

**THE RIGHTS OF MUSLIM WOMEN IN  
MARRIAGE RELATIONSHIP WITHIN THE  
KUMASI METROPOLITAN AREA**

**BY:**

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## Declaration

I hereby declare that this submission is my own work towards the MPhil and that, to the best of my knowledge, it contains no material previously published by another person nor material which has been accepted for the award of any other degree of the University, except where due acknowledgment has been made in the text.

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Date

## **Abstract**

The main purpose for the study was to find out the truth in the belief held by many non-Muslims that Muslims married women do not freely enjoy their basic marital rights, as their rights are believed to be dictated by their male counterparts. This research investigated whether the Muslim married woman is entitled to basic marital rights in Islam. If they have the basic marital rights, what do the Qur'an and the Sunna of the prophet say about these rights? Are the women aware of their basic marital rights prescribed by Islam? Are their husbands aware of these rights? Do the husbands allow their wives to freely enjoy these rights if they are aware of them? The sources of information for the research are the Qur'an, the Sunna of the prophet and other Islamic laws. Face-to-face interviews were conducted in three Muslim dominated areas in Kumasi namely Suame, Tafo and Asawasi to solicit the views of members of four Islamic religious groups on the topic. The religious groups were Tijaniyya Brotherhood, Ahlus Sunna Wal-Jama'a, Ghana Muslim Mission and Ahmadiyya Muslim Mission. It was realized that Islam has given Muslim married women some basic rights and it has provided enough safeguards to protect the rights. It was also found that Muslim women had knowledge of their marital rights. The challenge however, was due to cultural infiltration from various tribal groups, poverty and the gross abandonment of Islamic laws. The following recommendations have been made by the researcher: the Aimah (Imams) and Ulma (Mallams) must educate Muslims to differentiate between culture and religion, Muslim preachers must preach more on Muslim marital rights and more publications on Muslim women's rights should be made available.

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# KNUST



## **Dedication**

This work is dedicated to my father, Mr. Richard Yaw Appiah whose love sent me to school and to my mother, Esther Gyamfi, who did not live long to see where I have reached in life.

And

To my husband, Addo-Fordwour Osei Martin, and our daughters, Naana Yaa Aniwaa Osei and Maame Akosua Serwaa Osei.



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# **CHAPTER ONE**

## **BACKGROUND TO THE STUDY**

### **1.0 Introduction**

Right according to the Longman Dictionary is “the freedom and advantage that everyone should be allowed to have”. As our research topic is about Muslim marriage, there is the need to define marriage. Engineer (1992: 98) defines marriage as “a contract between two equal partners”. Since our discussion is about Muslim women’s marital rights, there is the need to show who a Muslim woman is. “A Muslim is an adherent of Islam. The word implies complete surrender and submission to God’s will” (Hobson et al, 1989: 290). Therefore, a Muslim woman is an adherent of Islam. This means that a Muslim woman is a woman who has completely surrendered, submitted and resigned to Allah’s will. Sarwar (1992:166) states that, “women have a very important place in Islamic society. Unlike other religions Islam holds a woman in high esteem. Her importance as a mother and wife has been clearly stated by the Prophet Muhammad.”

Generally, there is almost always a distinction between theory and practice particularly when it comes to religious issues. This is as a result several factors, some of which include the differences in the understanding of the Qur'anic and Hadith texts. Secondly, the interpreters and leaders of religious matters in many cases are men so they often times do so to favour themselves.

During the *jahiliyyah*, (a period before the advent of Islam) in Arabia, women were relegated to the background and as a result their rights were trampled upon by their male counterparts. The *mahr* (dower) which is supposed to be the property of the bride used to be the property of the bride's parents and some of the men even refused to pay the *mahr*. The rights of Muslim women are stated in the Qur'an and the *Sunna* which together form the major sources of the religion. Surah (4; 19) states that, "you should not treat them (women) with harshness".

According to Doi (1984:131)

the last sermon of the prophet at Arafat has put this relationship in memorable words: O ye people! You have rights over wives as they have over you. Your rights over them are that they have chaste life, and do not admit into their homes anybody whom you dislike, and they do not fall into manifest evil. If they do Allah permits you to keep them away from your beds in order that they may improve their ways. You may even resort to such light chastisement as may not produce any harmful effect to their. But in case they do no such thing you are duty-bound to arrange for their food and clothing according to your means.

Sarwar (1992) again states that:

in Islam a woman has a distinct and separate identity. Islam has given her the right to own property. She is the owner of her earnings. No-one (father, husband or brother) has a right over them. She can dispose of her earnings and property as she wishes within the bounds of Halâl (lawful) and Haram (unlawful). Islam has given women the right to inheritance. She has a claim on the property of her dead father, husband or childless brother (4:7, 32, 176). A woman has the right to choose her own husband. No one can impose the decision against her will. She has the right to seek separation (khula) from her husband if their marriage becomes impossible to sustain.

### 1.1 Statement of the Problem

A cursory look around Kumasi Metropolitan Area shows several Muslim women struggling to earn livelihood. One is tempted to ask if these women have husbands. Do their husbands maintain them? Many non-Muslims generally believe that when it comes to marriage, many Muslim women do not enjoy the marital rights as they are mostly dominated by their husbands. To find out the truth about the entitlements of women in Islam, this work sought to

find out what the Qur'an and the Sunna of the prophet and other religious instruments have said about the rights of women. It also tried to find out if the husbands were aware that their wives were entitled to some basic rights in marriage. If they were aware, do they allow the women to enjoy these rights? Are the Muslim women aware of the rights they are entitled to? The work also found out if the Muslim women had the right to choose their own husbands? Are the women permitted to own property? Do they have the right to dower, and right to inheritance?

### **1.2 Objectives of the Study**

The study sought answers to the above questions and to achieve three objectives. The first objective was to find out the truth or otherwise in the beliefs held by many non- Muslims that Muslim married women do not enjoy any conjugal right because their rights are dictated by their male counterparts

The second objective was to make a thorough investigation into the conjugal right of Muslim women especially those within the Kumasi Metropolitan area.

The third objective was to find out if the conjugal right of the Muslim women is exercised as stated in the Qur'an and the *Sunna* of the prophet.

### **1.3 Significance of the study**

The work is significant in numerous ways. In the first place, the study has documented in detail the basic marital rights of Muslim women.

Secondly, the study will serve as a reference material to students who are pursuing Islamic religious studies in the Kumasi Nkrumah University of Science and Technology (KNUST) and Ghana as a whole.

Thirdly, the study will serve as a guide to students who will like to research into similar problems in the near future.

Again, the study aims to clear the perceptions held by many non- Muslims that Muslim women have no conjugal rights.

Finally, the study will serve as educational material to married Muslim women who are ignorant of their conjugal rights.

#### **1.4 Research Methodology and Procedure**

In this study, we investigated the conjugal rights of four Islamic groups in the Kumasi Metropolitan Area. The groups are Tijaniyya Muslim Brotherhood of Ghana, Ahmadiyya Muslim Mission (AMM), and Ghana Muslim Mission (GMM).

##### **1.4.1 Data Collection**

We employed three main methodological approaches in this study. These are interviews, participant observations and library materials.

### **1.4.2 Interviews and Participant Observation**

We conducted face-to-face interviews with the Muslim women from the already stated Islamic groups, Aimah (Imams) opinion leaders and some Islamic Women Organisations. Face-to-face interviews were conducted in order to solicit individual views and understanding on the topic.

The participant observation method was used solely in line with a marriage ceremony which took place in Tafo-Zongo. It was through this that the researcher gained insight into Islamic marriage ceremony.

### **1.4.3 Library Materials**

The researcher also made use of published, unpublished works and Electronic-media which were relevant to the study.

### **1.5 Scope of the Study**

For clarity and easy approach to the study, the researcher deemed it necessary to set up parameters for the work. The work dealt with the conjugal rights of Muslim women in their matrimonial life. Since this was women's marital rights of study. We limited ourselves to the Islamic provision on the subject. The researcher interviewed both sexes belonging to the religion who were within the communities in the Kumasi Metropolitan Area. The study was further limited to the theory and practice of those provisions among Muslims.



## 1.6 Literature Review

Abdul Rahman-A-Al-Sheha's Misconceptions on Human Rights in Islam (2003) dealt with the rights of the wife and the husband. According to him, the wife has the following as her rights; equality and fairness, financial support, equal time and intimate relationship, protection of all the secrets of the wife, fair and kind treatment, protection and preservation. He went further to state the rights of the married woman as the home manager and director. Al-Sheha can be commended for spelling out the rights of husband and wife, our work is dealing with women's conjugal rights and specifically Kumasi. Though, Al-Sheha's work is talking about the marital rights of both the husband and the wife, it is supporting our study because our research topic is about women's marital rights.

The Women and Family Life in Islam (1998), by The World Assembly of Muslim Youth deals with some of the basic human rights that Muslim women enjoy just as their male counterparts and steps to safeguard these rights. The following are some of the human rights that women enjoy; the right to marriage, education and inheritance. The author must be commended for his efforts at coming out with the above social rights to life. This book as already discussed gives some detailed description of such rights; it does not consider specific parts or percentages that are specified for women. The book is also general and not specifically on the conjugal rights Muslim women in the Kumasi Metropolitan Area. Though, this work deals with human rights in general, it is relevant to our study which is also about the marital rights of Muslim married women.

Ahmad Galwash (1963) in his book The Religion of Islam, highlights the basic human rights that were raised by the Prophet Muhammad in the day he delivered his last sermon known in Islamic history as the farewell sermon on Mount Arafat. Basic human rights were the main themes raised but the majority of the issues were about the rights of Muslim women. This includes marital rights, right to inheritance, and right to education. Ahmad Galwash needs a particular commendation for his endeavour towards bringing to light the general rights of Muslim women; our work is restricted to the conjugal rights of Muslim women in Kumasi.

I. A. Ibrahim's book A brief illustrated guide to understanding Islam (1997), highlights the status of women in Islam. Islam regards a woman, married or not, as entitled to her own rights. Such a woman has the right to own her property, dispose it of, without the consent of her guardian, father or husband. In Islam, the *mahr* (dowry) is given to the bride by the bridegroom as her property. The woman is supposed to take her family's name rather than her husband's. A Muslim husband is entreated to take good care of his wife as highlighted in one of the ahadith which states: "The best among you are those who are best to their wives." The book is relevant to our study since it talks about the status of women in Islam, both married and unmarried. Ibrahim specifically mentions the right of the Muslim woman to own property which is discussed in our study. However, our study discusses the rights of Muslim married women unlike Ibrahim's work which discusses the status of Muslim women in general.

Ibrahim Mustapha (n.d.) in his Islamic Law of Marriage talks about marriage. According to him, the dower (dowry) is the property of the woman. This he said differs according to the status of the woman. It seems unfair to say that, the payment of dowry should be based on

social status. To say so implied that the women of high status should enjoy large amount of dowry than those of lower status. The book did not talk about Muslim women's rights which is the topic for our study.

Ibrahim Ahmad Aliyu's book Protection of Women's Rights under the Shari'ah talks about the women's general rights. According to him, women are entitled to the basic human rights that have been provided by the Shari'ah irrespective of one's gender. The rights are as follows; right to life, right to property, whether married or not, right to honour, right to freedom of expression, right to individuality, right to freedom of religion, right to freedom of association, right to justice and equality before the law, right to free and compulsory education, right to fight evil, and the right choose a marital partner. Aliyu deserves to be praised for spelling out the general rights of Muslim women; our work is rather dealing with the conjugal rights of Muslim women in Kumasi Metropolitan Area. Even though, the book discusses the general rights of Muslim women, the relevance of this book for our study cannot be under estimated in the sense that it is also dealing with some of the Muslim women's marital rights in our study which are as follows: right to own property; right to freedom of expression; right to choose a marital partner and right to equality.

Ashgar Ali Engineer's Marital Rights of Women in Islam (1992), dealt with the forms of marriage during the *jahhilyya* (a period before the advent of Islam). Mut'a marriage: practised among the Shiahs and concubinage marriage. The book further talked about some of the marital rights of Muslim women, especially, women's right to maintenance. Engineer also touched on the *mahr* (dowry) being the sole property of the woman. The book only

mentioned two forms of Islamic marriages. Polygamous marriage and monogamous marriages were not mentioned. Only one marital right was also dealt with while the other rights were neglected that is the right to inheritance, right to seek divorce, right to own property, right to sexual intercourse, right to freedom of expression, right to equality and right to seek employment outside the matrimonial home.

