ibn ʿĀshūr 1970; S. Zmerli 1967. On the journal *al-Hādīra*, see the study by ʿA. al-ʿUraybi 1995.
- 39 For details on this scholar, see the biography by ʿU. b. Sālim (1975).
- 40 On this establishment, see N. Sraïeb 1995; A. Abdesselem 1975.
- 41 Cf., for example, *al-Manār*, I, No. 2, p. 87, No. 41, pp. 326–328. Also see M. al-Shannūfi 1967; M. Lejri 1974: I, 115 ff.; A. Green 1978.
- 42 A. Green 1978: 165.
- 43 This term denotes someone who is entitled to hand down *fatwās* (formal legal opinions).
- 44 There had always been links between North African and Eastern scholars, but it was in the late nineteenth century that North Africans would look towards the East, especially Egypt, for guidance in political and social affairs. See R. Bencheneb 1984.
- 45 On Millet’s administration, see F. Arnoulet 1995: 45–67.
- 46 On the Khaldūniyya, see: M. Lasram 1906; M. Sayadi 1974; É. Amar 1907; M. Ibn ʿĀshūr 1972: 57ff.; C. Khairallah 1957: 24–30 *et passim*; idem 1934: I, 24–30 and II, 17–20; N. Ziadeh 1962: 65–67 *et passim*.
- 47 This speech can also be found in C. Khairallah 1957: 156–174.
- 48 Sālim b. ʿUmar b. Sālim Būhājib (1827–1924) was born in a small village near Monastir. After attending the Zaytūna, he joined its faculty (becoming a first-class *mudarris* in 1865). In 1905 he became a Māliki mufti and was appointed Bāsh Mufti in 1919. A member of the Consultative Assembly (*al-majlis al-kabīr*), he was a collaborator of Khayr al-Dīn and assisted him in the composition of the latter’s *Aqwam al-Masālik fī Maʿrifat al-Mamālik*, while being involved in the editing of the Tunisian Gazette, *al-Rāʾid al-Tūnisī* and *al-Hādīra*. He was also a prolific author in his own right (mainly theological treatises). See A. Green 1987: 246–247 *et passim*; S. Zmerli 1979: 83–90; M. Ibn ʿĀshūr 1961: 16–20.
- 49 In fact, between 28 February 1882 and 23 June 1885, the post was that of ‘Resident-Minister’ (though the responsibilities were the same).
- 50 L. Machuel 1889. L. Brown, incorrectly gives 1885 as the creation date of this Agency (in J. S. Coleman 1965: 147). On Machuel’s educational policy, see R. Macken 1975, 45–55. It is interesting to add that Machuel was a respected Arabic scholar, among whose many scholarly publications there was even a re-edition of de Sacy’s *Grammaire arabe* (Tunis, 2 vols, 1904–1905).
- 51 These became known as the Ferry Acts (*lois-Ferry*). On French education at the time see: A. Léon, *Histoire de l’enseignement en France*, Paris 1967; F. Furet and J. Ozouf, *Lire et écrire. L’alphabétisation des Français de Calvin à Jules Ferry*, Paris 1977; Antoine Prost, *Histoire de l’enseignement en France*, Paris 1968.
- 52 Cf. C. Ageron 1968: *passim*.
- 53 L. Machuel 1889: 24; M. Lelong 1959: 209; R. Rohkrömer 1966: 338. This institute was in fact set up in partnership with the *Alliance française* (L. Piesse 1887: 373).
- 54 See F. Arnoulet 1994.
- 55 M. Berthelot 1886–1902: s.v. ‘Tunisie’.
- 56 A. Green 1978: 167, though later on (ibid. 199) he states it was Justin Massicault (Resident-General between 1886–1892) and René Millet (Resident-General between 1894–1900).
- 57 Quoted in M. Ayachi 1986: 155.
- 58 Born into a well-known family of Moroccan origins, this Zaytūna *shaykh* (1879–1973) was one of the most respected scholars of his day, whose erudition was considered to be as wide as it was profound, as witnessed by his prolific and varied output. He taught at the Zaytūna, and was also a member of the Reform Commission

- (1904–1908). Afterwards, he was, successively: judge, Mālikī *bāsh-muftī* (1927), *Shaykh al-Islām* (1932) and rector of al-Zaytūna (1956). See A. Green 1978: 249–250; M. Sayadi 1974: 203–204; M. Maḥfūz [n.d.]: III, 304–309; Y. Sarkīs 1924: 156; see *EP*², s.v. ‘Ibn ‘Āshūr’ (M. Talbi).
- 59 M. Ibn ‘Āshūr 1970: 273–282. The son of Sālim Būḥājib (see note 45) Khalīl was married to the Egyptian princess Nāzīlī (a niece of the Khedive Ismā‘īl), who gained fame through her literary *salon*, frequented by many of the leading literati of the day, both from Tunisia and the East.
- 60 See S. Zmerli 1979: 281–288; C. Khairallah 1957: 133–144; M. Lejri 1974: I, 122 (n. 1) *et passim*.
- 61 A graduate of the Bardo military school, and sometime ADC to Khayr al-Dīn, al-Qarawī for a short time succeeded al-‘Arbī Zarrūq at the head of the Ṣādiqī school. Cf. M. Sayadi 1974: 210; C. Khairallah 1957: 25.
- 62 For a full list see M. Lasram 1906: 27.
- 63 This was taught by al-Bashīr Dinqizlī, the first European-trained Tunisian doctor. See J. Magnin 1957: 409; N. Gallagher 1983: 94.
- 64 For the full Articles of Association of the Khaldūniyya, see *Statuts de la Société Khaldounia* (Tunis 1897) and *Qānūn al-Jam‘iyya al-Khaldūniyya* (Tunis, al-Maṭba‘a al-Rasmiyya 1900), which incorporated the amendments passed on the General Assembly of 22 December 1900. The texts can also be found in M. Sayadi 1974: 217ff.
- 65 M. Sayadi 1974: 103ff.; E. Amar 1907: 360. Between 1898 and 1905, 113 certificates were delivered.
- 66 M. Lasram 1906: 4–5.
- 67 Cf. his paper at the 1908 Congrès de l’Afrique du Nord; C. Khairallah 1957: 131.
- 68 M. Abdel Moula 1971: 104. Also see A. Green 1978: 167–168.
- 69 M. Lejri 1974: I, 109.
- 70 M. Abdel Moula 1971: 104.
- 71 M. Sayadi 1974: 46–47; C. Khairallah 1957: 29; M. Lejri 1974: 107; E. Amar 1907: 354.
- 72 A teacher at al-Zaytūna, he became Ḥanafī *muftī* in 1865, and succeeded Aḥmad Ibn al-Khūja as *Shaykh al-Islām* in 1895. Cf. M. al-Nayfar, 1932: II, 141ff.; M. Ibn ‘Āshūr 1970: 105–113; A. Green 1978: 268.
- 73 Cf. M. Ibn ‘Āshūr, 1967: 103ff. In true ‘*ulamā’*’ style, his opponents’ objections hinged on the verse *ya‘malūna ṣāḥran min al-ḥayāt wa hum ‘an al-akhīra ghāfilīn* (‘they know the appearance of this life, but pay no heed to that afterwards’). Cf. M. Sayadi 1974: 47.
- 74 Cf. M. Abdel Moula 1971: 135.
- 75 C. Julien 1967: 120–121.
- 76 A. Servier 1913: 91. There does not seem to have been any love lost between the Resident-General Alapetite (1907–1918) and Ṣfar either, with the former referring to the latter as the “chief agent of pan-Islam in Tunisia”, quoted in A. Green 1975: 13 (14, note 36).
- 77 See M. Ibn ‘Āshūr 1970: 327–335.
- 78 On this reformer, and founder of the (Vieux) Destour party, see *EP*², s.v. ‘al-Tha‘ālībī’ (Moncef Chenoufi); N. Ziadeh 1962: 97ff. *et passim*; M. Ibn ‘Āshūr 1965: 44–48; M. Lejri 1974: *passim*; M. Chenoufi 1968: 72–73. His collected works were published in 2001 (ed Aḥmad Khālid) by the Tunisian Ministry of Culture.
- 79 Cf. M. Ghazi 1959: 458ff. It was at the Khaldūniyya (1 February 1929) that al-Shābbī delivered his famous speech on *al-Khayāl al-shi‘rī ‘inda l-‘Arab*, which was published later that year.
- 80 The first one being that which took place during the reign of Aḥmad Bey, subsequent to the foundation of the Bardo Military School (1840). In total, over fifty translations (all of them on military subjects) were published by the Tunisian Official Press.

- Cf. J. Quemeneur 1962; Ibn Abī 'l-Ḍiyāf 1963: IV, 36; A. Chenoufi 1976; M. 'Abd al-Mawlāy 1977; M. Kraïem 1973: II, 173–181; M. Ibn 'Āshūr 1972: 28ff; M. Smida 1970: 290–293.
- 81 See E. Amar 1907: 358; M. Sayadi 1974: 208–209; P. dī Ṭarrāzī 1913–1933: IV, 348.
- 82 On 'Abduh's visit, see: R. Riḍā 1931: I, 870–874; R. Bencheneb 1981; M. al-Shannūfi 1966: 91ff.; M. Chenoufi 1968: 75ff.; A. Green 1978: 183–185; M. Lejri 1974: 115–121; N. Ziadeh 1962: 68–69; M. Ibn 'Āshūr 1972: 75; 'A. Būshūsha, in *al-Ḥādīra*, No 860, 8 September 1903; A. al-Ṭuwaylī 2004: 53–56. 'Abduh's visit to North Africa was also viewed with keen interest by his compatriots, and Muḥammad Ḥafīz Ibrāhīm even composed a poem to mark 'Abduh's return (1939: I, 23ff.).
- 83 Cf. *al-Ruznāma al-Tūnisiyya* 1902, pp. 183–193; 1903, pp. 90–93; 1904, pp. 175–182; 1911, pp. 69–73.
- 84 C. Khairallah 1934: II.
- 85 See C. Khairallah 1957; M. Lejri 1974.
- 86 See B. Lewis 1969. Tunisian nationalists also found inspiration in their own past, more precisely in the Constitution (*qānūn al-dawla*) promulgated by Muḥammad al-Ṣādiq Bey in 1861 (but suspended in 1864) and directly influenced by the reforms (the so-called *tanẓīmāt*) introduced earlier in Turkey (1839, 1856).
- 87 On the Young Tunisian movement, see N. al-Daqqī: 1999.
- 88 Later it became known as the *Vieux-Destour* after the creation in 1934 of the 'Néo-Destour' party (*al-ḥizb al-dustūrī al-jadīd*) – headed by Habib Bourguiba – which in 1964 was rebaptized *Parti Socialiste Destourien* (PSD), and then, in February 1988, *Rassemblement Constitutionnel Démocratique* (*al-Tajammu' al-dustūrī al-dīmūqrāṭī*).
- 89 On al-Ḥaddād's life, see Y. al-Jilānī b. al-Ḥājj and M. al-Marzūqī 1963; A. Khālid 1976; idem 1985; A. al-Ṭuwaylī 2001; A. Al-Dar'ī 1976; A. Karrū 1999; idem 1957; *EP*, s.v. 'al-Ḥaddād' (ed.).
- 90 This is the date that is given most of the time (and was first mentioned by his contemporary al-Dar'ī 1976); interestingly enough, the literary historian (and close friend of al-Ḥaddād) Zayn al-'Ābidīn al-Tūnisī (1928), states that he was born in 1317 AH, which, in fact, begins on 12 May 1899 and ends on 30 April 1900.
- 91 It is interesting to note that there is an extant letter from al-Ḥaddād to one of his friends in which he confirms that El Hama is his birth place (*masqaṭ ra'ī*) and goes on to paint a very bucolic and romantic picture of the town; cf. Y. al-Jilānī b. al-Ḥājj and M. al-Marzūqī 1963: 243.
- 92 Al-Ḥaddād 1999: III, 350ff.; Abū 'l-Qāsim al-Shābbī 2001: 102ff. (*Ya mawt*).
- 93 M. Lejri 1974: I, 121ff. An excellent discussion of the changing attitudes towards the French protectorate can be found in Green 1978: 163ff.; N. Ziadeh 1962: 71ff.
- 94 See. C. Khairallah [n.d.]: 65–68 (transcript of the speech).
- 95 N. Ziadeh 1962: 74–75. According to others (C. Khairallah 1957: 86), this magazine was founded by Ṣfar, or by Ṣfar and al-Aṣram (M. Lejri 1974: I, 125). In any event it is certain that 'Alī Bāsh Ḥanba, who was the 'Directeur politique', played the most active role. On Bāsh Ḥanba, see H. Janhānī, *Muḥammad Bāsh Ḥanba*, Tunis 1968.
- 96 For details on the training at the Zaytūna, its qualifications, etc., see A. Green 1978.
- 97 Cf. his treatise (unpublished during his lifetime) on reform at the Zaytūna; *al-Ta'ḥlīm al-Islāmī wa ḥaraka al-iṣlāḥ fī jāmi'at al-Zaytūniyya* (al-Ḥaddād 1999: I, pp. 97–158).
- 98 A. Khālid 1976: 10, 49.
- 99 *Al-Ṣawāb* 4 November 1921.
- 100 Tunis, Maṭba'at al-'Arab, pp. 28/192; 2nd edn, 'Abd al-Wahhāb al-Dakhlā (ed.) Tunis, al-Dār al-Tūnisiyya li 'l-Nashr 1966: 217; 3rd edn Tunis, al-Dār al-Tūnisiyya li 'l-Nashr 1972; Dār al-Ṣāmid li 'l-Nashr, Sfaks 1997: 238; French trans. Abderrazak Halioui, *Les travailleurs tunisiens et l'émergence du mouvement syndical*, Tripoli,

- Maison Arabe du Livre 1985; French trans. of preface by Michel Lelong 1962. The entire text was re-edited for *al-A'māl al-Kāmila* (al-Ḥaddād 1999: II, pp. 4–264), whereas lengthy excerpts appear in A. Khālid 1999. Also see M. al-Shamlī 1961b.
- 101 *Al-Ṣawāb* 4 January 1928, 4 May 1928, 11 May 1928, 18 May 1928, 29 June 1928, 6 July 1928, 17 August 1928, 31 August 1928, 14 September 1928, 28 September 1928, 19 October 1928.
 - 102 Tunis, al-Maṭbaʿa al-Fanniyya 1348/1929–1930; 2nd edn Tunis, Aḥmad Khālid (ed.), al-Dār al-Tūnisiyya li 'l-Nashr 1972; 3rd edn Tunis, al-Dār al-Tūnisiyya li 'l-Nashr 1977; ed Muḥammad Ḥāfiẓ Diyāb, Cairo, al-Majlis al-A'lā li 'l-Thaqāfa 1999; al-Ḥaddād 1999: III, pp. 16–262; French trans. *Notre femme: La législation islamique et la société*, Tunis, Maison Tunisienne de l'Édition 1978. On the controversies surrounding the book, see A. Darghouth 1992: 45–47; C. Lamourette 1978; S. Chater 1978: 68–76; N. Salem 1984.
 - 103 For a detailed discussion of the various attacks on the book in publications at the time, see A. Khālid 1985: 311–403; R. Jammes 1963.
 - 104 Muḥammad al-Ṣāliḥ b. Aḥmad Ibn Murād (1880?–1979) was a Zaytūna trained scholar and teacher, who eventually became Shaykh al-Islām. See A. Green 1978: 259–60 *et passim*; A. Ṭuwaylī 2001: 42; A. Khālid 1985: 336ff.
 - 105 Hailing from a family that originally came from the Ḥijāz, al-Madanī's father was a judge in Medina. 'Umar was educated both in Medina and later on in Syria where the family had moved to during the First World War. After working in the law courts in Medina, he emigrated to Tunis, and was in close contact with Muḥammad Muḥyi al-Dīn al-Qulaybī (d. 1954), the General Secretary of the Destour party. Clearly out to draw blood on anything vaguely reformist, the scholar in the same pamphlet launched a vicious attack on Ṭaha Ḥusayn. See A. Ṭuwaylī 2001: 43; A. Khālid 1985.
 - 106 Muḥammad b. Khalifa b. al-Ḥājj 'Umar al-Madanī (1898–1959) was a Zaytūna graduate and teacher, who was also a member of the Sufi order of the 'Alāwiyya, which was an offshoot of the famous Shādhiliyya order. He had even studied under its eponymous leader, Aḥmad b. Muṣṭafā al-'Alāwī in Algeria. Cf. M. Maḥfūẓ n.d.: IV, 291–296. A. Khālid 1985: 329ff.
 - 107 The scion of a leading family of Tunisian 'ulamā' and muftīs, Muḥammad al-Bashīr al-Nayfar b. Aḥmad al-Nayfar (1887–1974) was a Zaytūna and Ṣādiqī graduate, who became a judge on the Mixed Property Court (1929), and then Mālikī mufti (1954–1956). He was also one of al-Ḥaddād's teachers. See A. Green 1978: 274–275; A. Ṭuwaylī 2001: 47; A. Khālid 1985: 40.
 - 108 See A. Khālid 1985: 310, 328.
 - 109 A. Khālid 1985: 381ff.; H. Bourguiba 1975: 4–5.
 - 110 See, for instance, Bourguiba's eulogical tract, *Tahar El Haddad, vengé de tous ses détracteurs* (Tunis 1975).
 - 111 Also see A. Khālid 1985: 375ff.; A. Ṭuwaylī 2001: 53–54.
 - 112 'I. Bilḥājj 1936: 3.
 - 113 Ibid., 23.
 - 114 Ibid., 16ff.
 - 115 *al-Zamān* 19 October 1930, 26 October 1930; *al-Ṣawāb* 3 November 1930.
 - 116 Muḥammad Anwar Būsnīna (ed.), Tripoli, al-Dār al-'Arabiyya li 'l-Kitāb 1975: 101; Le Kram 1993: 128; 2nd edn al-Ḥaddād 1999: III, 265–306; French trans. Nouredine Sraïeb, *Les pensées et autres écrits*, Oran: University of Oran/CRIDSSH, 1984, 2004 (Oran, Editions Dar el Gharb, preface by Abdelkader Djeghloul); French trans. Hédi Balegh, *Les pensées de Taher Haddad*, Tunis: La Presse, 1993.
 - 117 His collection of poems were published as *Diwān al-Ṭāhir al-Ḥaddād, 1899–1935*, Muḥammad Anwar Būsnīna (ed.), Tunis, Wizārat al-Thaqāfa wa 'l-Aṭlasiyya li 'l-Nashr, 1997: 129; Al-Ḥaddād 1999: III, 309–408.
 - 118 www.3darts.net/site_tahar_haddad/Accueil.html (accessed 15 May 2007).

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- 119 Throughout the book the author uses the word *zawj* (lit. a pair; pl. *azwāj*) in its classical meaning of spouse, that is, both husband and wife, rather than the modern *zawj* (husband) and *zawja* (wife).
- 120 It is interesting to note that al-Ḥaddād uses ‘East’ (and ‘Eastern countries’) interchangeably with (Muslim) Arab countries, irrespective of their actual geographical location.
- 121 The author uses the *ḥijāb* here in both the physical and metaphorical sense of the word.
- 122 *fitna* here refers to temptation sent by God to his believers to test their faith. Cf., for example, Qur. VIII: 28; LXIV: 15; *EP*², s.v. ‘fitna’ (L. Gardet).
- 123 Al-Ḥaddād here and in many places in the book uses the Arabic word *madaniyya* to refer to civilization instead of the more common *ḥadāra*, which is a cognate of *taḥaddur*, which was formerly used in this sense, often interchangeably with *tamaddun*, and *tamaṣṣur*, despite the subtle differences between them. The first (< *taḥaddara*, ‘to settle among sedentary people’) stresses the settling of people in fixed dwellings. The second, to which *madaniyya* is related, is derived from a root meaning ‘to settle down (in a city)’, and is linked to the concept of life in civil society. Closely related to *tamaddun* is *tamaṣṣur* (‘to build large cities’), which may thus, in a way, be considered the necessary adjunct of the former two.

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- 124 This derives from the trilateral Arabic verb *sharaʿa* (to legislate), the *Sharʿa* sets forth the regulations and laws governing the lives of Muslims. Its foundations are the Qurʾān, the *sunna* (the Prophet’s life) and *Ḥadīths* (the Prophet’s sayings). It is mentioned in several verses in Qurʾān (e.g. LII: 13; V: 48). While most Muslim countries adhere to the main ideologies of this divine law when applying judgements or establishing laws, very few apply the *sharʿa* law to the letter.
- 125 *Al-Jāhiliyya*, by which name this is known in Arabic. Literally meaning ‘(the period of) ignorance’, *jāhiliyya* (also *al-ʿaṣr al-Jāhili*) is derived from the Arabic verb *jahala* (‘to be ignorant’) and refers to the “ignorance of divine guidance” prior to the revelation of the Qurʾān. By extension it means the state of anyone lacking the benefit of Islam and the Qurʾān. The term is used in several places in the Qurʾān (e.g. V: 50).
- 126 The original refers to *ʿabūd* and *imāʾ*; the former (sg. *ʿabd*, with the variant plural of *ʿibād* – cf. Qur. XXIV: 320) denotes male slaves, whereas the latter (sg. *ama*; pl. also *amawāt*) is only used for female slaves.
- 127 *ḥadd* (pl. *ḥudūd*), lit. ‘boundary’ or ‘limits’ is a technical term used to denote only certain punishments, for certain acts: fornication (*zinā*), false accusation of fornication, drinking wine, theft and highway robbery. See *EP*², s.v. *ḥadd* (B. Carra de Vaux/ [J. Schacht]/A.-M. Goichon).
- 128 Mālik 1998: 552 (No 1677).
- 129 It is interesting that the author should quote this particular *ḥadīth*, as it is known to be very weak. It is mentioned only by very few scholars (e.g. al-Shawkānī 1956: *Kitāb al-Nikāḥ*, *ḥadīth* No 70), quoting from al-Suyūṭī’s *al-Dhayl ʿalā Kitāb al-Mawḍūʿāt al-Kubrā*, who judged it to be weak (*ḍaʿīf*). This view is also shared by another commentator, Muḥammad b. Ṭāhir al-Maqdisī aka Ibn al-Qaysarānī (d. 1113) in his *Tadhkirat al-Mawḍūʿāt* (n.d.: 156).
- 130 *waʿid al-banāt*. It is worth noting, that the practice of killing infants was not confined to girls, but involved boys also, although the killing of female infants was more prevalent. There were various reasons for this, such as the fear of poverty, more mouths to feed and dowries to be provided for. Several verses in the Qurʾān condemn this practice: Qur. VI: 137, XVII: 31. Also see A. Giladi 1992.
- 131 Qur. XVI: 58–59. For the Qurʾānic quotes, we have elected Arberry’s translation (1955).
- 132 Qur. LXXXI: 1–14.
- 133 The Iranian-born Abū Ḥāmid Muḥammad Ibn Muḥammad-al-Ṭūsī al-Ghazālī (1058–1111) was a great Muslim theologian, jurist, philosopher and religious reformer.

His book *Iḥyā' ʿulūm al dīn* ('Revival of the Religious Sciences') is widely regarded as the greatest work on Muslim spirituality.

134 2001: II (*Kitāb al-Nikāḥ*), 50.

135 This is the fourth *sūra*, and contains 176 verses (*āyāt*).

136 Qur. II: 282.

137 Qur. *ibid*.

138 *al-madhāhib al-Islāmiyya*; sg. *madhhab* (lit. 'manner of conduct') is a technical term referring to 'school of law', and more specifically one of the four legal systems recognized as orthodox by Sunnī Muslims, that is, the Ḥanafīyya, Mālikīyya, Shāfiʿīyya and Ḥanbaliyya schools. Also see notes below.

139 Abū Ḥanīfa (d. 767) was a jurist and *Ḥadīth* collector. He is the founder of the Hanafī school of law (*madhhab*), which is based entirely on accounts transmitted by his followers, as he himself never seems to have written anything. In addition to Tunisia, the Ḥanafī *madhhab* is also popular in Iraq and Syria, whereas it was the Ottoman state *madhhab*. In Egypt, it is the *madhhab* applied in tribunals. See *EL*, s.v. 'Abū Ḥanīfa' (Th. W. Juynboll), 'Ḥanafīs', 'Ḥanīf' (Fr. Bruhl); *EP*, s. vv. 'Ḥanafīyya' (W. Heffening-J. Schacht), 'Abū Ḥanīfa al-Nuʿman' (J. Schacht); J. Schacht 1975: 294ff. *et passim*; idem 1966: 40 ff., 65 *et passim*; N. Coulson 1978: 50–52.