Though, the content of Engineer's work is about forms of marriage during the *jahiliyyay*, Muslim women's rights to maintenance and *mahr* make the work relevant to our study.

Mirza Tahir Ahmad's Islam's Response to Contemporary Issues (1997) discussed the equal rights that Muslim women ought to enjoy as their male counterparts. This equality right covers all spheres irrespective of the situation. In spite of the equality, the men have little advantage over the women because Allah has made the men guardians and bread winners of the women. Though, Ahmad deserves to be praised for highlighting the equality between men and women, he did touch on the marital rights of Muslim women which is the topic for our study.

Ghulam Sarwar's Islam, Beliefs and Teachings (1992) describes the rights of Muslim women, whether married or not. Sarwar went further to say that the Qur'an urges Muslim men to treat their wives kindly and at same time be responsible to their wives. He also mentioned that Islamic family law permits non-Muslim married woman to keep faith without any interference from the husband. So far this is one of the few books which comments on the Qur'anic legislation (Surah 5:5) which grants a Muslim married woman the permit to keep to her faith without any interference from her husband. The work is relevant to our

study because it discusses some of the Muslim women's marital rights in our study which include right to own property, right to inheritance, right to choose her husband, and right to seek separation from marriage.

### **1.7 Limitations of the Study**

The main limitation of this work is that it does not cover the conjugal rights of all Muslim women in Ghana. This study is limited in the sense that, it captures only the conjugal rights of the Muslim women in the Kumasi Metropolitan area. This means that, another research could be carried out into the conjugal rights of the Muslim women in different parts of Ghana. Besides the conjugal rights of Muslim women in Kumasi Metropolitan Area, future researchers can research into the other different rights of Muslim women. Also, majority of the respondents were not willing to provide the information needed for the study because they were suspicious about what the information would be used for.

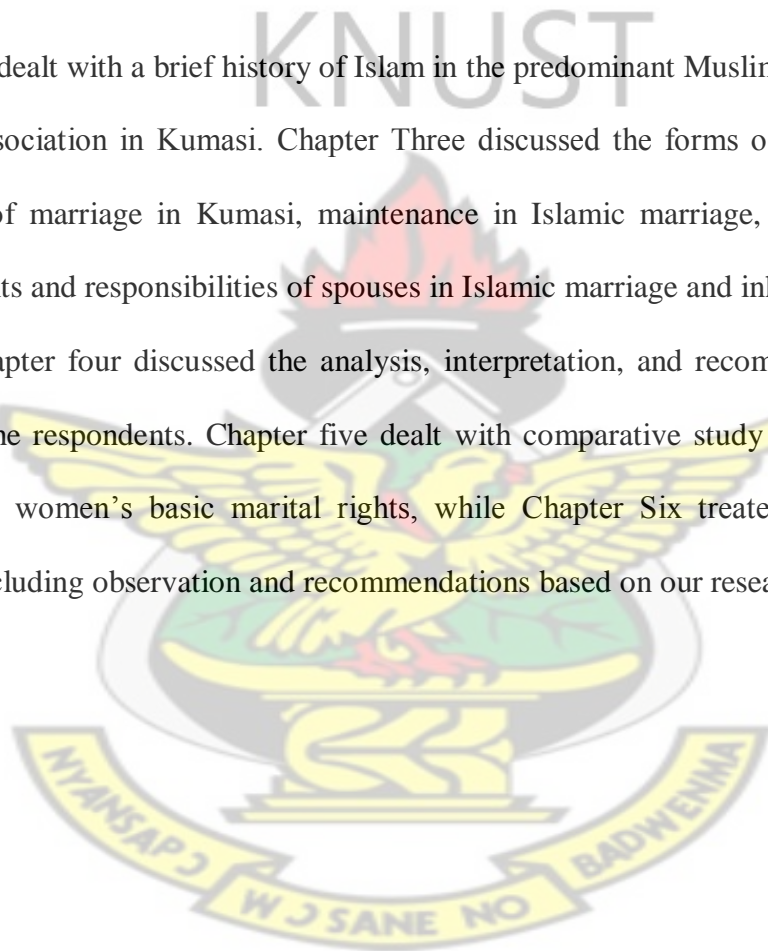
Again, majority of the women respondents were reluctant to provide the full information and their reason was that, the researcher is not a Muslim and use such information to ridicule their faith. The limitation was associated with the large territory of the research area. Kumasi is a very large geographical area, as a result, it was very difficult for the researcher to cover the whole area. Also, the Muslims do not domicile in the same community. In spite of these limitations, the study was carried out successfully and it paved the way for the researcher to interact with people of a different faith.



## 1.8 Organization of the Study

This work is made up of six chapters. Chapter one is the introduction of the study. This contains the statement of the problem, objective of the study, the significance of the study, limitation of the study, methodology of the study, scope of the study, literature review and organization of the study.

Chapter Two dealt with a brief history of Islam in the predominant Muslim areas and Muslim Women's Association in Kumasi. Chapter Three discussed the forms of Islamic marriage, other forms of marriage in Kumasi, maintenance in Islamic marriage, divorce in Islamic marriage, rights and responsibilities of spouses in Islamic marriage and inheritance in Islamic marriage. Chapter four discussed the analysis, interpretation, and recommendations on the report from the respondents. Chapter five dealt with comparative study of Muslim women and Christian women's basic marital rights, while Chapter Six treated the summary of chapters, concluding observation and recommendations based on our research findings.





## **CHAPTER TWO**

### **A BRIEF HISTORY OF ISLAM IN KUMASI**

#### **2.0 Introduction**

In chapter one, we discussed the statement of the problem, objectives, significance, research methodology and the scope of the study. The literature review, problems envisaged and the organization of the study were also discussed. In this chapter, we intend to deal with a brief history of Islam in selected parts of Kumasi because they are the predominant Muslim areas in Kumasi and Muslim Women Associations in Kumasi.

#### **2.1 The Advent of Islam in Kumasi.**

Many factors contributed to the introduction of Islam to Asante. Some of the factors were trade, diplomatic missions, and diplomatic contacts with Burkina Faso and other northern towns. Salaga in the northern part of Ghana served as a major trading point for the Hausas whose main occupation was trading. They dealt in items like spices, salt, cola, medicines and slaves. The fall of the Salaga market made the Hausas, who were mainly Muslims, turn their attention to the middle part of Ghana, in particular Kumasi, the southern point of the trading route. According to the account of Samwini (2006:30), “The Salaga market enabled Hausa Muslim traders to frequent and settle among the Gonjas and in Kumasi, the southern point of the trade route. The market was noted for its trade in cola nuts and slaves. Samwini (2006:31) quoting Hiskett stated that :

the Hausa occupation of Salaga had important consequences for the spread of Islam in Ghana. The Hausa involvement in the trade with Asante meant that, an important centre of Hausa, and to some extent Bornu Islam had been established in an area that previously was dominated by Dyula Islam. The position of Salaga as a mid-way town between Hausaland in northern Nigeria and Kumasi in the forest belt of Ghana opened the way for Hausa penetration not only into Asante, but also the other southern part of the country.

It seems to the researcher that, the decline of the Salaga market increased the number of Muslims in Kumasi but they were not the pacesetters for Islam in Kumasi Islam in the sense that Dyula Islam was established before the Kanem Bornu Islam.

In their efforts to expand their kingdom, the Asante kings established diplomatic contact with Burkina Faso and other northern towns. According to Levtzion (1994: XIX 101-102) “the Muslims in Kumasi sold amulets to anybody who paid for them, but their most important duty was to help the king. In this respect the Muslims in Kumasi did not act alone, and thus, apart from producing amulets and praying for victory, they had to be in communication with the Muslim leaders in the hinterland to get their blessings for the Asante king. He went further to say:

In this collection there are fifteen letters of correspondence between the Muslims in Kumasi and their brethren in Mamprusi, Dagomba and Gonja. These letters illustrate the relations between the Muslims in Kumasi and those in the northern states, and throw some light on the leading personalities of the Muslim communities in Kumasi.

This quotation points to the fact that Muslims were more or less godfathers to the Asante kings and the entire Asante kingdom.

It has been stated by some scholars that Muslims came to Asante on diplomatic missions or upon invitation by the Asantehene. According to Samwini (2006: 32) “research has shown that other factors brought Muslims to Kumasi and other parts of the south of Ghana. Muslims came to Asante on diplomatic missions from Masina, others came on visits or upon the invitation of clerics by the Asante kings.” Though believers of traditional religion, the Asantes tolerated and lived peacefully with the believers of other religions including Islam. The Asantes were however not interested in these new religions. The visits by the various

diplomatic missions to Asante also show how important the Asante kingdom was in those days as it is today.

## **2.2 Predominant Muslim Areas in Kumasi**

There are many areas in Kumasi which are dominated by Muslims but our main areas of study will be Suame, Tafo and Asawase. In the initial stages, all Muslims were residing at one geographical location in Kumasi tagged as the Zongo before other Muslim communities sprang up in Kumasi. According to Levtzion(1994:I, 208), “in Ghana of the mid-eleventh century, Muslims lived in a separate town or quarter-like the Zongos of Modern Ghana-under the auspices of a pagan king.” It may seem that the Zongo community was created by the British commissioner to support the Muslims who were living in Kumasi against the Asantes in order to reduce the powers of the Asantehene (king of Asante) at that time.

### **2.2.1 The Geographical location of Suame**

Suame is located in the northern part of Kumasi in the Ashanti Region. The area serves as one of the major entry points to the Ashanti region from the northern parts of Ghana. As a result of its position, many people from the northern parts of Ghana live there. A lot of economic activities go on in the area, the major one being the light industrial work, popularly known as the “Suame Magazine”, which gives employment to thousands of people and apprenticeship training to the youth from all parts of Ghana. The area is divided into two parts, the Old and the New Suame. New Suame is further divided into four parts: Nkramom which means the area dominated by Muslims. The central Mosque of Suame is located at

Nkramom. This area serves as the rendezvous of all the Muslims. They meet there for *juma'a* (Friday prayers) and it also serves as a place for the dissemination of Islamic doctrine and the teaching of the Qur'an. The residence of the Asantenkramo *Imam* in Kumasi is also located there. The other areas are Kotoko and Penkyem, where the Suamehene( chief of Suame) lives.

### 2.2.2 A Brief History of the Muslim Community in Suame.

According to Jaharatu A. Mumin, a Muslim elder, the Muslims in Suame were formerly living at a place called Dominase which was not far from Adum. It is believed that they were denied settlement at Dominase somewhere around 1938 owing to the fact that the natives were royals and the Muslims were increasing in number. The *Imam* of Dominase at the time, Bukari Abdul Mumin, was of Asante origin and he made a request to the Asantehene ( the king of Asante), Nana Agyemang Prempeh I, on his arrival from Britain, to resettle the Muslims as they were increasing in number. The Asantehene granted his request and initially wanted to settle them at Manhyia, but later settled them at Suame. Two main reasons perhaps informed the Asantehene's decision to settle the Muslims at Suame. The reasons were: Suame is on the direction of the Northern part of Ghana and being settled at Suame would mean that subsequent Muslims who will be coming from the north will not find it difficult to get a place to settle. The second reason was that the size of the land of Suame was vast to accommodate many people.

### **2.2.3 A Brief History of the Muslim Community in Tafo.**

According to Alhassan Sariki, an elder in the Muslim community in Tafo, the first person to settle at Tafo, in 1937, was Baba Chipsa from the then Upper Volta now (Burkina Faso). He settled with the then chief of Tafo, Nana Dabanka II as a servant in the palace. After four years of loyalty and dedicated service in the palace, the chief gave his daughter, by name Afia Dabanka to Chipsa in marriage. Chipsa pleaded with his in-law, Nana Dabanka, to resettle him, since his family was expanding. The chief settled Baba Chipsa and his family at present day Tafo Zongo. In 1938, different northern ethnic groups which had settled at present day Moro Market joined Chipsa at the Tafo Zongo. The following are some of the notable personalities among the groups who joined Chipsa and his family at Tafo Zongo: Baba Sampoa, Baba Ibrahim, Baba Adama, Baba Seidu, Baba Issah, Baba Sampoa (the telephonist from Mampong).

The following reasons may have accounted for the movement of the groups from the Moro Market to Tafo Zongo:

- a) They did not have any source of water around Moro Market and they had to walk to Yennyawoso to fetch water. They therefore moved to Tafo Zongo which had a river known as Boannwene, flowing through Yennyawoso to Tafo.
- b) They moved to Tafo Zongo for sand winning which was a major source of employment for them.
- c. The Moro Market had become overcrowded and they moved to a place where they could have enough land to settle and grass to pasture their animals.



Chipsa was later employed at the Wesley College as a painter, and as a result of this, he appointed Ibrahim Sampoa, to act in his stead as the chief of the Zongo. Though, Chipsa and the groups who joined him migrated from the northern part of Ghana, which is predominantly Muslim community, none of the members of the groups was a Muslim.

Islam was introduced in Tafo by Alhaji Haruna, a Mossi Wangara from, who succeeded in convincing Baba Chipsa, his family and others to embrace Islam. Baba Chipsa and his family adopted Islamic names. He was known as Ibrahim Chipsa and his wife, Afia Dabanka, became known as Ajara. After the death of Sampoa Ibrahim, the regent of the Zongo, Ibrahim Chipsa who was on retirement resumed his position as the Zongo chief. He appointed Alhassan Sariki, the source of this information, his linguist.

#### **2.2.4 Brief History of Asawase Muslim Community**

According to an elder of Asawasi, Alhaji Abubakr Osmanu, Asawase Muslims first settled at Akwatia Line in 1931, under the leadership of Mallam Sallau at the current location of the Zongo Police Station, and parts of the Central Market just around the time when Otumfuo Sir Agyemang Prempeh I had been repatriated from the Seychelles Island.

The colonial government built bungalows for public workers, mostly railway workers, but the area was not well developed. The workers were therefore not willing to go and occupy the bungalows. Around the late 1930s the government decided to build the Central Market and the Zongo Police Station, the Muslims who settled in those areas were resettled in the bungalows which the public workers had refused to occupy at Asawase. The Muslims moved



to Asawase under the leadership of Amadu Baba because the people had revolted against Mallam Sallau as their leader. From that time, Asawase became the first point of call for Muslims who settled in Kumasi.

### **2.3.0 Muslim Women's Associations in Kumasi**

Muslim women in Ghana deemed it necessary in the 1960s to mobilize themselves into an active group to prove to the public, particularly the non-Muslims who believed that, the highest office of the Muslim woman is the home and rendering services to husband and children. The purpose here is to show how the Muslim women took practical steps to disabuse peoples' mind of this allegation and contributed to the development of the society. They formed various women's associations with the major aim of projecting Islam and to raise the standard of living of the Muslim women.

#### **2.3.1 Lajna Immailla**

According to Hajia Hajara Is-haq Nuhu, the Ashanti regional president, Lajna Immailla, which literary means maid servant of Allah, is an Ahmadiyyah Muslim women's association, which was established by Hadrat Khalifah Maimud Ahmad in the year 1921, in Pakistan. Hadrat Maimud Ahmad saw the need to mobilize Ahmadiyyah Muslim women to study the Holy Qur'an (i.e. to read and interpret the Qur'an). The association is a non- governmental organization with its headquarters at Pakistan. They have one hundred branches worldwide. In Ghana, they have its national headquarters in Accra, with regional branches in all the ten regional capitals and over one hundred and sixty metropolitan, municipal and districts in the country with local branches also. They have two wings in the association, that is the youth

wing and the adult wing, they all operate under one umbrella. The national executive is made up of twenty five members. This is the president, two vice presidents, secretary, organizer, welfare, education, health, sports, handicraft and preaching officers and fifteen other members.

Kumasi has been zoned into three local branches: the Asafo Central Mosque, Oforikrom and Atonsu. They pay weekly dues of 50Gp. The money after collection is paid into its national secretariat account in Accra. Any time they need money to run the association, they prepare a memo to the national secretariat and the money will be given to them. Moreover, they also make special contribution toward the funding of its programmes but that fund is not fixed for its members.

The association has been able to chalk a lot of successes in the Ashanti region.

First, they have been able to sponsor many of its members to attain higher level of education. Some are medical doctors, teachers, and lawyers. Second, they cater for the needy in the society, thus orphans and the elderly people who cannot make ends meet. Third, they make regular donations to institutions such as hospitals, orphanages and prisons, and undertake clean up exercises in these institutions as well. The members of the association also pay the bills of discharged patients who have been detained at the hospitals for inability to settle their bills. Forth, through members' contributions, the association has been able to purchase a motor vehicle which is used to carry out their outreach programmes.

In spite of these achievements, the association is not resting on its oars; plans are underway to sponsor more females abroad for studies and to establish a vocational institute to train more females in employable skills.

### **2.3.2 Al-Ansariya Islamic Society**

According to Hajia Sakinah Ja'far (a founding member), Al-Ansariya (which literary means "fighting for the will of Allah"), is the women's wing of Ahlus- Sunna Wal-Jama'a. This association was formed on the 23rd of February, 2003, by Hajia Hajara Sidik and Hajia Sakina Ja'far who saw the need to form an association to uplift the image of Islam at Sofo Line and its environs in Kumasi.

The founding members of Al- Ansariya Islamic Society were ten, and the following formed the first executive members:

Abubakar Shamsudin - Chairman

Hajia Hajara Sidik - vice Chairperson (acted as the women's organizer)

Muhammed Kassim - Secretary

Abdul Rafiw - Treasurer

Usman Is-hak and Amina Seidu did not hold any executive positions but they played active roles in the society.

Although, Al-Ansariya Islamic Society is a women's association, men were initially given key positions to ensure that its foundation was firmly rooted. The men would later hand over the association to the women.

The society has the following objectives:

- a) To uplift the image of Islam in Kumasi and its environs.

- b) To educate their children in line with Islamic principles and improve the social standard of Muslim women.
- c) To promote the interest and foster good relationships among members.
- d) To teach their members how to recite and read the Qur'an in its original text, Arabic, and its interpretation.

The main source of finance of the society is the weekly contribution of 30Gp per member. However, members make special contributions towards the organization of certain programmes such as donations to hospitals, orphanages and prisons. The society which started from a humble beginning now has about 250 active members. The following are some of the achievements of the society:

The society has established an Arabic school at Sofo Line and the enrolment of pupils is around 200. The teachers in the school are paid monthly from the coffers of the society.

In addition to the above, the society has established an adult night school (Makaranta) purposely for the *ummi* (unlettered) in order to help them to read the Qur'an and interpret it. Finally, they support their members, in cash and in kind, during *suna* (naming ceremony), weddings, funerals and other programmes.

In spite of the above discussed achievement, the society has a long term plan to establish an English and Arabic school in collaboration with Ghana Education Service through the Islamic Education Unit to provide both religious and secular education to their children. Again, to make their members financially sound, the society has a plan in the pipe line to establish a fund to support their members set up businesses.

### 2.3.3. The Federation of Muslim Women's Association of Ghana (FOMWAG)

According to Samwini (2006:137-138), FOMWAG started in 1992 when five Muslim

Women- Aisha Lamin Futa(GBC), Hajia Katumi Mahama, Zalia Ali and Rukaya Ahmad from the Ghana Education service,(GES), and Zainab Yakubu from the Internal Revenue Service,, all of them with western education background 'felt the need to mobilise our sister Muslim women of Ghana under one umbrella body so as to give them voice and recognition.' Samwini further states that:

“analysing this statement two issues can be identified: first that it was Muslim women with a western education background who saw the need to mobilize their sisters under one umbrella; and second, the need was to give the women voice and to give them recognition, thus confirming our earlier suggestion that the Muslim women's place was thought to be the home. FOMWAG had an external assistance from Nigeria for its establishment. On 2 May 1993 the five women were invited to meet the Director of the Centre for the Distribution of Islamic Books, Rufai Muhyedeen. At the meeting, Muhyedeen informed them that the Federation of Muslim Women's Associations of Nigeria (FOMWAN) was concerned about the lack of representation of Ghana at Muslim women conferences. This news seemed the tonic women needed to form the nucleus of an association that would represent women's interest in Ghana.”

Samwini outlines the aims of the association from its constitution as:

- a. The propagation of Islam,
- b. Raising the awareness and the need for education among Muslims,
- c. To promote unity among Muslim women in Ghana,
- d. To raise the social status of the Muslim community in Ghana.”

FOMWAG was extended to Kumasi and other regional capitals of Ghana.

According to Hajia Yasmmine Appeadu, the current president of FOMWAG in Kumasi, The Ashanti Regional Branch of FOMWAG was formed in September 1994. The Ashanti regional branch was started in Kumasi by the following pioneer members: Muhammad Adako, Sheikh Nazir, Mallam Seidu, Abua Mallama( our informant did not give the full name) as president, Hajia Halimah Mamprusi as Vice President, Hajia Yasmmine Appeadu, Hajia Neene, Hajia Ramat Sunni, Hajia Maame Bomba, and Hajia Suwaybah.



The founders of Kumasi FOMWAG, unlike the national one, were made up of both literates and illiterates. In addition, males played important role in the founding of the Ashanti branch as can be seen from the names of founding members mentioned above.

The aims of the Ashanti branch are not different from the national aims discussed in 2.3.3 above.

Hajiah Yasmmine Appeadu further stated that the following Muslim associations in the Ashanti region are the active members of FOMWAG: Jihad Central Mosque Women Association of the Tijanias, Islamic Mission Secretariat Women's Association of Ghana, Ghana Muslim Mission, Ayigya Ahlus Sunna Women's Association, Samadaniyya Muslim Women's Association, Sabililhudah Muslim Women's Association, Nisai Muminat Women's Association, Oforikrom Watannia Women's Association, Aboabo Watania Women's Association, Yussifiyya Muslim Women's Association, Sakafiya Muslim Women's Association, Falinniyya Muslim Women's Association, Kwadaso Shabab Nasur Women's Association, Suame Islamic League Women's Association, and Husseiniiyya Women's Association. Our informant did not give us clear information about the other mentioned Associations.

The Kumasi FOMWAG generates its funds from international organizations, local well-to-do Muslims in Kumasi, as well as monthly membership dues of GH¢100 per member.

### **Achievements of the Association**

The following are some of the achievements of the Ashanti Regional Branch of FOMWAG:



FOMAWG has set up *Makaranta (Islamic School)* in some suburbs of Kumasi such as Asokore Mampong. Again, the association gives vocational training to the youth in soap and tie and dye making. The association collaborates with the National Commission on Women and Development (NCWD) to educate its members on their rights, but the association ignores rights it considers contrary to Islamic principles.

#### **2.3.4. Tijaniyya Muslim Women's Association**

According to Seidu Ustaz Ahmed, the executive secretary to the council of Ulema and 'office of the regional Chief Imam, Kumasi, the main body of the Tijaniyya Muslim Association was set up in 1952. The leader was Baba Makaranta (his proper name could not be given by our informant), who was then residing in Kumasi. The Kumasi branch was set up in 1975 and it was headed by the following five eminent clerks: Sheikh Baba Al-Waiz, Imam Muhammad, Baba Chiroma, Sheikh Alhaji Haruna Muhammad, Sheikh Alhaji Alhassan Nasurudin and Imam Gariba Abubakari.

At the initial stages, the association was very weak because people felt reluctant to identify themselves with it. When the leaders saw that the people were not ready to join the association, they re-organised it in 1987 with the following aims:

To foster brotherhood,

To inculcate the virtues of Islam as well as the *tariqa* (path) into the women,

To send the message of the *tariqa* through preaching, seminars and helping the needy,

Making the masses aware of the importance of women's education,

Bringing women together

Helping women to be conscious of their religion,

After the re-organisation, the association saw a giant transformation and the youth were brought on board.

As part of the association's achievements, an Islamic senior high school has been set up at Asokore in the Ashanti region. Again, the women have been educated by the association to minimise their extravagant life styles and spend the money on their children's education. They also help the needy and the poor in the society.

The long term plans of the association are to build a clinic to cater for the sick and to resolve the long-standing dispute between its members and the members of the Ahlus Sunna Wal-Jama'al

Thus, by way of emphasis, the association's achievements are:

- a. Helping the needy in the *Umma* (Islamic communities)
- b. Preaching at naming ceremonies. The preaching activities has helped to minimize the extravagant life styles that was been led by majority of Muslim women.
- c. They have established an Islamic school at Effiduase Asokore in the Ashanti region.

In spite of the above discussed achievements, the association is trying to foster a good relationship between the Al-Ahlu-Sunna Wal Jama'a Islamic Group.