140 *aṣḥāb* (sg. *ṣaḥābī* – pl. also *ṣaḥb*, *ṣuḥbān*); in Islam they are considered reliable transmitters of the words and deeds of the Prophet, whereas their own deeds and statements are also worthy of imitation. See *EP*, s.v. 'ṣaḥāba' (M. Muranyi).

141 See, for example, *Mawsūʿa*, 2717 (Ibn Māja), 567 (al-Bukhārī), 1387 (Muslim).

142 Qur. IV: 32.

143 After unsuccessful attempts dating back to as early as 1897 and 1899, the *Majallat al-iltizamāt wa 'l-ʿuqūd* ('Code des obligations et des Contrats'), which was the first codified body of civil laws, was promulgated on 15 December 1906 (followed by a Penal Code in 1913). See A. Morel 1911.

144 Qur. IX: 122.

145 Qur. XX: 114.

146 Qur. II: 238.

147 Qur. XVII: 34.

148 Qur. IV: 58.

149 Qur. IV: 93.

150 Qur. II: 179.

151 Qur. VII: 32.

152 Qur. LXV: 7.

153 Qur. XXVIII: 77.

154 Qur. VII: 33.

155 Qur. XXIV: 30–31.

156 *zīna*; this word, which occurs a number of times in the Qurʾān (most notably in the so-called modesty verses, that is, XXIV: 31; XXIV: 60), has been interpreted in a number of ways, ranging from physical beauty and decorative fineries to the uncovered parts (i.e. not ʿawra) of the body (the face, hands and feet), or even jewellery, make-up and clothing.

157 Qur. XXIV: 31. Also see note 12.

158 This sentence and the two preceding ones are injunctions contained in Qur. XXIV: 31 (though not in the same order and in exactly the same wording, except for the reference to the children).

159 Qur. XXIV: 31.

160 Qur. *ibid*.

161 The Arabic *al-amr wa 'l-nahy* in this context is a reference to a basic religious injunction of 'commanding what is lawful and prohibiting what is hateful' (*al-amr bi 'l-ma'rūf wa 'l-nahy ʿan al-munkar*).

162 Qur. XXIV: 31.

- 163 ʿAbd Allāh Ibn Masʿūd (d.833) was one of the closest companions of the Prophet Muḥammad and the sixth Muslim who converted to Islam. One of the earliest Qurʾān reciters, he is also reported to have been present at many revelations to the Prophet Muḥammad.
- 164 ʿAbd Allāh Ibn ʿAbbās (d. 687/688?) was a cousin of the Prophet Muḥammad and one of his Companions. He was considered an expert in its exegesis, as well as an authority on the *Sunna*. He is considered a very reliable *Ḥadīth* source.
- 165 Abū ʿAbd Allāh Mālik b. Anas (d. 796) is one of the most famous *Ḥadīth* transmitters and jurists. He is the founder of a law school (*madhhab*) that bears his name. He was born in Medina, where he spent most of his life teaching. He also wrote *al-Muwattaʿa* (‘The Levelled Path’), which is considered one of the most authoritative books on Muslim law (*fiqh*). The Mālikī school is followed in Central and West Africa and in the Maghrib (it was also the leading *madhhab* in Muslim Spain). In Tunisia, both the Mālikī and Ḥanafī *madhhabs* enjoyed equal status. See *EP*², s.vv. ‘Mālik b. ʿAnas’ (J. Schacht), ‘Mālikiyya’ (N. Cottart).
- 166 Pl. *nuqub*, *anqiba*; this is a type of veil covering the entire face or, in some cases, leaving only the eyes free. It is particularly common in the Arabian Gulf countries. In Western media this is often erroneously referred to as *burqa*^c (also *burqu*^c), which, in fact, is a particular type of head dress traditionally worn by Bedouin women in the Near East. The latter may also cover the entire face except for a small region about the eyes, which is covered by a concealing net or grille. At present, the *burqa*^c is most associated with countries such as Pakistan and Afganistan. See R. Dozy 1845.
- 167 Qur. XXXIII: 59.
- 168 Qur. XXIV: 31.
- 169 *munāfiqīn* (sg. *munāfiq*), ‘hypocrites’, refers to those who profess Islam only outwardly, concealing their unbelief (*kufīr*). Cf. Qur. LXIII: 1, IV: 145.
- 170 Nāṣir al-Dīn. ʿAbd Allāh B. ʿUmar al-Bayḍāwī (d.716). Shāfiʿī jurist and theologian, whose prolific output included works on law, theology, Qurʾān exegesis and grammar. The book from which al-Ḥaddād quotes, *Anwār al-tanzāl wa-asrār al-taʾwīl*, is primarily an amended and condensed edition of al-Zamakhsharī’s *Kashshāf*. *EP*², s.v. ‘al-Bayḍāwī’ (J. Robson).
- 171 Al-Bayḍāwī 2003: IV, 370.
- 172 Qur. XXIV: 27–28.
- 173 *mulk al-yamīn*; lit. means ‘what is held by the right (hand)’, that is, ‘possessions’, and in practice referred to concubines. Cf. Qur. XXIV: 58.
- 174 Qur. XXIV: 58.
- 175 Qur. XXIV: 60.
- 176 Qur. XXIV: 61.
- 177 Qur. VII: 32–33.
- 178 *ḥūr* (sg. *ḥūrīyya*), are the virgins promised to the Believers; the form commonly used in English (as well as other European languages), ‘houri’, in fact, derives from the Turkish (sg.) *hūrī*. They are mentioned numerous times in the Qurʾān. Cf. *EP*², s.v. ‘ḥūr’ (A. J. Wensinck/[Ch. Pellat]).
- 179 Cf. , for example, al-Abshihī 1999: I, 401.
- 180 Qur. IV: 19.
- 181 Qur. IV: 7.
- 182 Qur. IV: 11.
- 183 Qur. IV: 12.
- 184 Qur. IV: 11.
- 185 Qur. IV: 12.
- 186 Al-Jāḥiẓ n.d.: I, 346.
- 187 Qur. IV: 34.
- 188 Qur. II: 228.

- 189 Qur. IV: 11.
- 190 *khamr* (pl. *khumūr*), which is the common word for ‘wine’ in Modern Standard Arabic, though it can already be found in early Arabic poetry. It has, however, in its history also been used as a generic for ‘intoxicating beverages’, as was the case with the equally classical *nabīdh*. Only *khamr* is mentioned in the Qur’ān (II: 219, V: 90, V: 91, XII: 36, XII: 41, XVI: 69, XLVII: 15). Cf. ‘*khamr*’, *EF*¹ (A. J. Wensinck), *EF*² (A. J. Wensinck – J. Fadan); ‘*nabīdh*’, *EF*¹ (A. J. Wensinck), *EF*² (P. Heine); S. Elatri 1974: 337–338 (for the etymology of the word *khamr*).
- 191 Qur. IV: 92.
- 192 A form of oath when a man declares that his wife is like his mother: *anti ‘alayya ka-zahrī ummī* (‘You are to me like my mother’s back’). Before a man is able to return to his wife, he has to free a slave (cf. Qur. LVIII: 4). This was a common practice in pre-Islamic times but it was denounced in Islam.
- 193 Qur. LVIII: 3.
- 194 Qur. XXIV: 33.
- 195 Qur. LVIII: 3.
- 196 Qur. XC: 13.
- 197 Qur. XLVII: 4.
- 198 Qur. XXIV: 33.
- 199 Qur. XXIV: 32.
- 200 Qur. IV: 25.
- 201 Qur. *ibid*.
- 202 Qur. *ibid*.
- 203 The battle of Khaybar was fought in the year 629 between Muslims and Jews who were living in the Oasis of Khaybar some 95 miles from Medina. See, for example, W. Montgomery Watt 1956: 36, 51–54, 212, 217–219, 256.
- 204 Ṣafiyya Bint Huyayy was a Jewish widow captured in the battle of Khaybar, after which the Prophet Muḥammad married her. Her father was Huyayy Ibn Akḥṭab, the former chief of the Banū Nadīr, who had been killed before the battle.
- 205 Juwayriyya Bint al-Ḥārith. Her father was the head of the Banī al-Mustaliq tribe of Khuzā’a. She was a widow who was a wartime captive but later freed by the Prophet, whom she then married.
- 206 She was a Coptic slave, sent to the Prophet Muḥammad by a Byzantine official in Egypt. She was the mother of the Prophet’s short-lived son Ibrāhīm.
- 207 Qur. XLIX: 13.
- 208 The word *zinā* or *zinā’* means ‘fornication’ or ‘unlawful sexual intercourse’ between a man and a woman who are not married to each other, or in a lawful relationship (e.g. ownership-based concubinage). The male fornicator is called *al-zānī* and the female partner is *al-zānīyya*. *Zinā* is a punishable sin, but requires four witnesses to provide testimony. There are various verses in the Qur’ān regarding Islam’s view of *zinā* as a sin (e.g. XXIV: 2, XVII: 32, VII: 33). The punishment of stoning is enforced by the *sunna*, and is based on a number of ḥadīths, one of which reportedly goes back to the second caliph ‘Umar Ibn al-Khaṭṭāb, claiming that there was actually a ‘stoning verse’ (*āyat al-rajm*) in the Qur’ān but that it was omitted in the final redaction. See J. Burton 1978; *idem* 1994: 83; *EF*², s.v. (R. Peters).
- 209 Here al-Ḥaddād uses the word *fāḥisha* (‘abomination’, ‘depravity’) which is used particularly in reference to adultery and fornication. It is also mentioned in the Qur’ān to refer to homosexual practices (e.g. Qur. IV: 80).
- 210 Qur. XVII: 32.
- 211 Qur. VII: 33.
- 212 *al-rushd* (< *rashada*, ‘to be on the right way’, ‘to be well guided’). This is usually used in the expression *sin al-rushd*, which denotes full legal age (cf. *balagha rushdahu*, ‘to come of age’).
- 213 Qur. XXIV: 2.

- 214 See note 208.
- 215 *nasakha*; this is a core concept in the various stages in the redaction of the Qurʾān, with certain verses being abrogated by new ones, as they were revealed to the Prophet. The abrogated (or withdrawn) one being known as the *mansūkh*, and the one that supersedes it, *nāsikh*. This principle, which is also applied to *Ḥadīth*, has allowed the resolution of seemingly contradictory conjunctions and revelations.
- 216 *wa 'l-shaykh wa 'l-shaykha fa 'urjumūhumā*. The use of the words *shaykh* and *shaykha* has also given rise to speculation since it could also be interpreted as 'elderly men and women'!
- 217 This is a reference to Māʿiz Ibn Mālik, a companion of Prophet Muḥammad who admitted to *zinā* and was stoned to death. There are various *Ḥadīths* regarding this particular story; cf. for example, *Mawsūʿa*: 978 (Muslim), 1545–1546 (Abū Dāwūd).
- 218 The author likens the difficulty in establishing with certitude the act of *zinā* to 'inserting the *mirwad* (a very fine pencil or a stick used to apply kohl) in the kohl jar (*mikhala*)'.
- 219 Qur. XXIV: 4.
- 220 *Liʿān* is an oath of condemnation in Islamic law, which gives a husband the possibility of accusing his wife of adultery without legal proof and without his becoming liable to the punishment prescribed for this. It has also been used in the past as a means of denying paternity for a child born to the wife.
- 221 Qur. XXIV: 19.
- 222 Qur. XXIV: 23.
- 223 al-Bayhaqī 1994: VIII, 31.
- 224 Baltajī 2000: 283.
- 225 This is a reference to a celebrated *ḥadīth* on a woman from the tribe of Ghāmid generally known as *al-marʾa al-Ghāmidīyya* ('The Ghāmidī Woman'); cf. *Mawsūʿa*, 978 (Muslim), 1547 (Abū Dāwūd), 1796 (al-Tirmidhī).
- 226 In this case, it, of course, clearly refers to 'adultery'. It is interesting to point to the discrepancies that existed in French law regarding the punishment of adultery (until 1975), with the woman being liable for a term of imprisonment between 3 months and 2 years, whereas a husband committing adultery simply had to pay a fine, and then only if he had brought his mistress to the spousal residence.
- 227 The author makes a rather tenuous point here, not wholly devoid of sophistry; while French law did not mention these people in connection with adultery, it was illegal to have sexual intercourse with them and, thus, adultery!
- 228 The original has 'Saxon nations like those of the Germans and the English' (*al-umam al-Saksūniyya ka 'l-ʾAlmān wa 'l-Inqliz*), with the rather bizarre 'Saxon' of course being a corruption of the French *anglosaxon*, which, strictly speaking, however, only denotes the English-speaking countries.
- 229 *Ṣanādīq al-iʿāna* ('assistance boxes') is a calque of the French *caisses de secours* (*social*).
- 230 For this *ḥadīth*, see *Mawsūʿa*, 2296 (Abū Dāwūd), 2587 (Ibn Māja).
- 231 The author uses a well-known Arabic saying *taraka 'l-ḥabl ʿalā 'l-ghārb* ('to give free rein to someone or to something').
- 232 This is, of course, a clear reference to the fact that, in addition to encouraging immigration, incentives were given to existing French colonists to have larger families.
- 233 See note 128.
- 234 For this *ḥadīth*, see al-Alūsī 2004: XVIII, 287.