## **2.4 Conclusion**

In the chapter, the brief history of 3 predominant Muslim communities in Kumasi and 4 Muslim Women's Associations in Kumasi were discussed. Although, Muslims lived with,

and rendered numerous services to the Asante Kings and the entire Asante kingdom, the traditions and cultural practices of the Asantes were never influenced by the Islamic religion. They were rather interested in the benefit that they derived from the Muslims.

# KNUST



## CHAPTER THREE

### FORMS OF MARRIAGE PRACTICES IN GHANA

#### 3.0 Introduction

In chapter one, we defined marriage and what it means as a beginning for our work. In this chapter we intend to look at the different forms of marriage practices in Ghana and then zero in on Islamic marriage and its related issues. Marriage is for every adult in Africa because it provides companionship for the couples, means to offer support to each other, and a lawful avenue for sexual satisfaction and procreation. Sarwar (1992;165) defines marriage as “a sacred social contract between a bride-groom and a bride” There are many forms of marriage in Ghana. These are customary marriage, statutory marriage ordinance and marriage according to the Islamic rites.

#### 3.1 Customary Marriage

According to Women and Law Series one (Marriage Laws 1991:3)

This form of marriage is what was known to the indigenous people before the advent of any foreign influences, that is Christianity, English law and Islam. It is still the form of marriage contracted by the vast majority of Ghanaians. Indeed, it is significant that all of the ordinance marriages first go through formalities which would constitute a valid customary marriage.

The Customary marriage has different forms in Ghana - monogamous marriage, polygamous marriage, friendship marriage, cross-cousin marriage, widow marriage, and betrothal marriage. A marriage is regarded as monogamous if both partners are required by law to marry only one person at a given time. Polygamous marriage is a form of marriage that the man can marry more than one woman at a time. If a marriage is friendship, it means a man can give his daughter or relative to a friend who is respected in the community and is capable

of taking good care of the girl. This occurs when the would-be wife is a minor and as a result lives with her parents or guardians. The would-be husband is expected to pay regular visits to the girl with presents to demonstrate that he can take care of her if given the opportunity to marry her. Cross-cousin marriage was preferred among the *Akans*, who tend to inherit their maternal uncles. Cross-cousin.

(One's father's sister's child or mother's brother's child)-were given in marriage. Widowhood marriage used to be a common practice in Ghana but recently the practice is reducing drastically due to factors like urbanization and impinging foreign religions such as Christianity. When a married man dies, it is traditionally accepted that either the junior brother or the nephew of the deceased will inherit him. The one who inherits him takes his property, his monies, children, his wife as well as his debts. The inheritor marries the deceased's wife or wives in order to give her or them maximum entertainment" (Akomea-Bonsu n.d.: 3).

Betrothal marriage is a form of marriage in which parents promise to give their minor daughter to a minor male who is either respectful or comes from a wealthy family in their community. A man can also promise to marry a newly born child due to her beauty or reputation of her parents. If the parents agree to the betrothal, a relationship develops between the betrothed. The man can send gifts to the girl and may even render services in any form to the girl's parents. This relationship is however platonic. Even though, the girl may refuse to marry the man when she is grown, she is not obliged to refund the expenses incurred on her by the man. This form of marriage was practised by many noble Ashanti men, in particular chiefs and rich men but it has now lost its popularity.



### **3.2 How Customary Marriage is conducted in Ghana.**

As we have already stated in 3.1 generally, it is required of every adult in Africa to marry. Contracting customary marriage varies from one people's group to another in Ghana due to the numerous ethnic groups and customs that are present in the country. Despite the fact that marriage contract differs as a result of varying group customs. Some of the customs are the same in Ghana.

In Ghana, marriage is a societal affair: it involves all the members of the society; it is only the sexual act that is supposed to involve the partners alone. In view of this, in selecting and accepting the spouse, some important conditions are expected to be fulfilled. According to Sarpong(1994;81) "In all African societies, the search for a marriage partner is the duty of the man". He further said that, here in Ghana it is considered disgraceful for a woman even to express openly her interest in the man. The initiative must come from the man, either personally or through his father, mother, uncle or other relatives. Acting as a group, they approach a girl's people and ask for her hand, after they have suggested her to the boy". The author will be surprised to hear that nowadays, girls in Ghana who have reached the marriageable age do search for their own men rather than waiting for the men or their relatives to come and propose to them.

According to [www.tk-design.com](http://www.tk-design.com)., accessed on 11-3-2009, "members of each family are screened for incurable or contagious diseases, criminal background, violent behaviour, respectfulness, employment status or standard of living and religious background. Generally, many Ghanaians prefer a spouse who is hardworking, respectful, and peaceful (not violent or

do not advocate violent (sic)), and of the same or incompatible religious background”. It would seem that, the screening exercise is no longer regarded as an important condition of marriage that spouses are expected to fulfill as it used to be in the olden days when almost all family members used to stay in one town or village. Migration and urbanization have made it very difficult, if not impossible, to check a person’s background. Whiles the investigation is pending, the man is permitted to visit the would-be wife with presents but they are not supposed to have sexual intercourse because it is lawfully married people who have the right to have sex. It is a taboo for the unmarried people to engage in sexual intercourse because that can lead to severe calamities which will befall the whole community. This explains why people who failed to go through the puberty rites and got pregnant were sanctioned with the *kyiribra* rite: that is a cleansing rite performed to purify the culprit and the community from the wrath of the supernatural beings.

The pillar of the marriage ceremony is the payment of the bride price. . A day is set aside by the families who are contracting the marriage. People who are not family members are invited to witness the ceremony. African marriage is usually a group affair and the ceremony involves, besides the couple and their immediate relations more than distant kinfolk, neighbours and friends (Nukunya 1992: 39).

Some Ghanaian families will allow the would-be sons-in-law to pay a specified amount or a drink known as the “knocking fee”. This is an amount or a drink presented to the woman’s parents by the would-be husband to notify them of his intention to marry their daughter and to seek their consent. Some Ghanaian parents would not accept the bride price unless their would-be son-in-law presents the “knocking-fee”. The bride price is the amount or items

given to the girl's family by the would-be son-in-law as a pillar of the marriage as stated above. "They would not accept the bride price unless their daughters' future husbands pay or promise to pay them this amount of money which is refundable in the event of divorce" (Sarpong 1974:83). Many sons in-law pay this amount in addition to the bride price on the same day. Bride price is not fixed; it can be in a form of drink, money or any small item that the contracting family from the girl's lineage will accept. This depends on the custom of the particular people. After the payment of the bride price, some family members will then share it among the girl's relatives the following day. But in some communities, it will be disbursed among relatives and friends who were present at the marriage ceremony because marriage is a social affair rather than individualistic affair as stated in 2.2 above.

### **3.3 Statutory Ordinance Marriage**

This form of marriage is monogamous. Any man or woman who practises this form of marriage is obliged by the laws of Ghana to marry only one wife or husband. The person can only remarry after the death of a partner or the lawful dissolution of the marriage. Whoever marries a man who is already married under the statutory ordinance is not recognized as the legal wife of the man by law. There are three forms of statutory ordinance marriage. They are marriage by a Registrar of marriages' Certificate, marriage by marriage Officer's Certificate and marriage by special licence from the Registrar-General (CAP 127).

"A registrar of marriages is an officer appointed by Government to perform marriages under the Ordinance in the Registrar-General's office or district, municipal or City Council Offices. The following are the requirements for a marriage under Registrar of

Marriages Certificate. One of the parties to the intended marriage shall give notice in writing to the Registrar of their intention to marry within three months. The notice shall contain the following information; the names of the parties, condition of the parties, that is in the case of the woman whether spinster or widow and for the man, whether bachelor or widower, occupation, rank or profession of the parties, ages of the parties, place of residence of parties, consent, if any, and by whom given. (Women And The Law Series Marriage Laws 1991: 9 - 10).

The book went further to say that:

The Registrar shall then enter in the "Marriage Notice Book" the notice received from the party. In addition the Registrar Publishes the Notice on a notice board continuously for 21 days or until such time as he grants his certificate. If, however, the Statutory Ordinance Marriage Certificate is not issued within the three months, the notice shall lapse, and the Registrar shall, at any time after 21 days and within three months of the Notice, upon payment of the prescribed fee, issue the Marriage Certificate after he has satisfied himself, on receiving an affidavit from the parties containing the following; that one of the parties has lived in the district in which the marriage is intended to be celebrated for at least (sic) 15 days preceding the granting of the certificate; that both parties have, or either of them has attained the age of 21 years and above. However, parental consent can be obtained for any party who is below the stipulated age of 21, that there is no impediment or any other lawful hindrance to the marriage, and that neither of the parties to the intended marriage is married by customary law to any other person except the person with whom such marriage is proposed to be continued."

According to Karen's article: (Marriage Laws in Africa: Ghana as a Case Study n.d: 14). For the marriage officer's certificate, there should be publication of bans of three consecutive times at the Divine Service. If one does not want to publish bans, he should go for the registrar's certificate. He went further to state that:

"in special license from Principal Registrar of Marriages, the Principal Officer can withdraw the churches' license to perform marriages if it becomes obvious that the church is using that license."

### 3.4 Pre-Islamic Marriage

In study on Muslim marriages there is the need to talk about other marriages and our topic is Islam there is the need to talk about marriages in Arabia before Islam. During the pre-Islamic era, Arabian men married many women. There was no limit to the number of women one could marry at a time. By the 6<sup>th</sup> Century before Prophet Muhammad was born women's rights were not yet addressed so women were treated like merchandise which could be bought and sold. This is part of the reason why Muslims refer to the period before Islam as Jahiliyya (the period of ignorance in Arabia)

### 3.5 Marriage in Islam

We have already stated in 2.1 that there are many forms of marriages in all cultures and religions. Islam as a religion recognizes the following forms of marriages; monogamous marriage, polygamous marriage, *mut'a* (recognized by the Shiahs) and slavery marriage. According to *Encyclopedia of Islam* (1989), "in Islam marriage is accomplished through a contract which is confirmed by the bride's reception of a dowry (*mahr*) and by the witnessing of the bride's consent to the marriage. If she is silent, her silence is also taken as acceptance; the Mālikis and Shāfiīs insist if the bride is a minor, that she must be represented by a male guardian (*wali*), usually a relative, who accepts the terms on her behalf. A woman cannot be forced to marry against her will in Islam." After the proposal and acceptance, the *khutba* is recited and the marriage is consummated. In Islamic marriage, it is the bride who determines the *mahr* and has total control over it unlike the above mentioned marriages discussed in 2.1 above.



### 3.6 Monogamous Marriage

As a form a guide it has to be stated that the prophet of Islam led a monogamous life for a period of time. According to the Encarta Free dictionary (2008) “as long as Khadija lived, Muhammad took no other wives”

Sarwar, (1992:170) states that

“the overwhelming majority of Muslims are monogamous, that is they have only one wife. He went further to state that the fact that a few Muslims have more than one wife has become a matter for propaganda against Islām and such propaganda can give a misleading impression of the Islamic way of life. This is especially so when it is non-practicing Muslims who are highlighted on the issue of being married to more than one wife.”

It will seem that monogamous marriage has few advantages over the other forms of marriage because the man who is married to one woman is eased off the burden of giving equal treatment to his wives. It is not all married men who can afford to give their wives equal treatment as stated in Qur'an (4:3) which commands thus “And if you fear that you will not deal fairly with the orphans, marry of the women who seem good to you, two or three or four and if you fear that you cannot be fair to so many then marry only one or the (captives) that your right hand possess” Again, it could be an ideal form of marriage for the less endowed people in the *umma* (Islamic community). Monogamous marriage as compared to the other Islamic forms of marriage has its own limitations. According to Doi (1984:146 ) “when the wife is proved barren and after the medical examination the experts have given their opinion that she is not capable of bearing a child, the husband then should marry a second wife so that he may have children since a child is a joy of life. What about if it is proved that it is the man who could not give birth? We do not believe however that a joyous life is determined solely by child's birth. It is understandable that polygyny was prescribed for the Muslims in Medina following the death of Muslim men in battle such as occurred at the battle of Uhud because the widows and the orphans found themselves in difficulty. According to Watt

(1974:151) “the loss of life among the Muslims at the battle of Uhud created social problems, especially that of making some provisions for the women who had been widowed. The basis of modern Islamic system of polygamy is a verse of the Surah (4:3) which was revealed not long after Uhud”. The Surah (4:3) is not giving men who are already married to four wives the mandate to marry again but rather those with less than four.