2 Marriage in Islam

- 235 The Arabic word for marriage is *zawāj* or *nikāḥ*, the latter being derived from the verb *nakāḥa* ('to have sexual intercourse'); cf. Qur. II: 230. *Nikāḥ* is also used to denote the marriage contract (cf. *ʿaqd*, *ʿaqd qirān*).

- 236 Qur. XXX: 21.
- 237 Qur. II: 228.
- 238 Qur. IV: 1.
- 239 Qur. IV: 19.
- 240 Qur. IV: 6.
- 241 *zāwiya* (pl. *zawāyā*); literally meaning ‘corner (of a building)’, it denotes a small mosque or prayer room erected over the tomb of a local saint and was commonly associated with a Sufi brotherhood (*ṭarīqa*). It is often surrounded by a cemetery and serves as a shrine or place of pilgrimage. They are found exclusively in North Africa and Egypt. Administratively, the *zāwiya* falls under a *shaykh*, who is sometimes the descendant of the saint buried in the *zāwiya*. See ‘*zāwiya*’, *EI*¹ (E. E. Lévi-Provençal), *EI*² (H. G. Katz/C. Hamès); O. Depont and X. Coppolani 1897.
- 242 This is a reference to the following verse: “Why, is he better who founded his building upon the fear of God and His good pleasure, or he who founded his building upon the brink of crumbling bank that has tumbled with him into the fore of Gehenna? And God guides not the people of the evildoers.” (Qur. IX: 109–110).
- 243 Qur. II: 228.
- 244 Muḥammad Ibn Idrīs al-Shāfi‘ī (d. 819) was a jurist and traditionalist. Originally a pupil of Mālik Ibn Anas, he later established his own *madhhab*. He was the first to compile the sources of law in his renowned *al-Risāla* (‘The Message’). His *madhhab* is popular in Egypt, parts of Central and South East Asia see ‘al-Shāfi‘ī’, *EI*¹ (Henning), *EI*² (E. Chaumont); *EI*² s.v. ‘al-Shāfi‘iyya’ (E. Chaumont); J. Schacht 1975; idem, 1966: 45ff., 58ff.
- 245 Derived from the verb ‘*adda*’ (‘to count, enumerate’, that is, days or menstruations), this legal term strictly speaking refers to the period of abstention from sexual relations imposed on a widow or a divorced woman, before she may remarry. The main reason behind this practice is the need accurately to determine paternity. Interestingly enough, the period is calculated differently, depending on whether it involves widows or divorced women (or those whose marriage has been annulled); for widows, the period is four months and ten days, for divorcees the period is that equalling three menstrual cycles. Cf. Qur. II: 228, 234; *EI*² s.v. ‘*idda*’ (Y. Linant de Bellefonds).
- 246 Qur. II: 233
- 247 The Arabic *al-‘ā’ilāt al-kabīra* (‘large families’) is a calque of the French ‘*les grandes familles*’.
- 248 It is interesting to note that the author uses the Arabic word *al-izdiwāj* (‘coupling’).
- 249 This term denotes an oath taken by a man to abstain from having sexual intercourse with his wife for a period of time. When *ilā’* occurs a man is not permitted to have sexual intercourse with his wife for a period of four months see (Qur. II: 226–227).
- 250 Qur. II: 226–227.
- 251 This technical term is generally used in *fiqh*, the Qur’ān and *Ḥadīth* for sexual intercourse. See *EI*², s.v. ‘*bāh*’ (G. H. Bousquet).
- 252 The author use the word *ta’mīr* (‘filling, construction’), which is rather unusual in this context, in preference to the more common words *tanāsul* or *takāthur*.
- 253 *Vide ante*.
- 254 *Ahl al-Kitāb*; this Qur’ānic phrase (cf. for example, II: 105, 109; III: 64–65, 70–72, 75) refers to the revealed faiths (i.e. Islam, Christianity and Judaism) but in practice denotes Jews and Christians (as well as Samaritans), but not Christian Arabs. The adjectives *kitābī* (f. *kitābiyya*) are also sometimes used in this context to denote an individual from among the People of the Book. Also see ‘Ahl al-Kitāb’, *EI*¹ (Goldziher), *EI*² (G. Vajda).
- 255 Qur. V: 5. On the issue of lawful food, see M. Cook 1984.
- 256 *Ajnabiyyāt* (sg. *ajnabiyya*; m. *ajnabī*/pl. *ajānib*), literally means ‘foreigners’; however, in practice, it in modern Arabic denotes almost exclusively Europeans, or the most representative group, which explains why in the text the author sometimes uses the term to refer to Frenchmen.

- 257 *Imtiyāzāt qunṣuliyya*; this refers to agreements entered into between Muslim rulers (most famously the Ottoman Empire) and European (Christian) states, granting the latter's subjects certain rights and privileges. They derived their name from the Latin *capitulum* ('chapter'), in reference to the form of these agreements. The use of the word 'consul' here is to be explained by the fact that he was in most cases the head of the community of nationals he represented, acting as judge, etc., whereas only the Ottoman Empire had foreign ambassadors. Other Muslim states were either vassals (and thus not entitled to an ambassador) or were not deemed politically important enough for such a post to be set up. Cf. B. Lewis 1969; D. Newman 2002a; *EP*², s.v. 'imtiyāzāt' (J. Wansbrough/H. Inalcik/A. K. S. Lambton/G. Baer).
- 258 *milla* (pl. *milal*); in the Qur'ān (e.g. VII: 86, XIV: 16), this word always means religion – Christian, Jewish (II: 114), as well as 'the True Faith' (XII: 38). Later on, it came to mean 'religious community', especially that of Islam, with *ahl al-milla* ('People of the Community') denoting Muslims, in contrast with *ahl al-dhimma*, that is, those of other religions living under the protection of Muslim rulers. In the Ottoman Empire, the word *millet* was used for the recognized religious communities (e.g. the Greek and Armenian Christians, the Jews) residing within the Muslim *umma*, as well as for the various Christian nations of Europe. See 'milla', *EP*¹ (F. Buhl), *EP*² (F. Buhl-[C. E. Bosworth]); *EP*², s.v. 'millet' (M. O. H. Ursinus); B. Lewis 1969: 334–335.
- 259 Cf. for example, al-Bayhaqī 1994: VII, 182.
- 260 Qur. IV: 3.
- 261 Qur. IV: 129.
- 262 Ra's al-Jabal is situated to the east of Bizerte (*Binzirt*), a city in the North of Tunisia, on the Mediterranean Sea. It is an important port, strategically situated near the narrowest part of the Mediterranean. Founded by the Phoenicians, its outer harbour was vastly improved and fortified during the occupation of the French, who also deepened the channel to the Lake of Bizerte. It was a German base in World War II and was heavily bombed (1943) by the Allies.
- 263 Qur. XXX: 52.
- 264 Qur. XXX: 6.
- 265 Qur. XXX: 53.

3 Prior to divorce

- 266 Cf. for example, *Mawsū'a*, 1383 (Abū Dāwūd), 2597 (Ibn Māja). Cf. Q. Amīn 1989: 400 (*Tahrīr al-Mar'a*).
- 267 Qur. IV: 19.
- 268 Qur. II: 231.
- 269 Qur. IV: 34.
- 270 Qur. IV: 34.
- 271 Qur. *ibid*.
- 272 Qur. IV: 35.

4 Divorce in Islam

- 273 Strictly speaking, this term means 'repudiation' (of a wife by a husband), which is done through pronouncing the phrase *anti ṭāliq* ('You are repudiated'). The word is derived from a root meaning 'to be freed from a tether'; the word *ṭāliq* can, indeed, mean either a repudiated wife or an untethered camel. See *EP*², s.v. 'ṭalāk' (J. Schacht–A. Layish); J. Nasir 1990.
- 274 Qur. II: 229.
- 275 Qur. II: 231.
- 276 Qur. II: 241.
- 277 Qur. XXXIII: 49.

- 278 Originally purchase money, the *mahr* (pl. *muhūr*) is viewed in Islamic law as an essential part of a legal marriage contract (*ʿaqd*), without which it would be null and void. It involves a ‘gift’ (money or property) by the groom to the bride, whose property it remains (cf. Qur. IV: 3, 20, 25, 34). Elsewhere, the author mostly uses *ṣadāq* (lit. ‘friendship’; pl. *ṣuduq, aṣdiqa*), which is synonymous with *mahr*. See *EP*², s.v. ‘mahr’ (O. Spies); J. Schacht 1964: 167ff.; N. Coulson 1978.
- 279 Qur. IV: 20–21.
- 280 Qur. IV: 19.
- 281 *Ṭalāq al-thalāt*, that is, if the formula (*vide ante*) has been pronounced three times.
- 282 Qur. II: 229–230.
- 283 In the past, men would use a slave or subordinate to act as the temporary husband. It is important to note, however, that even though al-Ḥaddād presents this practice as being fully condoned, it has been the subject of much controversy in all law schools, except the Ḥanafī, whereas a legist of the stature of Ibn Taymiyya (see note 365) declared such marriages invalid (though he was not followed in this by fellow Hanbalīs). See *EP*², s.v. ‘ṭalāq’ (J. Schacht/A. Layish).
- 284 Qur. II: 229.
- 285 Qur. II: 230.
- 286 *ghayr al-maʿṣūm*, ‘the non-infallible’, with *maʿṣūm* (<*ʿaṣama*, ‘to preserve’) being a technical term to denote inviolability under the protection by the laws of vendetta.
- 287 Cf. *Mawsūʿa*, 1376 (Abū Dāwūd), 2592 (Ibn Māja). The Arabic term used is *muḥallil*, that is, the person who contracts the temporary marriage, and thus makes the wife lawful (*ḥalāl*) again for the husband.
- 288 Qur. II: 225.
- 289 Qur. IV: 19.
- 290 See note 266.
- 291 Cf. for example, al-Qurṭubī 2005: IX, 327.
- 292 *Ihtirāf al-zinā*, lit. ‘the professional pursuit of fornication’.
- 293 *Mutadhawwiq*, which literally means ‘one who tastes’.
- 294 Qur. LIX: 2.
- 295 Qur. LI: 21.
- 296 Qur. LXXV: 14.
- 297 Qur. XXX: 21.
- 298 See note 266.
- 299 Cf. for example, Ibn Nujaym 1916: IX, 98.
- 300 Meaning ‘redemption, ransom(ing), sacrifice’, as well as ‘compensation’, this word is historically associated with the ransoming of prisoners (especially Muslims held captive by Christians). The sole occurrence of the word in the Qurʾān (XLVII, 4–5/4)) is related to the ransoming of prisoners taken by the Prophet’s armies.
- 301 This is a reference to the *mutca*, the ‘consolatory gift’ which the husband has to provide when the divorce takes place before the marriage has been consummated (see Qur. II: 237); see , *EP*² s.v. ‘ṭalāq’ (J. Schacht-A. Layish).
- 302 Qur. II: 241.
- 303 Qur. IV: 19.
- 304 Derived from the verb *khalaʿa* (‘to cast off, strip’), *khulʿa* as a legal term refers to the renouncement of the protection of the husband; by analogy with the basic meaning of *ṭalāqa* (see note 273), the idea that is conveyed is that of the woman casting off the bond that ties her to the husband, though it has also been linked to the concept of the wife being as a garment to the husband. The woman is held to pay a ransom (i.e. compensation) in the shape of property or money being delivered by her (or someone else) to the husband. E. Lane 1863–74: II, 789–90.
- 305 Qur. II: 229.
- 306 Qur. XXXIII: 49.
- 307 Qur. II: 237.

308 Qur. II: 236.

309 *Qiyās*; this technical term in Muslim jurisprudence derives from a root meaning 'to measure' and is one of the four sources – or 'pillars' – of Muslim law (*uṣūl al-fiqh*). It is achieved through *ijtihād* (independent deductive reasoning by a qualified legal scholar (the *mujtahid*)).

5 Opinions of Tunisian 'Ulamā' on woman and marriage

310 *ta'hiq al-ṭalāq*; literally meaning 'suspending of the divorce', this is a legal term that denotes a conditional pronouncement of the *ṭalāq*.

311 This word is a corruption of *sayyidī* ('my lord'), with *sayyid* (pl. *asyād, sāda, sādāt*), going back to a root meaning 'to rule'. Originally a term of address for a tribal chief, it later on became an honorific for descendants of the Prophet. In MSA *sayyid* is the term of address for a man, by analogy with the English 'Mr'. In North Africa, *sīdī* is a respectful form of address for a man, as well as an honorific for religious scholars. It is often also abbreviated to *Sī*.

312 Al-Ḥaṭṭāb b. 'Alī Bushnāq (1896–1984) was first-class *mudarris* at the Zaytūna. He was a judge in the Law Council and Hanafī muftī. After Independence he served as Advisor to the Appeal Court from 1952 onwards. Cf. M. Shammām 1996: 172–180.

313 'Uthmān b. Ḥamīda Ibn al-Khūja (1873–1933) was a Zaytūna-trained scholar and one of al-Haddād's teachers. After becoming a notary public ('*adl*'), he also taught at his alma mater, while reputedly continuing to practise his father's trade of a *shawwāshī* (chéchia maker). He even had a shop in the Medina of Tunis where his star pupil al-Haddād would often keep him company. He was not related to the well-known 'ulamā' family of the same name and which provided several *Shaykh al-Islām*. See A. Green 1978: 257 *et passim*; A. Khālid 1976: 40.

314 Literally meaning 'teacher', this word denoted a rank, for which there were three classes (in ascending order of importance).

315 *Ṣāhib al-faḍīla* ('holder of virtue') is a honorific used for high-ranking Muslim scholars (e.g. *muftīs*).

316 Muḥammad 'Abd al-'Azīz b. Yūsuf b. Aḥmad b. 'Uthmān (1886–1970). The son of a former Prime Minister, whereas his mother taught at the Bardo mosque. He was trained at the Zaytūna, where he was a pupil of Sālim Būḥājib (*vide ante*) and the Ṣādiqī college. In addition to teaching at both institutions, he was also a judge at the Mixed Property Court and later on became *muftī*, Mālikī *Shaykh al-Islām* and Minister of Justice. See A. Green 1978: 266 *et passim*.

317 Maḥkamat al-Dīwān.

318 See note 58.

319 *kabīr min ahl al-shūrā li 'l-madhhab al-Mālikī* ('a grandee among the People of Consultation in the Mālikī school of law'), with *shūrā* ('consultation'; also *mashūra, mashwara*) being a key concept in Islamic law, involving leading scholars proffering advice on matters of dogma (e.g. to judges). The concept goes back to the earliest days of Islam with the establishment of a small consultative body of prominent members of the Prophet's tribe (the Quraysh), whereas *shūrā* also underlies the lawfulness of calls for the introduction of parliamentary democracy in Muslim countries in the early modern period. See *EF*², s.vv. 'mashwara' (B. Lewis), 'majlis al-shūrā' (C. V. Findley), 'shūrā' (A. Ayalon).

320 Bilḥasan b. Muḥammad al-Najjār (1876–1952) was the son of a Mālikī muftī, and graduate of the Zaytūna, where he also taught since 1908. He became Mālikī *muftī* (1924) and imam of the Qunaytra Mosque. He was also a member of the Shādhilī Order. A. Green 1978: 273 *et passim*; M. Maḥfūz [n.d.]: V, 15.

321 A member of one of Tunisia's most prestigious 'ulamā' dynasties, Aḥmad b. Maḥammad Bayram (d. 1937) was the son of Maḥammad b. Muṣṭafā Bayram (d. 1900), who became *Shaykh al-Islām* in 1897. He was a graduate from the Zaytūna, where he

also taught for most of his career. He replaced his father as imam at the Sidi Yūsuf Mosque in Tunis and became *Shaykh al-Islām* in 1911 (1933); See A. Green 1978: 243 *et passim*.

- 322 Since the eighteenth century, the Tunisian *al-Majlis al-Sharʿī* (the supreme religious court) counted three Mālikī and three Ḥanafī *muftīs*, and was presided over by a Ḥanafī *muftī*. The senior *muftī*, known as the *bāsh muftī* ('Grand Mufti') enjoyed greater authority than his Mālikī counterpart since he represented the (Ottoman) state *madhhab*, and was sometimes referred to as *raʾīs al-fatwā* ('head fatwa issuer'), or *shaykh al-fatwā*. In official Tunisian parlance, the holder of the office of *bāsh muftī* was also referred to as *Shaykh al-Islām*, even though, strictly speaking, there was only one official *Shaykh al-Islām* in the entire Ottoman Empire, that is, the one in Constantinople, who was the ultimate religious authority, whereas the Provinces only had *muftīs*. In 1847, however, the Tunisian ruler Aḥmad Bey made the title official. Nevertheless, it remained a highly delicate issue, and the official investiture documents would continue to refer exclusively to *bāsh muftī*. See '*shaykh al-Islām*', *EP*¹ (J. H. Kramers), *EP*² (J. H. Kramers – [R. W. Bulliet] – R. C. Repp); A. Demeerseman 1978; A. Raymond [A. Ibn Abī 'l-Diyāf] 1994: II, 30–32, 35–36; R. Brunschvig 1965; M. Bayram V 1884–1893: II, 3, 6, 67, 124ff. *et passim*.
- 323 This is a reference to *Kanz al-Daqaʾiq* ('The Treasure of Minutiae') by Ḥāfiẓ al-Dīn Abū Barakāt al-Nasafī (d.1310). Born in Sogdiana (present-day Southern Uzbekistan and Western Tajikistan), this eminent Ḥanafī scholar and Qurʾān exegete is perhaps best known for his *Kitāb al-Manār fī Uṣūl al-Fiqh* ('The Book to Enlighten the Foundations of Law'). The *Kanz* was, in fact, a synopsis of his own law book, *Kitāb al-Wāfi*, which was modelled on the *Kitāb Hidāyat al-Muhtadī* ('Book of the Guidance of the Rightly Guided') by al-Marghinānī (d. 1197), which was, in turn, a commentary of this author's *Kitāb Bidāyat al-mubtadī* ('The Book of the Beginner's Beginning'). Al-Nasafī later composed a commentary on *Kitāb al-Wāfi*, aptly entitled the *Kitāb al-Kāfi*. The *Kanz* enjoyed great prestige for many centuries, with many scholars writing commentaries on it. See *EP*², s.v. 'al-Nasafī' (W. Heffening); *GAL*, II, 250–253, *GALS*, II, 263–268; Y. Sarkis 1924: 1852–1853; H. Khalifa 1835–1858: *passim*. For the passage (which is a paraphrase), see A. Al-Nasafī 1906: 96 (97).
- 324 *Al-Baḥr al-Rāʾiq fī Sharḥ Kanz al-Daqaʾiq* (The Clear Sea in the Commentary on the Treasure of Minutiae'), written by the renowned Cairo-born Ḥanafī scholar and legist Zīn al-ʿĀbidīn Ibn Nujaym al-Maṣrī (1520–1563), commonly known as Ibn Nujaym. This book is undoubtedly the most famous of the many commentaries written on al-Nasafī's *Kanz al-Daqaʾiq* (see note 323). A prolific author and issuer of *fatwās*, Ibn Nujaym's fame mainly rests on his *al-Ashbāḥ wa al-Nazāʾir*, which was patterned on the homonymous book by the polymath Jalāl al-Dīn al-Suyūṭī (1445–1505). See *EP*², s.v. 'Ibn Nudjajm' (J. Schacht); Y. Sarkis 1924: I 265; *GAL*, II, 252, 401; *GALS*, II, 266, 425. For the passage quoted see Ibn Nujaym 1916: VIII, 80.
- 325 Abū ʿAbdallāh Muḥammad Ibn al-Ḥasan Ibn Farqad al-Shaybānī. (d. 805) was born in Wāsit and grew up in Kūfa. He was a pupil of Abū Ḥanīfa for a short period of time. He is credited with making a large contribution to the composition of *al-Muwattaʾa* by Mālik, who greatly admired him. See ʿU. Kaḥḥāla n.d.: IX, 207–208; Y. Sarkis 1928: 1162–1163; *GAL*, I, 171–173; *EP*², s.v. (E. Chaumont).
- 326 "*takūna ʿiṣmatuha bi-yadihā*", with *ʿiṣma* referring to 'matrimonial authority'; 'to be someone's *ʿiṣma*' means 'to be in someone's protection'. This concept lies at the very heart of marriage as it is understood in Islam, i.e. as a contract by which a woman places herself under the protection of the husband (cf. *ʿiṣmat al-nikāḥ*, 'bond of marriage'). As a legal term, *ʿiṣma* is also used to denote 'immunity from error and sin' (cf. *EP*², s.v. '*ʿiṣma*' (E. Tyan-W. Madelung).
- 327 *vide ante*.
- 328 See al-Ṭabarī 1997: IV, 532; al-Qurṭubī 2005: V, 97.

- 329 Shams al-Dīn al-Quhistānī (d.1543) was a famous Ḥanafī legal scholar, and the author of *Jāmiʿ al-Rumūz fī sharḥ al-Niqāya*, which is a commentary on *al-Niqāya mukhtaṣar al-Wiqāya* by ʿAbd Allāh b. Masʿūd, Ṣadr al-Sharīʿa (d. 1346). The latter book was itself a commentary on *Wiqāya al-Riwāya fī Masāʾil al-Hidāya*, the Ḥanafī legal manual written by Ṣadr al-Sharīʿa's grandfather, Ṣadr al-Sharīʿa 'The First'. See ʿU. Kaḥḥāla n.d.: IX, 179, 278; al-Zirikli 1954–1957: II, 544; Y. Sarkis 1928: 1533–1534.
- 330 This is a reference to *Badāʾiʿ al-ṣanāʾiʿ fī tartīb al-sharāʾiʿ* by ʿAlāʾ al-Dīn Abū Bakr al-Kāsānī (d. 1189), who earned the sobriquet of 'King of Scholars' (*Malik al-ʿulamāʾ*) and is considered one of the greatest jurists of the Ḥanafī law school. See ʿU. Kaḥḥāla n.d.: III, 75–6; *GAL*, I, 375; *GALS*, I, 643; *EI*², s.v. 'al-Kāsānī' (W. Heffening-Y. Linant de Bellefonds).
- 331 Qur. XXIV: 30.
- 332 Qur. XXIV: 31.
- 333 *Vide ante*.
- 334 *Vide ante*.
- 335 Qur. XXIV: 31.
- 336 Qur. XXIV: 31.
- 337 Qur. XXXIII: 59.
- 338 The term *jilbāb* (pl. *jalābīb*) refers to any long loose-fitting garment worn by some Muslim women. The modern *jilbāb* covers the entire body, except for the hands, feet, face and head. In some countries (e.g. Indonesia), the word *jilbāb* denotes a headscarf rather than a long loose overgarment.
- 339 Qur. XXX: 59.
- 340 Qur. XXXIII: 53.
- 341 Qur. XXXIII: 32.
- 342 ʿUmar Ibn ʿAbd al-ʿAzīz (d.720), was the fifth Caliph of the Umayyad dynasty. He spent his early life in both Medina and Egypt where his father was a governor of Hulwān. He is considered a paragon of piety and justice. His mother was a granddaughter of ʿUmar Ibn al-Khaṭṭāb (see note 344).
- 343 Khurāsān (Khorasan) is a region located in north eastern Iran. It corresponds to the historical Traxiane, which, however, covered a much larger area.
- 344 ʿUmar Ibn al-Khaṭṭāb (d. 640) the second of the Prophet's successors, and thus one of the four so-called 'Rightly Guided Caliphs' (*al-khulafāʾ al-rāshidūn*). He had a reputation of being very harsh in his judgements and rulings.
- 345 Qur. IV: 32.
- 346 Qur. II: 229.
- 347 Qur. IV: 35.
- 348 *Nikāḥ al-muʿa* (also *zawāj al-muʿa*), with *muʿa* literally meaning 'enjoyment'. This is a marriage contracted for a limited period – ranging from a couple of days to several years – (and for a certain sum of money) for the purpose of making sexual intercourse lawful. It is commonly associated with the Shīʿa and is still common in Iran to this day. The lawfulness of *muʿa* is predicated on Qur. XXIV: 4 (which, interestingly, is also adduced by Sunnis since it forbids marriage for lust, which is the essential purpose of a *muʿa* union). Sunnis do, however, accept the so-called *zawāj ʿurfī* (>*ʿurf*, 'custom'), which is essentially a marriage without an official contract, though the agreement is written on a piece of paper and signed by two witnesses. From a religious point of view, a *zawāj ʿurfī* is lawful since it meets most of the conditions of a normal marriage contract. Most of the time, however, they are kept secret and women enter into them without the protection of a guardian. In practice, both *zawāj al-muʿa* and *zawāj ʿurfī* have a common objective, which is to allow couples to have a lesser form of relationship than marriage and engage in lawful sexual activity. Finally, it must be added that these types of marriages are not recognized in a number of Muslim countries. Another type of relationship close to *muʿa* is the so-called *misṣyār*, which is practised especially in Egypt and Saudi Arabia and is

a kind of modern-day concubinage, except that the man is neither responsible for maintenance, nor does the couple have to live together. Indeed, in a number of cases, the 'wife' may continue to live with her parents, with fixed 'visiting rights' for the 'husband', who usually has a legal family somewhere else. See *EP*², s.v. 'mut'a' (J. Schacht); J. Dammen McAuliffe 2001–2005: III, 278.