### 3.7 Polygamous Marriage

Many non-Muslims generally believe that Islamic marriage is only a polygamous marriage. . Polygamy has been practised by men from different parts of the world since time immemorial. The Arabians before Islam and the Jews in the Old Testament practised polygamy before the advent of Islam. During the pre-Islamic era, the men in Arabia married many women because there were no restrictions for marrying numerous women. This form of marriage continued after the introduction of Islam. According to the tradition of the prophet in Sahih Al-Bukhari (n.d:7.5) Ata narrated: we presented ourselves along with Ibn Ábbas at the funeral procession of Maimuna at a place called Sarif. Ibn Ábbas, said “This is the wife of the prophet so when you lift her bier, do not jerk it or shake it much, but walk smoothly because the prophet had nine wives and he used to observe the night in turns with eight of them, and for one of them there was no night turn.” This hadith points to the fact that the prophet himself practised polygamy. Since Muslims are enjoined to imitate the practice of the prophet, Muslim men are permitted to marry more than one wife. The Qu’ran gave Muslims the leverage to practice polygamy and the prophet provided them with the example but the Qu’ran insists that his marriage to more than limited to him alone and not all other Muslims who are limited to a maximum of four..

One can say that, polygamous marriage was instituted by Islam after the battle of Uhud in order to take care of the widows and the orphans. According to Adeny (2002:110), “After Khadijah’s death, the prophet Muhammad married almost a dozen women. Some were widows of his followers who had been killed in a battle”. One advantage of polygamous marriage stated by Doi (1984:146) is that “during the period of war when men are killed and women are left behind, a very large number, polygamy can provide the best solution.”

It was in the olden days that the men married more than one wife in order to cater for them because of war. Moreover, Islam frowns upon having sex outside the matrimonial home. Due to that, the husband has the liberty to marry another woman in order to satisfy his sexual desire if the first wife is unable to have sex with him due to permanent ill-health. In addition to this, wives were used as farm hands in times past.

According to Sawar(1992:170), “if the first wife is chronically ill and she is unable to carry out her marital and household duties, the husband may marry another woman and so help restore family stability.”

Sawar(1992:170) further stated that:

When a wife is barren and cannot bear children but the husband wants children. It is better to have a second wife than to divorce the barren one. However, a barren wife has the option to seek separation from her husband if she wishes, on the grounds of the second marriage of her husband.

The other side of polygamous marriage as stated by the *Surah* (4:129) “You will not be able to deal fairly between your wives, however much you wish. Yet do not turn completely aside (from one) so that you leave another in suspense, if you maintain proper conduct and do your duty, Allāh is ever forgiving and merciful.”

### 3.8 *Mut'a* Marriage

The *Encyclopedia of Islam* defines *Mut'a* marriage as “marriage stipulated to be temporary; sometimes called a “marriage of pleasure.” The marriage is automatically terminated at the end of the agreed period. *Mut'a* is practiced generally by the Shiah whiles Sunni Muslims prohibit it.

This form of marriage was practised during the period of Jahiliyya. Sunni Muslims believe that it continued to be in existence after the introduction of Islam because the new Muslims were passing through transitional period from *Jahiliyya*. Sunnis also believe that *Muta'a* was repealed in Mecca at Khaibar and Mecca by the prophet according to his traditions. Doi (1984:156) states that “after the Shari'ah of Islam reached its completion, it was made unlawful (*harām*). Temporal permission due to force of circumstances that the prophet had given was made *harām* immediately after the conquest of Mecca as narrated by Ali. Ali says: He was with the prophet on the occasion of the battle for the conquest of Mecca. The prophet had permitted *Mut'a* marriage for the *Sahabah* (companions). He says that, the prophet declared it unlawful even before leaving that place”. Based on the above *ahadith* Sunnis frown upon *Mut'a* form of marriage because there is no Islamic legal backing to this marriage. On the other hand, the Shiah accept this form of marriage. The Wikipedia Free encyclopedia (2009) states that: “The Qur'an does not mention any cancellation of this type of marriage”. Due to the researcher's background as a Christian with a Muslim family, one can therefore say that, *Mut'a* marriage is not the best and as a result should not be given any recognition.

### 3.9 Slavery Marriage

Slavery marriage, according to Engineer (1992; 104-105) is

“the permissibility of sexual intercourse with slave-girls or women captured in war without marrying them. The words used for such women are “*milk-iyamin*” generally translated as those whom your right hand possesses, i.e those whom you possess as war booty or otherwise. He went further to say that orthodox Muslims consider it as lawful to have sexual relation with women captured in war or purchased in the market. However, many modern scholars and commentators feel that such a relationship is not legal and has not been permitted by the Qur’an.”

We can best say that, there are differences in interpretation among the orthodox Muslims, modern scholars, and commentators on the matter. The orthodox interpretation is that if men who are captured in war are utilized by their masters, why can't the masters sleep with their women captives? Again, the modern commentators argue that the slave girls should be freed before marriage. However, the slave-girls are captured in war and now belong to their masters, whose consent should the masters seek to marry the freed girls since they do not have any relative?

This form of marriage started before the advent of Islam in Arabia. After the introduction of Islam, slavery form of marriage continued to be in existence. The Qur'an gives credence to it.

*Surah* (4:25) states that:

and whoever of you have not the means wherewith to wed free, believing women, they may wed believing girls from among those (slaves) whom your right hand possess and Allah has full knowledge about your faith; you are one from another. Wed them with the permission of their own folk (guardians, *alul a'iy* or masters) and give them their *Mahr* according to what is reasonable; they (the above said captive and slave-girls) should be chaste, not committing illegal sex, nor taking boy-friends. And after they have been taken in wedlock, if they commit illegal sexual intercourse, their punishment is half that for free (unmarried) women. This is for him among you who is afraid of being harmed in his religion or in his body; but it is better for you that you practise self-restrain, and Allah is oft-forgiving, most merciful.

The above verse points to the fact that one is at liberty to marry a slave-girl, if he is not capable of marrying a free believing woman. The reason why Islam gave the men the leverage was to insulate them from committing adultery. This was done to ensure that everybody got married.



Slavery form of marriage appears to have some advantage; it helped to free slaves in the sense that, immediately the woman married and gave birth, she was no more regarded as a slave but a free woman. Furthermore, it paved the way for people who were unable to pay high *mahr* to marry because any token from the man was accepted as his *mahr*. Immediately the woman was married any feelings of inferiority was erased and was no more regarded as a person who was once a slave. Again, despite the advantage, Slavery form of marriage has its own shortcomings. For instance, it reduced the pride of the children who were born out of such marriage. This is because *Jahiliyya* Arabs were people who were interested in judging people in their society according to the class they belonged. Based on this, there is always a stigma attached to the child who comes out of this form of marriage because slavery in every part of the world is not dignifying, and Islam as a religion differentiates between the laws of slaves and free people.

### **3.10 The Rights and Responsibilities of Husband and Wife in Islamic Marriage**

Islam is a religion that has laid down rights and responsibilities for its couples. These conditions help to achieve peace, love and harmony between the couples. Our source which was in Arabic written by Al-Abisi, was translated by Yussif Naphew. The husband has the following rights over the wife in Islamic marriage according to Al- Abisi (2006:64-65); the wife must serve the him and fulfill his desire, obedience of the husband, but should not go contrary to the principles of Islam, for instance, not praying and fasting, the wife should not expose her beauty to others than her husband so that the heart of her husband and hers may be at peace and the wife must control her tongue and should not annoy him with her words. Other rights of the husband over the wife are; the wife should avail herself for sexual

intercourse with the husband when healthy except in her menses, and must make life comfortable for the husband at home.

Since there can be no rights without responsibility, Islam has bestowed some responsibilities on the husband in marriage. These include maintenance of the wife and children within his limit, providing clothing for the wife/wives, taking care of her/ their health needs, giving equal treatment to his wives as stated in Surah 4 verse 3, if he is a polygamist, look after all his children, and obeying any condition that was agreed upon before marriage.

The wife in Islamic marriage has the following rights. It is the duty of the husband to maintain the wife/wives and children, but it should not exceed his financial status. The wife has religious rights but the man must be religious in order to meet the religious needs of his wife/wives and children. The woman has the right to seek divorce if the marriage is becoming unbearable. The wife also has the right to express her thought but she must do so in a submissive manner, in order not to incur the wrath of the husband. The husband should accept the lapses of his wife and assist her to improve upon it. As part of her rights, the wife can own property and dispose of it as and when she so wishes. The husband must permit the wife to visit close relatives from time to time. Economically, the wife has the right to engage in income earning activity outside the matrimonial home, if her services are sincerely needed, but with the consent of her husband. However, the work she engages in must not negatively affect her religion. It is the right of the wife to keep her maiden name in order to make all properties acquired before marriage legal. A woman who lives in her matrimonial home with her in-laws has the right to privacy. The wife again, has the right to inheritance as stated in

Surah 4:12. In addition to the responsibilities she has to the husband, which have been discussed above, the wife has the responsibility to take care of the children and their upbringing; giving them formal and informal education available. Furthermore, it is the responsibility of the wife to ensure that the children are disciplined and morally trained since she spends more time with the children as the man is most of the time away. Another responsibility of the wife is to keep the house neat and tidy, cook for the family and make the husband aware of what happened during his absence.

### **3.11 Maintenance in Islamic Marriage.**

Maintenance in Islamic marriage is one of the essential conditions because Allah has made it so. The husband is responsible for the up-keep of the wife and children. During the era of the prophet, he was responsible for the maintenance of his wife and children. According to Ibrahim,(2000:22) “the prophet used to sell the dates of the garden of Bani An-Nadir and store for his family so much food as would cover their needs for a whole year.” This points to the fact that, maintenance plays a vital role in Islamic marriage. The fact that the man is responsible for the provision of shelter, clothing, food, and protection does not mean that, he should maintain his wives and children above his financial capabilities. Again, in the event of divorce, the divorcing husband is responsible for her residence and maintenance till the period of waiting (*iddah*), which is normally three consecutive menstrual periods or 3 months, is over. This is to make sure that the woman is not pregnant for the divorcing husband.

### 3.12 Inheritance in Islamic Marriage

Islam has given both couples the right to inheritance as well as the right to inherit each other.

The share of the couples is outlined in the Qur'an to serve as a guideline to the beneficiaries to avoid cheating and discrimination. Surah 4: 12 states that

“in that which your wives leave, your share is half if they have no child; but if they leave a child you get a fourth of that which they leave after payment of legacies that they have bequeathed or debt. In that which you leave, their(your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debt. If the man or woman whose inheritance is in question has left neither ascendant nor descendant, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third, after payment of legacies he (she) may have bequeathed or debt, so that no loss is caused (to anyone). This is a commandment from Allah; and Allah is Ever All-Knowing, Most-Forbearing.”

The Surah above gives each of the couples the right to inherit the other and it ensures equity and avoidance of conflicts in the sharing of inheritance.

### 3.13 Islamic Marriage as Observed in Ghana

The common forms of marriage practised among Muslims in Ghana are monogamous and polygamous marriages. The other forms of Islamic marriage stated in 3.1 that is *mut'a* and slavery marriage are not practised in Ghana. *Mut'a* is a temporary marriage which is terminated at the agreed period whiles slavery marriage is the permissibility of sexual intercourse with slave girls or women captured in war without marrying them. When it comes to the contracting of Islamic marriage in Ghana, Muslims do not normally deviate from the general rules and regulations governing Islamic marriage. The Muslims in Ghana strictly follow the marriage regulations stated in the Qur'an and the Sunna of the Prophet.

The man is supposed to propose to the woman and if she agrees, he goes to the *wali* of the woman who is her parent, guardian or any male relative from the family of the woman. It is the *wali* who will negotiate her *mahr* on her behalf. He seeks the consent of the woman in

order to know if she had agreed to marry the man or not. The would- be husband then gives the *mahr* to the woman through her *wali*.

Witnesses are called in to be present at the marriage ceremony and to testify that the marriage has been consummated and the *mahr* has been paid by the man. The officiating *imam* with the support of the other *ulama* present finally says prayers to bless the joining of the man and the woman as husband and wife.

### 3.14 Divorce in Islamic Marriage

Divorce is permissible in Islam because Allah permits it. If all efforts to resolve misunderstanding between couples fail, divorce is allowed because the continuous stay of the disputing couples will endanger their lives. Divorce can be initiated either by the husband or the wife. These are *talaq* and *khula*. *Talaq* is the power vested in the man to pronounce divorce to a woman; while *khula* is also the right of the woman to seek divorce through the *wali*, parent/guardian or male relative.