349 Cf. al-Bājī 1999: IV, 346.

350 Qur. II: 228.

351 Qur. IV: 32.

352 Umm al-Shifā' or al-Shifā' a companion of the Prophet. She was among the very few literate women in the Quraysh, and is credited with teaching one of her fellow wives, Ḥaḥṣa, to read and write. She died after having been poisoned.

353 Muḥammad 'Abd al-Malik b. Ayman b. Faraj al-Qurtubī (866–942) was a famous legal scholar, best known for his *Muṣannaf fī 'l-sunan 'alā taṣnīf Abī Dāwūd*. See 'U. Kaḥḥāla n.d.: X, 255.

354 See note 165.

355 See al-Bājī 1999: IV, 346.

356 Qur. XXIV: 30.

357 Qur. XXIV: 31.

358 'Iyād b. Mūsā b. 'Ayyād b. 'Amrūn al-Yaḥṣubī al-Sabtī al-Qāḍī (d. 544/1149) was a famous jurist, traditionalist and renowned Mālikī judge. He studied in his home town of Ceuta and then went to Spain to further his knowledge. His most famous book, which is on Mālikī doctrine, is entitled *al-Shafā'a bi ta'rīf ḥuqūq al-Mustaḥaqqa*. See 'U. Kaḥḥāla n.d.: VIII, 16–17; *EP*¹, s.v. 'Iyād b. Mūsā' (M. Ben Cheneb); *GAL*, I, 369ff.; *GAL*, II, 700.

359 Muslim b. al-Ḥajjāj (d. 261/875), author of a famous and authoritative *ḥadīth* collection, entitled *al-Jāmi' al-Ṣaḥīḥ* ('The Sound Collection'). The book is one of the six canonical collections (*al-kutub al-sitta*, 'the six books'), the others being *al-Jāmi' al-Ṣaḥīḥ* by al-Bukhārī (256/870), the *Kitāb al-Sunan* ('The Book of Norms') by Abū Dāwūd al-Sijistānī (275/889), *al-Jāmi' al-Ṣaḥīḥ* by Muḥammad b. 'Īsā Tirmidhī (279/892), the *Kitāb al-Sunan* by Aḥmad b. Shu'ayb al-Nasā'ī (d. 303/915) and the *Kitāb al-Sunan* by Ibn Māja (see note 362).

360 See note 449.

361 See *Mawsū'a*, 914 (Muslim), 1377 (Abū Dāwūd), 2589 (Ibn Māja).

362 'Abd Allāh Muḥammad Ibn Yazīd Ibn Māja al-Rabā'ī al-Qazwīnī (d. 273/887). A scholar and compiler of the last of the canonical *ḥadīth* collections. His collection was considered the least reliable (as shown by the limited number of commentaries devoted to it), and in some areas (e.g. the Maghrib), it was not even recognized. Cf. *GAL*, I, 163; *GALS*, I, 270; *EP*², s.v. 'Ibn Mādjā' (J. Fück).

363 See, for example, *Mawsū'a*, 2299 (al-Nasā'ī), 2589 (Ibn Māja).

364 Damascus-born Ḥanbalī jurist and theologian (d. 751), and some time pupil of Ibn Taymiyya (see note 365).

365 Taqī al-Dīn Aḥmad Ibn al-Ḥalīm Ibn Taymiyya (728–1328) was a Ḥanbalī jurist and theologian. He had the single most important influence on Muḥammad 'Abd al-Wahhāb (d. 1792), the founder of Wahhābism, which is the state school of law in Saudi Arabia.

366 Qur. IV: 130.

367 Qur. II: 229.

368 Qur. II: 236.

369 Qur. IV: 35.

370 Cf. Mālik 1988.

371 See *Mawsū'a*, 50 (al-Bukhārī).

372 Qur. II: 228.

373 Qur. IV: 34.

374 Qur. IV: 19.

375 See *Mawsūʿa*, 2588 (Ibn Māja).

376 Qur. II: 233.

377 Also known as Umm Salāma, she was a companion of the Prophet and *ḥadīth* narrator. She was distinguished for her sagacity and nicknamed *Khaṭībāt al-Nisāʾ* ('Orator of women'), whereas she is also praised for her bravery during the battle of Yarmūk. Cf. Ibn Ḥajar al-ʿAsqalānī 1856–1888: IV, 445–446; al-Ziriklī 1954–1957: I, 300.

378 Commonly rendered as 'Holy War', *jihād* in fact denotes an effort aimed at bringing the believer closer to God (by performing moral deeds). As such it in law refers to military action in order to expand Islamic territory and/or defend it, which is a religious duty (*farḍ*). For an overview, see R. Peeters 1996.

379 Also known as the 'Lesser Pilgrimage' (*al-ḥajj al-ṣaḡīr*), it involves a smaller number of ceremonies than the *hajj* and is completed in one day.

380 For this *ḥadīth*, see al-Bayhaqī 1990: 253.

381 The theologian and founder of the *madhhab* that bears his name, Aḥmad b. Muḥammad b. Ḥanbal (780–855), known as Ibn Ḥanbal, was born in Baghdad, where he also died. He is most famous for a collection of *ḥadīth*, entitled *al-Musnad*, which were recorded (and expanded) by his son ʿAbd Allāh. The Ḥanbalī *madhhab* is the official school in Saudi Arabia. See *EP*, s.v. 'Aḥmad b. Muḥammad b. Ḥanbal' (Goldziher); *EP*, s.vv. 'Ḥanābila' (H. Laoust), 'Aḥmad b. Ḥanbal' (E. Laoust); N. Coulson 1978: 71–73 *et passim*.; J. Schacht 1966: 63ff., 66f.

382 Muḥammad Ibn Jarīr al-Ṭabarī (d. 923) was a historian and religious scholar. He is best known for his monumental chronicle *Tāʾrīkh ar-Rusūl waʾl-Mulūk* ('The History of Prophets and Kings').

383 Literally meaning 'preserver' (<*ḥāfaẓa*, 'to keep'), this term (pl. *al-ḥuffāẓ*, *ḥafaza*) denotes someone who has memorized the Qurʾān. In the past, it was a common honorific applied to religious scholars (most of whom did, of course, live up to the title!).

384 The Damascus-born Shams al-Dīn al-Dhahabī (d. 1348?) is best known as a *ḥadīth* scholar and jurist. The full title of the work mentioned here is *Mīzān al-ʿItidāl fī Naqd al-Rijāl* ('The Balance of Moderation in the Criticism of Men'). See *GAL*, II, 46–48; *GALS*, II, 45–47; *EP*, s.v. 'al-Dhahabī' (M. Bencheneb-[J. de Somogyi]).

385 A member of a veritable dynasty of scholars in Damascus, ʿAbd al-Raḥmān b. ʿAbd Allāh al-Dimashqī (1155–1223) was a Shāfiʿī jurisconsult, known as Ibn ʿAsākir (or Fakhr al-Dīn). He is most famous for his book on the virtues of 'The Mothers of the Believers', *Kitāb al-Arbʿaʿīn fī Manāqib Ummahāt al-Muʾminīn*. He was the nephew of the famous historian of Damascus, the historian of ʿAlī Ibn ʿAsākir (1105–1176). See ʿU. Kaḥḥāla n.d.: V, 172–173; *EP*, s.v. 'Ibn ʿAsākir' (N. Elisséeff); *GAL*, I, 331; *GALS*, I, 566.

386 See Ibn Ḥajar al-ʿAsqalānī 1856–1888: IV: 490 (par. 110).

387 Baraka bint Thaʿlaba bin ʿUmar al-Nuʿmān was a Companion of the Prophet. Hailing from Ethiopia (*Ḥabasha*), she was initially a slave belonging to the Prophet's father ʿAbd Allāh ʿAbd al-Muṭṭalib, and subsequently freed by the Prophet. See Ibn Ḥajar al-ʿAsqalānī 1856–1888: V, 833–837 (par. 1137).

388 Al-Rubayyaʿ Bint Muʿawadh; see Ibn Ḥajar al-ʿAsqalānī 1856–1888: IV, 574 (par. 313).

389 Qur. XXXIII: 59.

390 Qur. XXXIII: 59.

391 Qur. II: 236.

392 Cf. A. al-Nasafī 1906: 96.

393 This is, in fact, a typo in the text as the author to which al-Haddad refers is (Muḥammad b. al-Ṭalīb b. Sūda) al-Tāwudī (1716–1793), a Fez-born jurisconsult, who is best known as a commentator on numerous works of *fiqh*, including the *Tuḥfat al-ḥukkām fī nukat al-ʿuqūd waʾl-aḥkām* by Ibn ʿĀṣim (see note 404). We are grateful to Dr A. Khaled for pointing this out. On al-Tāwudī, see: ʿU. Kaḥḥāla n.d.: X, 96; Kh. al-Ziriklī 1954–1957: VII, 40; M. Makhlūf 1349: No. 1486.

- 394 ʿAbd Allāh Ibn ʿUthmān (d. 573) was the first of the four ‘rightly guided Caliphs’ (*vide ante*) and one of closest companions of the Prophet, who bestowed upon him the honorific *al-Ṣiddīq* (‘The Righteous One). One of the first converts, his daughter ʿĀʾisha was married to the Prophet.
- 395 This is the famous *Thūr* cave, situated some 4 km south of Mecca. The two men stayed there for three days, hiding out before continuing their journey to Medina. Cf Qur. IX: 40.
- 396 Qur. V: 3.
- 397 Qur. XCV: 4.
- 398 Qur. LIII: 13.
- 399 Qur. XLIX: 13.
- 400 Sg. *qayna* (pl. also *qaynāt*); etymologically related to a root which has also yielded ‘blacksmith’ (*qayn*, pl. *quyūn*), the word denoted a female singing slave, or a lady’s maid. See B. Lewis 1971; *EP*, s.v. ‘qayna’ (Ch. Pellat).
- 401 Abū ʿUthmān Ibn Baḥr al-Kinānī al-Baṣrī (d. ca 869) is generally regarded as one of the greatest Muslim scholars and intellectuals of his day. He was reportedly nicknamed al-Jāḥiẓ (<*jaḥaẓa*, to protrude (eyeball) because of his bulging eyes. Born in Basra from a poor family background, he moved to Baghdad in 816. His hugely prolific output included books on theology, philosophy, literature and history. Among his renowned books are *Kitāb al-Ḥayawān* (‘The Book of Animals’), *Kitāb al-Bukhālā* (‘The Book of Misers’) and *Kitāb ‘l-al-Bayān wa ‘l-Tabyīn* (‘The Book of Eloquence and Demonstration’).
- 402 A. Beeston 1980: 34 (English)/ 21 (Arabic); al-Jāḥiẓ 1988: 116.
- 403 A. Beeston 1980: 37 (English)/23 (Arabic); al-Jāḥiẓ 1988: 117–118.
- 404 This is a reference to the famous Andalusian Mālikī jurisconsult and philologist Muḥammad b. Muḥammad b. ʿĀṣim al-Gharnāṭī (1326–1359). He is best known for his which was written *urjūza* (a poem written in the *rajaz* metre) entitled *Tuhfat al-ḥukkām fi nukat al-ʿuqūd wa ‘l-ahkām*, a highly influential manual of Mālikī law. See ʿU. Kaḥḥāla n.d.: XI, 290–291; *EP*, s.v. ‘Ibn ʿĀṣim’ (J. Schacht); *GAL*, II, 264; *GALS*, II, 375; M. Makhlūf 1349: No. 891.
- 405 *ijtihād*, which literally denotes ‘exerting oneself’ is a technical term in Muslim law referring to the individual reasoning by qualified scholars (*mujtahid*) through analogy (*vide ante*) in order to find their own solutions to legal problems. This practice was very widespread in the first two centuries of Islam, but by the ninth century, there were calls to end it on the grounds that only the great minds of the past were equipped to do this, and thus the ‘door of *ijtihād*’ (*bāb al-ijtihād*) was closed. For an excellent discussion, see J. Schacht 1966; idem 1975.