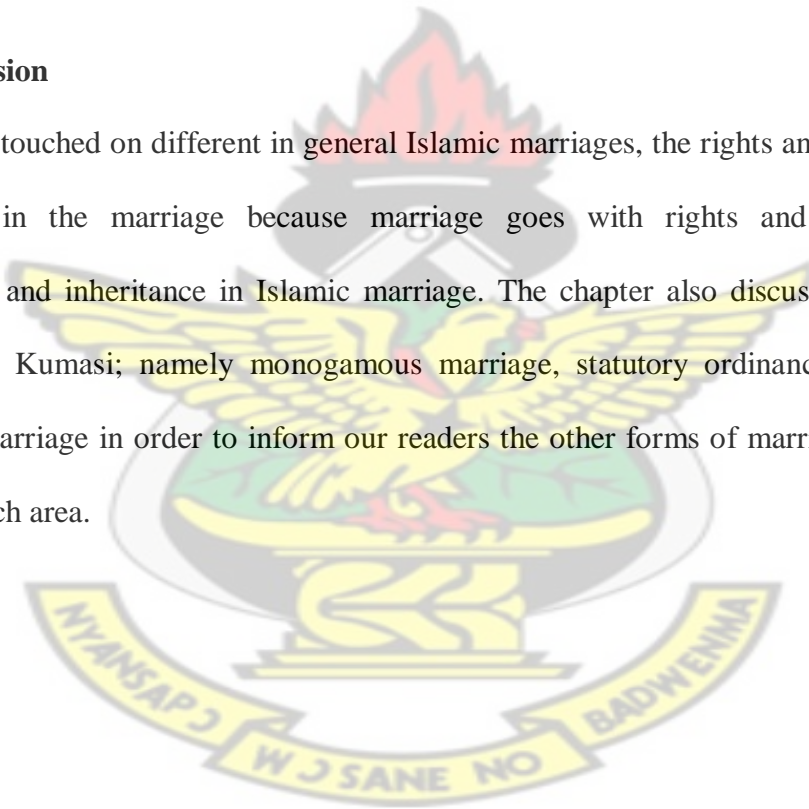
Before the man will terminate the marriage contract, there will be several warnings before the final termination. For instance, if the woman neglects her matrimonial duties like not cooking for the family; showing disrespect to the husband, not keeping herself tidy, not training the children and not providing sex are some of the fertile grounds for the man to ask for divorce.



A woman can seek divorce by first channeling her grievances through a wali, parent/guardian or male relative to the qadi (Islamic judge). “After the complain, if the woman is able to provide the seven conditions that call for divorce in Islam: the man is unable to maintain the wife and children, not providing permanent security, not providing babies, the whereabouts of the man is not known for two consecutive years, suffering from chronic disease such as epilepsy and insanity, and where both couples change their religion”( Samwini in a lecture).

### **3.15 Conclusion**

This chapter touched on different in general Islamic marriages, the rights and responsibilities of spouses in the marriage because marriage goes with rights and responsibilities, maintenance and inheritance in Islamic marriage. The chapter also discussed the forms of marriages in Kumasi; namely monogamous marriage, statutory ordinance marriage, and customary marriage in order to inform our readers the other forms of marriage that pertains in our research area.



## CHAPTER FOUR

### MUSLIM WOMEN AND THEIR MARITAL RIGHTS IN THE RESEARCH AREA

#### 4.0 Introduction

In chapter three, we discussed forms of Islamic marriage and in this chapter we intend to deal with the data collection, analysis, interpretation and the report of the data. This is a study undertaken to find the marital rights of *Muslim* women in marriage relationships and whether the rights are enjoyed by Muslim women within the Kumasi Metropolitan area. The target groups were Muslim men and women.

#### 4.1 The Population for the Study

The population chosen for the study was practising *Muslim* women and men of different *Islamic* groups. Despite the fact that the data was collected on *Muslim* women's marital rights, some men were also interviewed because marriage is an institution that involves a man and a woman. The *Islamic* groups were *Tijaniyya*, *Ahlus Sunna Wal-Jama'a*, *Ghana Muslim Mission* and *Ahmadiyya Muslim Mission*. Qualitative method was used to interview the clients.

The tool used for the collection of data was interview. One structured format was set for all the interviewees. The type of interview conducted was one-on –one. The field work was carried out in the Kumasi Metropolitan Area, from September to November, 2009. Before the data collection, a sample of the questionnaire was sent to representatives of each of the four chosen *Islamic* groups for perusal. Out of the 100 persons interviewed, 80 were women and

20 were men. Twenty-five members from each of the four listed groups were interviewed. Five men and 20 women from Ahmadiyya Muslim Mission, 20 women and 5 men from the Ghana Muslim Mission, 5 men and 20 women from the Tijaniyya and 5 men and 20 women from the Ahlus- Sunna –Wal Jam'al. The respondents were more informed as regards to marital rights and the men folk also agreed with the women.

#### **4.2 Data Analysis and Interpretation**

The study was conducted to find out the Muslim women's knowledge on their marital rights.

The research was conducted in the Kumasi Metropolitan area as indicated in 4.0.

Out of the 100 respondents, 20 were males and 80 were females because the research is about women's rights. The ages between 20 and 30, 32 people responded, the ages 20-40, 30 people responded, the ages 40-50, 20 people responded whilst the ages 50-60, 10 people responded and the least respondents were ages 60-70, 8. Under the marital status, 8 respondents were single, whilst 42 of the respondents were married, 25 people were divorced and 25 of the respondents were widowed.

##### **4.2.1 Muslim Women's Marital Rights in Kumasi Metropolitan Area**

Out of the 80 women interviewed, 8 of them knew about their rights to own property, divorce, *mahr*, inheritance, sexual intercourse with their husbands, and freedom of expression and thoughts. 4 respondents responded that they were aware of their right to equality and 28 respondents also had knowledge about their right to maintenance in marriage. This figure shows that the majority do not know their rights to property, divorce, *mahr*,

inheritance, and sexual intercourse. Even though a sizeable number are aware of their right to equality majority remain ignorant on their right to equality.

Any time there is a discussion on Muslim women's marital rights; people view it in a negative manner. Before the advent of Islam, women in Arabia did not have some of the marital rights and due to this they were treated badly. It was after the introduction of Islam in Arabia in the 7<sup>th</sup> century by Prophet Muhammad that gave birth to the full rights of Muslim women. All the 80 women interviewed had knowledge about some of their marital rights. They testified that they were aware of their rights and they had been enjoying them. Out of the 80 respondents, 4 replied that there was equality between the wife and the husband. The rest of the respondents said that it was unwise to compete with their husbands for equality because in the matrimonial home, each of the couple had a role to play and so far as there is no interference in the roles assigned to each other, there is no need to fight for equality. Some of the women went further to say that, the fact that they had not been enjoying some of their marital rights did not mean negligence, on the part of their male counterparts, but rather, they were helping their husbands due to economic hardship. They cited an example that in Islam, it was the sole responsibility of the husband to maintain the wife and the children, but due to the meagre salaries and high standard of living, the women deem it necessary to assist their husbands to maintain the home as well as the children.

#### 4.2.2 Right to Seek Divorce

Out of the 100 respondents 5 said they had ever experienced divorce, whilst 95 have never experienced divorce. The 5 respondents who have experienced divorce were all women and the initiative for the divorce came from them. Ninety-seven replied in the affirmative that women can seek divorce in *Islam*, whilst 3 replied that a woman has no right to seek divorce in *Islam*. Eighty responded that *mahr* is refundable if a woman seeks divorce and 20 replied that *mahr* is not refundable if a woman seeks divorce. On grounds on which a woman can seek divorce, 50 replied that, a woman can seek divorce if the husband is not religious: drunkard does not fast if capable, and if he refuses to pray. Three out of the 5 divorcees said that they sought divorce due to the husband's inability to maintain the family. Two said they suffered constant beatings from their husbands and 42 said they could not continue their marriage due to their husbands' impotence.

Islam grants its adherents the right to seek divorce if things go wrong in marriage. This right has been enshrined in the Qur`an and the *Sunna* of the prophet which is a source of relieve to couples who feel they cannot get along in marriage any longer. It was revealed from the data collected however, that the fact that Islam grants its practitioners the right to seek divorce does not mean that they can abuse it. The women interviewed testified that, they can only seek divorce on one or two of the following grounds: if the husband practises Islam lackadaisically or converts from Islam completely. If a woman is maltreated by the husband and several advice from respected people in the *Ummah* (Islamic community) and the Imam fail to yield fruits of calmness, the woman is then at liberty to seek divorce through any adult male relative who will channel her grievance to the *qadi*.



If the woman is able to prove one of the seven conditions that call for divorce (lack of security, impotence on the part of the man, If the husband fail to maintain the wife, chronic diseases, where both couple change their religions, the whereabouts of husband is not known for continuous years and if the husband maltreats the wife). Out of the 100 respondents, only 5 said they had experienced divorce. They were all women. 95 respondents, comprising both men and women, said that they had never experienced divorce. As to whether women had the right to seek divorce in Islam, 97 replied in the affirmative that a woman in Islam had the right to seek for divorce, whilst 3 replied that it was illicit for a woman to ask for divorce. Eighty of the respondents agreed that *mahr* is refundable because that is the pillar of the marriage; whilst 20 said it was not necessary to refund the *mahr*.

According to Safia Iqbal (2004:43), the man is supposed maintain the woman after the dissolution of the marriage until the *iddah*(waiting period). This notwithstanding, the respondents who said that they had experienced divorce stated that the men did not maintain them as it has been stated by Safia Iqbal above.

#### **4.2.3 Equality between Men and Women in Islam.**

Out of the 100 respondents 20 replied that, there is no equality between men and Women in *Islam*, whilst 80 replied that there is equality between men and women in *Islam*. The respondents who replied that there is equality between men and women, 90 of them said it was *Islamic* and 10 said it was *un-Islamic*. The knowledgeable ones based their facts on Surah 49:13 which states as below, whilst the illiterate said that they know it from their culture.

O mankind! We have created you from a male and female, and made you into nations and tribes that you may know one another. Verily, the most honourable of you with Allah is that (believer) who has at-Taqwa.... (the pious ). Verily, Allah is all-knowing, well-acquainted (with all things).

A critical look at the Ghanaian society and communities shows that males dominate in religious and traditional matters. This has infiltrated into the Islamic religion. The interviews revealed that in practice there is no equality between men and women in Islam. Eighty of the respondents replied that equality does not exist between men and women in Islam. The fewer number of 20 replied that there is equality between men and women in Islam. As to whether it is Islamic or un-Islamic, the least respondents, 10, said it was Islamic and the majority of the respondents, 90, replied that it was un-Islamic.

The eighty respondents who said there was no equality between men and women saw equality in terms of the roles men and women play. But according to Abdur-Razaq (1995:67)

In Islam, roles are clearly defined as to what is required of each man and woman to be considered a real deemed Muslim. The equality of men and women is of the most fundamental nature: before Allah they are equal. Men and women have complementary roles to perform in society, each with specific and unique duties and responsibilities. Thus there is no confusion, unhappiness, or unhealthy rivalry between Muslim men and women.

#### **4.2.4 Right to Express Thought in Islam.**

Out of the 100 respondents, 85 said both husband and wife take decisions together, whilst 15 responded that only the husband takes decisions. Out of the 85 respondents who said both the husband and the wife take decisions, 60 responded that the wife's views and suggestions were taken during decision making. .40 of the respondents said the husband views dominated most of the times during decision making.

Muslim men have been perceived by non-Muslims as not having respect for their female counterparts. This perception is as a result of the disregard for women's rights during the pre-Islamic era. The data collected on the Muslim women's right to express thought is contrary to the perception people have. The study shows that Muslim men do not impose decisions on their wives as it has been perceived. The study shows that Muslim men do not impose decisions on their wives as it has been perceived. The data collected points to the fact that majority of Muslim men, 85, do take decisions with their wives, whilst only 15 do not consult their wives when taking decision. Writers like Ibrahim Ahmad Aliyu(2008:25) is of the view that Muslim women have the right to express thought. Sixty of the respondents replied that suggestions were not taken whether good or bad. Their reasons were that it was the men who were regarded as the head of the family and as a result, their decision should carry weight.