6 Educating girls to be wives and mothers

- 406 Cf. *al-Ṣawāb*, 17 August 1928 (al-Ḥaddād 1999: I, 389).
- 407 The use of the word *mamlaka* in this context is rather interesting since the country was, of course, not a sovereign state, but a Protectorate (*ḥimāya*). In precolonial times, Tunisia was (nominally at least) an Ottoman province, and known as *iyāla* (Regency), and in official correspondence, Beys were very careful to avoid using *mamlaka* or to refer to themselves as *malik* (‘king’). In local documents, however, the term was commonly used in the nineteenth century (as the title of Khayr al-Dīn’s work reveals) and continued to be used under the Protectorate (for instance in the *Journal Officiel*), which shows the nationalistic connotation of the term. See A. Demeerseman 1966: 56–59; A. Ibn Abī ‘l-Diyāf 1963–1965: *passim*.
- 408 The Arabic *dūr* (sg. *dar*) *al-tijāra* (rather than the common *maḥall* or *dukkān*) reveals the influence from the French *maisons de commerce*.
- 409 The ‘chéchia’ (*shāshīya*) is the traditional Tunisian headdress (cf. CA *qalansuwa*), similar to the tarboush. It is worth pointing out that ‘to put on the *shāshīyya*’ is

- synonymous with ‘to put on the turban’, and in fact denotes the adoption of Islam. Cf. *EP*¹, s.v. ‘Turban’ (W. Björkman); R. Dozy 1845: 240–244; S. Ferchiou 1970: 33.
- 410 The *burnus* (pl. *barānis*) – also sometimes appearing as *burnūs* (pl. *barānis*) – is a large woollen hooded cloak worn by men. It is mainly associated with the Maghrib today. See *EP*², s.v. ‘libās’ (Y. K. Stillman); R. Dozy 1845.
- 411 In Tunisia, the *jubba* (pl. *jubab*, *jibāb*, *jabā’ib*) denotes a full-length, sack-like chemise without sleeves. See *EP*², s.v. ‘libās’ (Y. K. Stillman); R. Dozy 1845.
- 412 *ḥawālī* (sg. *ḥālī* > Tu. *halī*, ‘carpet’); a specific type of carpet with a traditional Turkish design.
- 413 *marāqīm* (sg. *marqūm*): a multicoloured hand-woven (ground) rug with geometrical patterns. Mergoums are typical all over the Eastern Sahara, from Southern Tunisia to the North of Chad.
- 414 *aklima* (sg. *kilim*, TCA *klim* > Tu. *kilim*, ‘rug’); a short-napped woollen carpet (traditionally made by the nomads of Southern Tunisia). Originally used to cover litters on camels or to split tents, *kilims* are nowadays used for decoration (both wall and floor). They come in many colours, while the patterns on them are usually triangular and rhomboid.
- 415 sg. *zurbīya* (or *zurbīya*); a type of ground rug.
- 416 *badāwī* (sg. *bādiya*); ‘nomads’.
- 417 It is interesting to note that the author uses the (very colloquial) borrowing *tāy*, rather than the more common word *shāy*.
- 418 The rather unusual *taqṣīr al-thiyāb* (‘shortening of clothes’; cf. Fr. *raccourcir des vêtements*), instead of the more common *khayyāṭa* (‘seamstress’) clearly indicates that it is work for foreign (esp. French) women.
- 419 *tarṭīb al-buyūt*, ‘arrangement of the houses’.
- 420 A similar situation is depicted in G. Amīn’s account (2003) of changes in Egyptian society during the latter half of the twentieth century. Interestingly enough, this is one of the passages cut from the English translation (2004), apparently at the insistence of the author (personal communication D. Wilmsen).
- 421 It is worth adding in this context that, like in other French colonies in North Africa (Morocco and Algeria), prostitution was rife in Tunisia, and came in the shape of brothels as well as street prostitution. From the dawn of the twentieth century, the practice was regulated by the authorities, mainly in an attempt to curb the incidence of syphilis, which by the 1920s had reached worrying proportions. The profession was organized along the hierarchical rules of colonial society, with Tunisian girls (both Muslim and Jewish), who constituted by far the largest group, being frequented primarily by Tunisian men, whereas the European women (the majority of whom were French and Italian) were reserved for Europeans and members of the Tunisian upper classes. See M. Larbi Snoussi 2001; M. Kerrou and M. M’halla 1993; M. Dinguizli 1920.
- 422 The Arabic original presents matters in much more graphic terms, referring to ‘the groping hands of wolves’ (*ayday al-dhi’āb al-khātifa*).
- 423 The original is rather cryptic here, referring to an abundance of *adawāt al-manāzil* (‘household effects’) and ‘their needs’ (*ḥājātuhum*).
- 424 This dialectal term (also *kantīn*) refers to places where alcohol (as well as food) was sold. This is most probably a borrowing from Italian; see B. Bakkouche 1994: 121, 138 (*kantīn*). Cf. Moroccan *kanṭīna* (Ibn Azzuz Haquīm 1953: 37) and Egyptian *kantīn* (S. Spiro 1895: 527 – though only in the military sense; E. Badawī and M. Hinds 1986: 766).
- 425 *ghūl* (pl. *ghilān*, *aghwāl*), a (usu. female) variety of *jinn* (see note 429), who were said to appear in a variety of guises, enticing men from their path in order to kill and devour them. See *EP*² s.v. ‘ghūl’ (D. B. MacDonald-[Ch. Pellat]); al-Qazwīnī 1849: 370ff.

- 426 *maskūn*, 'inhabited'.
- 427 *Jabal Qāf* instead of the more usual *Jabal al-Qāf*. In Muslim cosmology, this mountain range is thought to surround the world (cf. the mythical mount *Albruz* in the Iranian tradition which is on the edge of the world and home to the Gods). The myths about *Jabal al-Qāf* often co-occur with other conceptions relating to the supports of the earth, as indeed it does in the present text. See *EP*², s.v. 'Kāf' (M. Streck-[A. Miquel]); al-Qazwīnī 1849: I, 170; Yāqūt 1866–1873: I, 154; Ibn Rustah 1892: 23–24; Abū 'l-Fidā 1840: 19, 376.
- 428 The author uses *abnā'* (sg. *ibn*, 'son'), as opposed to the previous *ṣighār* (sg. *ṣaghīr*), 'little ones'. The former can denote both 'sons' and the generic 'children' (cf. *walad*, pl. *awlād*); however, as the emphasis here is on education in general, it must be interpreted as 'offspring' of both genders.
- 429 *Jinn* (coll., sg. *jinnī*), 'genie' (*djinn*, *jinn*), which refers to a type of ghost or spirit, created out of fire (cf. Qur. XV: 26–27). They are frequently mentioned in the Qur'ān (*sūra* 72 is almost entirely devoted to them) as well as in many folk tales (not least of which *The Thousand and One Nights*). Often said to be endowed with magical powers, the *jinn* of folklore can take on many shapes, while many people believe *jinn* are much like humans, possessing the ability to be good and bad. The *jinn* are part of popular beliefs mainly in North Africa and Egypt. The same root has also given us *maj-nūn*, 'mad' or 'madman' (i.e. one possessed by a *jinn*).
- 430 Cf. al-Ṣawāb, 31 August 1928 (al-Ḥaddād 1999: I, 398–400).
- 431 The author uses the French calque *takwīn* (*formation*), which, to this day, is used in Tunisia for 'training' and 'education' (cf. for example, *wizārat al-takwīn*, Ministry for Education, which in Eastern Arab countries is generally called *wizārat al-ta'lim*).
- 432 The Arabic literally translates as 'her sister' (*ukhtihā*), which is also a common term and reference of address in use among women (as *akh* – 'brother' – is among men).
- 433 This is a rather uncommon variant of the more usual *trāmway* (also *tramway*, *tramū*). In TCA *trunfāy* (< It. *tramvia*) the form also occurs. See D. Newman 2002b; T. Bakkouche 1984: 135; E. Badawi and M. Hinds 1986: 127; S. Spiro 1895: 71; M. al-Sanūsī 1976–1981: I, 186, 1891: 8, 11, 35, 90, 263; M. Ibn al-Khūja 1900: 43; A. Ilyās 1900: 63 *et passim*; M. Amīn Fikrī 1892: 119 *et passim*; M. Bayram V, 1884–1893: III, 24; J. Habeisch 1896: 890; J.-B. Belot 1868: 1521.
- 434 *'āla fī aydayihinna*, 'a machine in their hands'.
- 435 The Arabic refers to 'piercing' (*ta'ana*) the dignity of the husband, which is, of course, a thinly veiled allusion to adultery.
- 436 *tatalazzā 'alā 'l-jamr*, 'she is ablaze on live coal'.
- 437 Cf. al-Ṣawāb, 19 October 1928 (al-Ḥaddād 1999: I, 408–409).

7 The authority in the household

- 438 The syntax clearly reveals the influence of the French expression *du côté de* ('on the part of'), which results in the following rather un-Arabic constructions: *min jānib ahl al-rajul* ('from the side of the people of the man')... *fa 'l-ābā' wa 'l-ummahāt min al-jānibayn* ('and the fathers and mothers, of their part').
- 439 Cf. al-Ṣawāb, 29 June 1928 (al-Ḥaddād 1999: I, 359–363).
- 440 This practice is sanctioned by Qur. IV: 34, whereas one may also point to a link with the concept of the home being the woman's *bayt al-tā'a* ('House of Obedience').
- 441 A similar phrase can be found in the famous Qur'ān verse (XII: 28): 'This is of your women's guile; surely your guile is great.'
- 442 Cf. al-Ṣawāb 6 July 1928 (al-Ḥaddād 1999: I, 364–368).

- 443 *ḥawā'id* (sg. *ḥā'id*); the choice of this word is interesting, especially from one trained in the religious sciences, as one would have expected the more usual word for 'interest', that is, *ribā*, which is already mentioned in the Qur'an (II: 275; III: 130; XXX: 39), where it is expressly forbidden as it is associated with usury. For a detailed discussion of *ribā*, both in history and its current interpretations in international finance, see *EP*, s.v. '*ribā*' (J. Schacht, Abdullah Saeed).
- 444 The author uses the very loaded *ghanīma* (pl. *ghanā'im*), also sometimes referred to as *ghunm*, which is the traditional historical term for military spoils, and thus underscores the analogy with a 'raid' (*ghazw*) being carried out on the wife. Cf. *EP*, s.vv. '*ghanīma*' (F. Løkkegaard), '*fay*' (F. Løkkegaard).
- 445 *Ḥiyāl al-madhāhib al-shar'īyya* ('tricks of the law schools'). On *madhhab*, see note 138.
- 446 *darāhim* (sg. *dirham*); though strictly speaking simply a currency (though not the one in Tunisia, where in al-Ḥaddād's day, the currency was the French franc, whereas today it is the 'dinar'), the plural is commonly used to denote the generic 'money'. The cross-dialectal term in the Arabic-speaking world for 'money', *fulūs* is also a plural, that is, of *ḥils* (a small coin in use in Iraq and Jordan).
- 447 See note 304.
- 448 The Arabic *li-yabī' lahā' iṣmatahā* literally means 'to sell her protection'. On *ḥiṣma*, see note 326.
- 449 The author uses the legal term *ṭhayyib*, which denotes a divorced woman, or one who is no longer a virgin (whether deflowered legally or not, accidentally or not). Cf. E. Lane 1863–1874: I, 364; *EP*, s.vv. '*ḍjabr*' (Ch. Pellat).
- 450 *ahwā'* (*hawā'*, 'inclination of the soul', cf. Qur., VI, 151). This is a reference to unorthodox religious tenets, with *ahl al-ahwā'* ('the People of ahwā') being used in Sunnism for those whose views deviate from the general ordinances. Cf. *EP*, s.vv. '*Ahl al-ahwā'*' (I. Goldziher).
- 451 *sunnat al-zawāj*, with *sunna* having, of course, significant religious overtones.
- 452 Cf. *al-Ṣawāb*, 13 July 1928 (al-Ḥaddād 1999: I, 369–374).
- 453 The author uses the unusual *masarra*, 'something that gives pleasure (*surūr*)'; cf. the cognate *tasarrā*, 'to take as a concubine (*surriyya*)'.
- 454 The author uses the word *jināya*, which, in Islamic legal terminology, is an offence the importance of which exceeds that of a *janḥa* ('misdemeanour') and a *mukhālafā* ('infraction'). The cognate adjective, *jinā'ī*, translates as the generic adjective 'criminal, penal': for example, *al-qānūn al-'jinā'ī*, 'criminal law'.
- 455 The Arabic literally has 'there are many daughters of Eve in the world' (*wa banāt Hawwā' fi 'l-dunyā kathīr*).
- 456 Here, the author uses the word *khumūr*, which is the plural of *khamr* – the word exclusively used today for 'wine' (alongside the equally classical *nabīdh*) – and already appeared in this meaning in early Arabic poetry. The word is mentioned several times in the Qur'an (II: 219, V: 90, V: 91, XII: 36, XII: 41, XVI: 69, XLVII: 15). Cf. '*khamr*', *EP* (A. J. Wensinck – J. Fadan); '*nabīdh*', *EP* (P. Heine); S. Elatri 1974: 337–338 (for the etymology of the word *khamr*).
- 457 This is, of course, a reference to hashish, which was used widely.
- 458 The use of the terms is quite interesting here with the 'sociologists' being referred to periphrastically as '*ulamā' al-'umrān*', both of which have quite specific meanings, with '*ulamā'*' (sg. *ʿālim*, lit. 'one who knows') usually being reserved for Muslim (esp. religious) scholars, and the latter ('*umrān*') being associated with 'civilization'. The use of *rijāl tashrīʿī* ('men of legislation') for 'legislators' was, one may assume, chosen in order to mark a clear distinction between civil lawmakers (in this case the French colonial authorities) and Islamic law scholars, which would have been less effective if the author had used '*ulamā'*'.
- 459 This practice copied that instituted in France in the nineteenth century, following an increase in the number of syphilis cases. Indeed, to this day, married couples must