#### **4.2.5 Right of Women to Own Property in Islam**

Out of the 100 respondents, 70 responded that wives own property, whilst 30 said wives did not own property. As to the type of property they owned, 10 owned parcels of land, 20 owned buildings, 30 owned stores and 10 owned farms. One of the respondents, Madam Kubra, a seamstress, said her store was located at Allahbar. I did not go further to enquire about the location of the above-mentioned properties so as not to appear interested in their personal affairs.

Almost all the respondents said that they were aware of Muslim women's right to engage in economic activity, own property and to dispose of the property without any interference from any relative or husband, if married. Seventy of the respondents interviewed replied that they

owned properties, whilst 30 said that even though they had the right to own properties, they did not possess any property. Out of the 70 respondents who owned property, 30 said they had stores, 20 had compound houses and 20 said they owned farms and parcels of land. This data points to the fact that Muslim women, either married or not, can own property.

#### **4.2.6 Right to Demand Sex in Marriage**

Out of the 100 respondents, 50 had the view that it is right for a woman to demand sex in marriage, whilst 50 held the view that it was wrong for a woman to demand sex from her husband as she will be regarded by the husband as a 'spoilt' woman. As to whether it was *Islamic* or *un-Islamic* for a woman to ask for sex with her husband, 50 said it was *Islamic* and 50 who responded otherwise based it on culture. Eighty-six responded that *Muslim* women do not have the right to refuse their husbands sex when healthy. The wife can only refuse her husband sex on grounds of ill-health; when in her menses, or within the third month of her delivery. Fourteen responded that the woman had the right to refuse her husband sex even when healthy.

It was realized that all the interviewees had knowledge about sex as well as the right to demand it. Most of them alluded to the fact that it was however difficult and unusual for a woman to demand sex from her husband as she is afraid to be branded as a "spoilt woman". As to whether the Muslim women can refuse their husbands sex, most of the respondents said that it was *un-Islamic* for a wife not to satisfy the husband sexually if she is healthy. However, the wife can be pardoned if she is not able to satisfy her partner sexually on condition of ill-health, post-natal bleeding and during her period of menses.

#### 4.2.7 Right to Maintenance in Marriage (nafaqah).

On right of wives to be maintained by their husbands, all the respondents said women reserved the right to be maintained by their husbands. Fifty answered that the husbands were solely responsible maintaining the home. Currently, 10 said the wives were solely maintaining the home due to their husbands' joblessness or ill-health. Forty replied that even though it is the responsibility of the husband to maintain the home, the wives worked to support their husbands. Trying to find out if a woman may forfeit her right to nafaqah, it was revealed by the interviewees that a woman may be refused her right to nafaqah on the following grounds; imprisonment; working outside the matrimonial home without the consent of the husband; where the nature of her work is such that the whole day is spent outside the home, for example if she is a business woman who spends two or more days on her business trips.

Generally, many Ghanaians, particularly the non-Muslims, believe that it is the responsibility of the Muslim women to take care of the matrimonial activities as well as their husbands and their children. They believe that, the *mahr*, must be used to cater for the family. The data collected shows that, the majority of the respondents, that is 50 of the women, replied that it is the man who is in charge of maintenance at matrimonial home. A woman may be refused her right to *nafaqah* on the following grounds; imprisonment; working outside the matrimonial home without the consent of the husband; where the nature of her work is such that the whole day is spent outside the home, for example if she is a business woman who spends two or more days on her business trips. Contrary to what the respondents mentioned



as conditions under which a married woman may forfeit the *nafaqah*, Sheikh Abdul-Rahman Hassan, a Lecturer at the Arabic Section of the Department of Modern Languages University of Ghana, stated that there are no such conditions in Islam which will lead to the forfeiture of the *nafaqah*. Thirty of the women interviewed, said that, although, it is the husband who is supposed to maintain his wife and children, they were responsible for maintaining the home due to their husbands' old age and ill-health. Twenty of the respondents said that they helped to maintain the home due to the economic hardship in the country.

#### **4.2.8 The Right to seek Employment outside Matrimonial Home**

Out of the 100 people interviewed, 80 of them said the wives were working, 20 replied they were jobless. On the type of work, 50 said they were petty traders, 15 were teachers, 2 of the working wives were nurses and 3 were administrative staff. Thirty were engaged in other economic activities such as hairdressing, dressmaking and catering. Eighty wives who were working did so with the consent of their husbands.

From time immemorial, many people have different perceptions about Muslim women's right to seek employment outside their marital home. It is asserted by many non-Muslims that Muslim women are expected to be at home rendering services to their husbands and children. This study, however, found out that greater number of Muslim women, 80, was working outside the matrimonial homes and only 20 were housewives. Of the 80, 50 were traders, 2 practised nursing, and 15 were teachers, whilst 3 were administrative staff and 30 of the figure engaged in other jobs such as hairdressing, dressmaking, and catering services. Trying to find out if their husbands were aware that their wives were working, 80 of the

working respondents replied that their husbands were aware. They explained further that ideally, Muslim women were not supposed to engage in any economic activity, but it was due to economic hardship in the country that has caused them to do so. The women who were working said they did so with the consent of their husbands. The findings point to the fact that Muslim women have the right to be employed outside their matrimonial home only with the consent of their husbands. However, according to Sheikh Abdul-Rahman Hassan, a lecturer at the Arabic Section of the Department of Modern Languages of University of Ghana, who read through this work, stated that it is unacceptable for a Muslim woman to occupy certain positions like being a secretary to a manager.

#### **4.2.9 Right to *Mahr***

Out of the 100 respondents, 85 said their *mahr* were determined by their parents, 12 replied that their suitors were given the chance to determine what they could afford as *mahr* for their would-be wives, whilst 3 said it was their relatives who negotiated on their behalf for the *mahr*. None of the respondents said that the would-be wife was given the chance to determine the *mahr*. As to whether the *mahr* was still with the female respondents or not, 10 replied in the affirmative, whilst 90 answered that their *mahr* had already been utilized, Ninety-eight of the interviewees admitted that their husbands benefited from the *mahr* and 2 used their *mahr* exclusively. Trying to find out the beneficiaries of the *mahr*, it came to light that 60 used their own *mahr*, 23 replied that their relatives shared their *mahr*, the father shared it among the family members. For example, one of the respondents said her father, mother, elder brothers and uncles shared the *mahr*. Seven of the interviewees answered that their parents took the *mahr* and 10 said that the *mahr* was used by their guardians. On what

was given as *mahr*, 60 replied that money was given as *mahr*. Twenty said they had farms as their *mahr*, 10 were given land and 10 had other items such as clothes, cows, sheep, etc as their *mahr* respectively.

*Mahr* is the symbolic gift that is given to a woman in Islamic marriage by her husband. The *mahr* is the bonafide property of the bride but she may choose to give some as a gift to her husband and parents. On the other hand, all the respondents said *mahr* was not determined by themselves. Out of the 100 interviewees 85 admitted that they were not given the mandate to negotiate for their *mahr*, but their parents did that on their behalf. Twelve replied their husbands determined the *mahr*, whilst 3 said relatives from patrilineal and matrilineal side negotiated for the *mahr* on their behalf. The interviewees went further to explain that the major reason why the brides were not permitted decide on their own *mahr* was that the adult believed that the young women would decide something huge that will scare the suitors away. The male relatives also believed that shyness can prevent the young women to negotiate properly for their *mahr*. As to whether the *mahr* was still with them, the respondents explained that it had been increased as some of the interviewees said they put their *mahr* into profit-making ventures and businesses which were extremely flourishing. Ninety replied that the *mahr* had been used and it was no more with them. Ninety-eight said their *mahr* was spent with their husbands by investing it in businesses to support the family's maintenance. As stated in 4.1. The *mahr* is supposed to be the bonafide property of the bride; the interviews revealed that not all the brides were allowed to collect their *mahr* due to some reasons. Out of the 100 respondents, 60 said the *mahr* was given to the brides, 23 replied that their relatives such the family head collected the *mahr*, 7 answered that their parents

collected the *mahr* on their behalf and 10 said their guardians received the *mahr* on behalf of the brides.

Some of the interviewees answered that some parents, guardians and other relatives such as family head as stated above collected the *mahr* on behalf of the brides because they thought the brides were not matured enough to use the *mahr* judiciously and profitably. They therefore thought it wise to collect and keep the *mahr* for the brides and give it to them when they were mature enough. On what the would-be husbands gave as *mahr*, 70 said money was given, 20 and 10 replied that the men gave farms and parcels of land respectively. Although, in my findings some of the respondents said they were given parcels of land and farms as *mahr* but these could not be proved. Besides, it is not a normal practice in Ghana for a man to give a parcel of land or a farm as *mahr* in Islam.

#### **4.2.10 Muslim Women's Right to Inheritance**

Out of the 80 respondents, 50 replied that their parents were alive, whilst 30 said that their parents were dead. Fifty-five responded that their husbands were alive, whilst 25 had lost their husbands. Trying to find out whether respondents had ever inherited anything from their husbands or parents, 25 said they had inherited something from their husbands and 30 replied that they had inherited farms and buildings from their parents. Some of the women respondents expressed their dissatisfaction about their share in inheritance. They posited that the man takes double portion of what the woman gets. Their concern is however un-Islamic as the share of each beneficiary is stated vividly in the Qur'an which is the source of authority in Islam.

### 4.3 Conclusion

The research revealed that Islam has provided enough safeguards to protect women's rights, including married women, and that, women have the same rights as men. The data collected also showed that Muslim women, both married and unmarried, educated and uneducated, had knowledge of their rights. The challenge, however, was that some of the practices were different from what is stated in the religion and this may be due to infiltration of culture from the various tribal groups into the religion, poverty and gross abandonment of Islamic laws and practices. We arrived at this conclusion because majority of the respondents know their rights, which is also enshrined in the Qur'an and the Sunna. Again, if the laws of Ghana do not prohibit them from exercising their religious rights, what else will prevent them from exercising their rights other than the infiltration of tribal traditions? For instance, in the field of maintenance, majority of the respondents said they were aware that it is the responsibility of their husbands to take care of them and the family but considering the economic hardship in the country, it will be a difficult burden for only the husbands to carry. This does mean that the right to maintenance has been taken from them. The data has also revealed that there are some Muslim Women do not feel happy when it comes to inheritance in Islam. The women said they were not satisfied with the men taking double portion of the share given to Muslim women. On the right to equality, the data revealed that in practice there is no equality between men and women in the Kumasi Metropolis. However, this revelation is contrary Qur'an 49:13 which states that "O mankind! We have created you from a male and female, and made you into nations and tribes that you may know one another. Verily, the most honourable of you with Allah is that (believer) who has at-Taqua.... (the pious). Verily, Allah is all-knowing, well-acquainted (with all things)."



The above quotation means that men and women were created equally with equal rights and none is superior to another. If the respondents are saying that men and women are not equal, it may be due to ignorance of their right to equality.

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## CHAPTER FIVE

### A COMPARATIVE STUDY OF THE CONJUGAL RIGHTS OF MUSLIM WOMEN AND CHRISTIAN WOMEN

#### 5.0 Introduction

In chapter four, we discussed the data collected on Muslim women's rights. We tried to understand their views on their marital rights, what they enjoy as married women, and whether they enjoy the rights or not. In This chapter, we intend to discuss the basic marital rights of the Muslim women and what they are entitled to in their matrimonial homes as stated in the Qur'an and the Sunna of the Prophet. Even though, the research is about Muslim women, we will not hesitate to compare it with the marital rights of Christian women because of the dominance of both religions in Kumasi. The rights to be considered are the following; right to *mahr*, right to inheritance, right to property, right to equality, right to maintenance, right to sexual intercourse, right to seek khulu (divorce), right to seek employment outside the matrimonial home and the right to express thought.

#### 5.1 Right to *Mahr*

*Mahr* plays vital role in Islamic marriage because it is regarded as the pillar of the marriage.

This is backed by Surah 4:4 which states that:

“And give to the women (whom you marry) their *Mahr*(obligatory bridal-money given by the husband to his wife at the time of marriage) with a good heart; but they, of their own good pleasure, remit any part of it to you, take it, enjoy it without fear of any harm(as Allah has made lawful).”

According to wikipedia.org “*mahr* is a mandatory gift given by the groom to the bride.

Unlike a bride price, however, it is given directly to the bride and not to her father”.

The website went further to say that although, the gift is often money, it can be anything agreed upon by the bride and groom such as a house or viable business that is put in her name and be ran and owned entirely by her if he chooses.