submit a medical certificate (*certificat d'examen médical prénuptial*) to the municipality before the banns can be published and the ceremony can take place.

460 It is revealing that the author should use the word *umma* (or rather its plural) in this context. Indeed, originally being restricted to the community of Muslims (under the leadership of a caliph) it had, of course, lost any real meaning with the dissolution of the Ottoman Empire, which was the last state to be able to lay claim to being a successor to the 'Abbāsīd and Ummayyad empires.

461 The Arabic *al-ṭabaqāt al-ʿāmila* is a clear calque of the French *les classes ouvrières*.

462 The Arabic *wa yaṣrifūna al-māl ayna taḥkum al-ʿāda*, should be corrected to *wa yaṣrifūna al-māl ḥaythu taḥkum al-ʿāda*.

463 Qur. LIX: 2.

464 Cf. *al-Ṣawāb* 13 July 1928 (al-Haddād 1999: I, 375–380).

465 *ḍarra* (pl. *ḍarāʾir* or *ḍarrāt*), which in the past was used sometimes interchangeably with *jāra* in everyday parlance. The problems attendant upon a polygamous household were, it seems, recognized very early on as witness the meaning of *ḍarāʾir* as 'discordant things or affairs'. See E. Lane 1863–1874: V, 1776.

466 The Arabic word *rammāl* is related to *raml* ('sand') in reference to the divination through figures in the sand.

467 *Mutadhawwiq*; *vide ante*.

468 *daraja*, lit. 'degree (in society)'.

8 Scenes from married life

469 Cf. *al-Ṣawāb* 3 August 1928 (al-Haddād 1999: I, 381–388).

470 The Arabic refers to *ṣurra* (pl. *ṣurār*), which denotes a traditional money bag, or purse.

471 Interestingly enough, the author uses the diminutive *ṣuḥayba* ('little female friend'), rather than the more usual *ṣāḥiba*.

472 *buyūt* (sg. *bayt*) *al-sinimā*; 'houses of the cinema'. This is arguably one of the first instances in Arabic literature that this borrowing is used.

473 The Arabic *aʿmāl kabīra* is a calque from the French '*grands travaux*'.

474 *ghilāl* (sg. *ghilla*) is the Tunisian equivalent for *fawākih* (sg. *fākiha*), which is the common term in the Middle East.

475 *funduq al-ghilla* ('the hall of fruit'). This is a market hall, which still exists and is located at the intersection of the Rue Charles de Gaulle and the Rue d'Allemagne in Tunis. The word *funduq* (pl. *fanādiq*), which in MSA is the usual term for 'hotel' (though in Tunisia *naẓl* is commonly used), was used in North Africa to denote a caravanserai, that is, a hostelry offering accommodation for travelling merchants as well as storage room for their wares (cf. *khān* in the Near East). See *EL*¹, s.vv. 'funduq' (A. S. Fulton), 'kārwān' (Cl. Huart); *EL*², s.vv. 'khān' (N. Elisséeff), 'funduq' (R. Le Tourneau), 'kārwān' (Cengiz Orlonhu); R. Brunschvig 1940: I, 413, 433, 435; M. Callens 1955; al-Fīrūzābādī [n.d.]: III, 287 ('funduq'), IV, 222 ('khān'); B. Lewis 1982: 121. The author had, of course, first-hand experience here since his father had a stand in the Fondouk and he, himself, had spent many an hour helping out.

476 The author uses *tāʿūn*, 'plague'.

477 *zuharī*; this is an adjective related to *Zuhara* (> *z-h-r*, 'to shine, be radiant'), the name of the planet Venus. Another more common term was *marāḍ Ifiranjī* ('the Frankish disease'), or its variant *balāʾ Ifiranjī* ('the Frankish affliction'), both of which go back to the Middle Ages. The terms have their origins in the fact that it was the Crusaders who reportedly imported the disease into the Near East. The expression was also used in Turkish as well as in Persian (*ableh Ferangī*, i.e. 'the Frankish pox'). As mentioned above, Tunisia witnessed an increase in the number of syphilis cases at the time al-Haddād was writing his book.

478 The Arabic *al-ʿajāʾiz al-mujarribāt* wa '*l-shuyūkh al-mujarribīn* literally translates as 'old female examiners and examining *shaykhs*'.

- 479 The Arabic *idārat al-ṣiḥḥa al-ʿamma* is a literal translation of the French ‘*administration de la santé publique*’.
- 480 The lack of the appropriate terminology at the time, and the delicate nature of the topic means the author has to settle on the very neutral *sharāk* (‘partnership’), though strictly speaking the appropriate form is *sharāka*.
- 481 *buyūt sirriyya*, ‘secret houses’.
- 482 *Daftar al-bighāʾ al-rasmī* (‘official prostitution register’); this administrative practice had been introduced by the French in the early years of the twentieth century. Though originally set up for law enforcement reasons, the register was also used to keep ‘medical’ tabs on the prostitutes and ensure they were regularly tested for venereal diseases (especially syphilis). Cf. Larbi Snoussi 2001.
- 483 *al-umam al-ḥayya*, ‘living nations’.
- 484 The original refers to ‘the development of manual work to work [involving] mechanical instruments (*al-ālāt al-mikānīkiyya*)’.
- 485 The Arabic phrasing is much more poetic, referring to ‘the old cloak (*thawb*) of our timidity which used to taint our faces red (*yaṣbaghu wujūhanā ḥamra*)’.
- 486 *Al-ḥayāt al-sāfira*, lit. ‘unveiled life’, with the unveiled state (*sufūr*) denoting freedom of restraint.
- 487 *maḥārim* (sg. *maḥram*) is a legal term, which denotes the relatives one cannot marry under Islamic law.
- 488 *qabāʾil al-mulaththamīn*, ‘tribes of those who wear the *lithām*’, that is, a small veil, typically worn in North Africa, covering the bottom half of the face. See R. Dozy 1845.
- 489 The author uses *bayn qawsayn* (‘between brackets’), which is a clear calque from the French *entre parenthèses*.
- 490 *fūṭa* (pl. *fuwat*); in Tunisian Arabic, this denotes a long skirt, which today is worn only for weddings (together with the *blouza*, a type of bustier – both items making up the *kiswā*). In MSA, *fūṭa* is the usual word for ‘towel’.
- 491 *taqrīṭa* (pl. *taqārīt*), which denotes a traditional Tunisian scarf-wrap worn by women (similar to the *ʿabāya* in the East) on their heads. It is mostly associated with Jews, who used to wear it in the shape of a cone. Also see R. Dozy 1845.

9 Official education for Muslim girls

- 492 The word simply means (‘female) teachers’ (sg. *muʿallima*), but was used for women who had acquired particular proficiency in certain (household-related) skills and who would instruct young girls in them. Cf. S. Bakalti 1990.
- 493 Qurʾānic schools are generally referred to as *kuttāb* (pl. *katātīb*). This is the lowest rung in primary school training where boys (only!) receive some basic instruction in religious sciences and Arabic language. Formerly, the bright pupils would then go on to university to deepen their study in those subjects and work as imams, etc. It is worth pointing out that prior to the twentieth century, universities in Arab countries concentrated on the religious sciences and Arabic, with a smattering of geography and history thrown in. The term used by al-Ḥaddād for the teachers is *muʿaddib* (and the feminine *muʿaddiba*), which literally means ‘educator’ and is used in this sense only in Tunisia.
- 494 On this school, which was properly known as the *École Millet* (after its founder, the then Resident-General of Tunisia) and was set up in 1900, see J. Clancy Smith 2000.
- 495 This term (lit. ‘restraining’; pl. *awqāf*) is used in Islamic law for inalienable religious endowments (usually real estate), made out in perpetuity, for the benefit of religious and/or public institutions like mosques, schools, hospitals, etc. In Tunisia (and other North African countries) the common term is *hubs* (lit. ‘confinement’; pl. *aḥbās*). See *Et*¹, s.v. ‘waḳf’ (Heffening); J. Schacht 1966: 19f., 125ff. *et passim*.

- 496 It is interesting to refer here to the similarity in views between al-Haddād and the poet al-Shābbī in that the latter also inveighed against the lethargy of their compatriots in the face of colonial oppression; for a discussion, see R. Husni 1995.
- 497 Cf. Al-Shābbī 1984: I, 246.
- 498 Rather than the common *malja' al-aytām* ('shelter for orphans'), the author uses *malja' khayrī*, which literally translates as 'charitable shelters', and has its origins in the French '*oeuvre de bienfaisance*', whereas it is important to note that orphanages at the time were exclusively run by Christian missionaries.
- 499 Qur. XX: 114.
- 500 Qur. XXXIX: 9.
- 501 See, for example, al-Qunūjī 1978: I, 50.
- 502 Cf. al-Bayhaqī 1990: IV, 174. This is probably one of the most famous sayings on this topic. It was also often adduced to justify the lawfulness of travelling to non-Muslim countries by a number of nineteenth-century reformists: see D. Newman 2004: 109.
- 503 See, for example, al-Qunūjī 1978: I, 50.
- 504 One may imagine that the Arabic *al-riwāyāt al-khalīʿa al-mughhriyya bi 'l-sū'* ('stories of moral depravity stimulating wickedness') is the author's interpretation-cum-paraphrase of 'pornography'.
- 505 The reference to this art (*taṣwīr*) is further proof of the progressive views of the author because of the prohibition in Islam of the use of visual images to depict living creatures, which effectively outlaws traditional European figurative painting. It should be added, however, that this is not a Qur'ānic injunction, but is based rather on a number of *ḥadīth*, referring, for instance, to the punishment meted out to painters (*muṣawwir*) on the Day of Judgement (*ashadd al-nās 'adhāban 'inda Allah yawm al-qiyāma al-muṣawwirūn*, 'those who will be punished the most severely on the Day of Judgement are the painters'). On this issue, see for instance W. Arnold 1928; O. Grabar 1987; *EP*², s.v. 'taṣwīr' (J. Landau).
- 506 The original refers to women 'wishing for sterility ('*aqm*)'.
- 507 The original refers to *ḥuqūq al-insān*, that is, 'human laws' (as opposed to those of God).
- 508 The Arabic image is that of 'ebb and flood' (*madd wa jazr*).
- 509 *al-qawānīn al-ʿamma bayn al-umam* ('the general laws between nations').

Conclusion

- 510 The original has *ḥaraka milliyya*, which literally translates as 'confessional movement'.

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