*Mahr* should be something which is not above the status of the groom but should be something which is valuable. Our source which was in Arabic was translated by Rufai Abdul-Karim. According to Al- Kahil (2003:320) “the *mahr* that is given to a bride can be below or exceed the 500 Driham that was given by the prophet to all his wives.” Al-Kahil (2003:323) went further to state that: the fact that the *mahr* is a gift from the groom to the bride does not prevent the father from taking part of it so long as it will not lead to harming the daughter, since whatever belongs to the child belongs to the father. He added that the father should not take a percentage that will exceed what the bride will get because the *mahr* is the bonafide property of the bride.

There are two kinds of *mahr* in Islamic marriage. These are specified and unspecified *mahr*. Ibrahim (2000:155) states that “the specified dower may be fixed before the marriage or at the time of the marriage, that is, between their representatives. When the sum has already been fixed, another question arises as to what time payment will be made and in this the specified dower is also divided into two: Muajjal(prompt) and Mu'ajjal(deferred).The term Muajjal is an Arabic word derived from the root to hasten, to precede or given a priority in a point of time. The terms look alike but the two are two different words, the second one, however, means delayed or postponed. He went further to say that: prompt dower is paid immediately before the marriage or after the demands of the wife or her representative have

been made good. The deferred *mahr* is payable in any future specified event or on the dissolution of the marriage. When the dower is fixed half of it could be paid. The other part would be paid in the future. It could also be paid on the death of the husband. So long as this promise is made, it is binding on the husband, dead or alive. For someone who has paid only part of the *mahr*, the other portion must be settled if, for example, the husband wants to divorce the wife or to take another wife. Again, as we said in 5.0 above that, it is very important for the husband at least to give something.

Ibrahim (2000;156) again said in that: In Islamic family law, a marriage contract can take place without mentioning the amount of the dower.” We are not in favour of the postponement of the dower because it is the payment of the dower that indicates that full bondage between the husband and the wife. Unlike Islam which made clear the issue of *mahr*, Christian women tow the line of the customs that pertain in their culture and locality when it comes to their right to bride price.

## **5.2 Right to Inheritance**

Inheritance rights are a critical issue for Ghanaian women because traditionally in Ghana, in the olden days, widows have no right to inherit property from their husbands’ estates even when the property was acquired during the marriage. As a result of that practice, women were often left destitute and homeless upon the death of their spouse. Article 22 clause (1) of the 1992 constitution, however, grants spouses reasonable provision out of the estate of a spouse whether or not the spouse died having made a will. Islam as a religion also has a laid down format of inheritance. However, the constitution can give the Muslims the right to

practice what is enshrined in their religion. Surah 4:11, of the Qur'an gives the female adherents or practitioners of Islam the right to inheritance. During the pre-Islamic era, inheritance right was solely confined to the males. The religion of Islam came to abolish this practice and gave women the leverage to inheritance. According to Al-Katib (1997:31)

“In all, inheritors among women are ten. They are as follows; daughter, daughter of the son, mother, mother of the mother, mother of the father, sister from both parents, sister from father, sister from mother, wife/wives and mistress of a slave. In all Islamic law, it is only these ten women who inherit. If one did not fall within these ten, the person will never inherit. The portion to be inherited by these ten is determined by circumstance of death. It is only the wife/wives who can either get one-fourth or one-eighth based on Surah 4:12. The inheritress will get one-fourth if the husband has no child and one-eighth if the husband has child/children.

Again, according to Pierce (2003:479), the opinion by the Wali of Kano that the *shari'a* did not forbid female inheritance was noted by the Land Tenure Committee of the Emirate Council in their minutes cited at the beginning of this paper in (2003:464). Pierce further stated that:

Because of [the Walis opinion] the Committee gave its opinion- women should keep on been given house and farm inheritance, as the *shari'a* ordains. But good methods should be followed... to give [women] this kind of inheritance. After carrying and bringing [ i.e the movables have been distributed], the house or farm or plot [puloti] or parcel [sarari] should be considered: if they're going to divide it, then divide it to give everyone his share; if they're not going to divide it, then put back the wealth to be divided. This should be done together with people from the *Al'kalis* office.

Christianity unlike Islam has not got a well laid down universally accepted system of inheritance. They therefore resort to the traditions and laws in the country. When it comes to inheritance, they sometimes refer to the Interstate Succession Law (111) if a person dies without a Will. According to Kisseadoo (2001:162),”scripture require fathers to leave inheritance to their children and obviously their wives as well. 'A good man leaves inheritance to his children's children, but the wealth of the sinner is stored up for the righteous.' (Proverbs 13:22). Obviously, when a mother dies her property becomes an inheritance for her children as well, more so when she has had to raise the children all by herself as a single parent. He further stated that:



The practice of patrimonial inheritance by the majority of cultures in the world is therefore appropriate, as scripture has already stated, and also recorded as a common practice by those who worshipped God before us.

The quotation stated above did not preserve the right to inheritance to one sex, both males and females have the right to inherit their parents' legacies.

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### 5.3 Right to own Property

Islam has given the woman the right to own property whether she is married or not (Qur'an 4:32). According to Aliyu (2008:17) "Shari'ah recognizes the full property rights of woman before and after marriage. This is in accordance with the Qur'an 4:32 which specifically explains this right, particularly, in relation to both man and woman. It provides that to believing men is allotted what they earn, and to the women what they earn. Aliyu went further to state that;

thus women may buy , sell or lease any or all properties at will. For this reason Muslim women may keep their maiden names after marriage, an indication of their independent property right as legal entities.

This Surah means Islam gives women right to own property whether married or not. Christian women, just as the Muslim women, have the right to own property, whether married or not. Proverbs 31 verse 16 states that: "She considers a field and buys it; with the fruit of her hands she plants a vineyard." This verse shows that Christianity endorses the ownership of property by women and encourages them to work and own property with what they earn from the work.

## 5.4 Right to Equality

Men and women are regarded as the same creatures in Islamic society. It was during the pre-Islamic period in Arabia that women were regarded as inferior to the men and as a result were relegated to the background because the human rights were not yet addressed at that particular moment. Islam came to abolish the discrimination that existed between men and women during the *jahiliyya*.( Surah 49:13)

This Surah points to the fact that men and women are equal in Islam because they were both created from the same pair.

According to Al-Sheha (2003:21) “All individuals are equal in Islamic Code of Law. Penalties, judgments and legal sentences are applicable to all classes of people without any distinction. There are no particular forms of penalties or sentences for a certain class of people.” Al-Sheha went further to state that:

“All people are equal within the jurisdiction of Islamic law. No individual or class of people has immunity over and above the Islamic laws”.

This shows that, all people are equal in Islam no matter the difference in sex .and would be penalized by the same Islamic law if they go contrary to the Islamic rules and regulations governing them.

In Christianity, some verses in the Bible admonish husbands and wives to consider each other as co-equals, but one needs to be careful when reading such verses as they can be misleading. Instances of such verses are discussed below. Ephesians 5:22-24 states that: “Wives, be subjects to your husbands, as to the Lord. For the husband is the head of the wife as Christ is the head of the church, his body, and himself its saviour. As the church is subject

to Christ, so let wives also be subjects in everything to their husbands”. The above quotation raises a debate whether there is equality between husbands and wives in Christianity. Reading the chapter further however, provides the answer. In the following verse, that is verse 25, husbands were urged to love their wives as their bodies, and because no one will consider his own body as inferior and treat it as such, husbands were in effect being told to regard and treat their wives as equals.

According to Van Pelt (2002:101) “God’s original plan for the family was that, husband and wife should live together in perfect harmony. Before sin entered, God was the ultimate leader in the home, and Adam and Eve both submitted to Him. Mutual submission was a natural way of life for them. The context of the Genesis account of the first family has led many to conclude that God designated Adam as the family leader. But surely God will not appoint a man to lead and fail to give him the potential qualities necessary for leadership. Some men have more capabilities than others, but all men have some, and leadership qualities can also be learned and developed. He went further to say that:

However, Eve’s role ‘a helper fit for him’ (Genesis 2 verse 18, RSV) was of no lesser importance than man’s position. Shouldering different roles should never mean inequality. God created men and women to compliment each other, and thus marriage is an interdependent, supportive relationship. Although, male and female roles may differ, they are equal in importance and both are necessary to the well-being of a healthy society.

### **5.5 Right to sexual Intercourse**

Islam has given its female practitioners the prerogative rights to sexual intercourse with their husbands, just as their husbands have the right to have sex with them. Kanan (1997:155) said that “it is the right of the man to find his wife ready for sexual intercourse except in her menses or post-natal bleeding”

Kanan (1997:163) again said:

it is also her right that he protects her from going to seek pleasure and so he must fulfill her sexual desire the way he wants her to fulfill his. When he is having sex with her, he should not lift himself until he is sure that she has reached her orgasm.

This point to the fact that women in Islam have right to sexual intercourse with their husbands and right to determine when the man should stop. We do not believe however, that fulfilling a woman's sexual desire alone is a mechanism of preventing her from seeking sexual pleasure outside her matrimonial home. There are many married women, who are given the maximum sexual satisfaction by their husbands, yet they still have sex outside their matrimonial home with different men. This may be due to economic reasons (e.g. lack of proper maintenance by their husbands), maltreatment, poor communication in their matrimonial homes etc.

Christian women also have the same right to sexual intercourse with their husbands just as their Muslim counterparts. This is backed by 1 Corinthians (7:1-5) which states that:

now concerning the matters about which you wrote, it is well for a man not to touch a woman. But because of the temptation to immorality, each man should have his own wife each woman her own husband. The husband should give to his wife her conjugal, and likewise the wife her husband. For the wife does not rule over her own body, but the husband does, likewise the husband does not rule over his own body, but the wife does. Do not refuse one another except perhaps by agreement for a season, that you may devote yourselves to prayer, but then come together again lest Satan tempts you through lack of self-control. (RSV)

## **5.6 Right to Seek Divorce (Khula)**

Islamic religion is one of the few religions that permit divorce because Allah permits it. Because the continuous stay of the couples may endanger their lives. The fact that Islam has made provisions for disgruntled couples to call for divorce does not mean that Islam encourages it. It is the right of a woman to seek divorce in Islam and this is known as *khula* in Islamic jurisprudence. There are many factors that Muslim women can base on to seek divorce. Some of the factors according to Al-Kahil (2003: 325) are as follows "if the man is

not religious e.g. does not fast, does not pray, If the husband is interested in women and does not go according to the five pillars of Islam.

According to the Surah of divorce, which is Surah 65, it is the man who has the authority to pronounce divorce. The woman seeks divorce through a brother, or a male relative who will lead her to the *qadi* (Islamic judge) to make a formal complaint for divorce. After the complain, if the woman can proof the seven conditions that call for divorce in Islam which are; lack of maintenance, insecurity, inability on the part of the man to shelter her, the man's impotence, chronic diseases such as epilepsy and madness, if the whereabouts of the man is not known for two continuous years and if the man becomes an apostate.

For *khula* to be regarded as effective the woman is expected to refund the *mahr*, unless the man decides to forgo it. This is so because the *mahr* is the pillar of the marriage and failure to refund it converts the *khula* into *talaq* (divorce initiated by the man). According to a tradition of the prophet, ( Sahih Al-Bukhari (n.d. 7:197) Ibn Abbas narrated "The wife of Thabit Ibn Qais came to the prophet and said O' Allah's Apostle! I do not blame Thabit for defects in his character or his religion, but I, being a Muslim dislike to behave in an un-Islamic manner (if I remain with him)" On that Allah's Apostle said (to her) "will you give back the garden which your husband has given you (as *mahr*)? She said, yes." Then the prophet said to Thabit, O' Thabit! Accept your garden and divorce her once.

Unlike Islam, Christianity does not permit divorce let alone giving disgruntled couple the right to divorce. The Old Testament's command that a bill of divorce be given to the woman



assumes the legitimacy of divorce itself (Deuteronomy 24:1-5). However, Jesus who is the founder of Christianity absolutely prohibits divorce (Matthew 5:31; Mark 10:2-12; Luke 16:18).

## **5.7 Economic Right**

Muslim women enjoy economic rights such as the right to seek employment outside their matrimonial home, contrary to the view held by many non-Muslims and some Muslims that the woman should always be confined to the house rendering services to the husband and children.

According to wikipedia.org., “Islam has given women the right to work, to own property and to have wealth. Women can seek employment and work in profession (sic) such as medical care, teaching, civil and justice professions. These rights remain the same before and after marriage.

Regarding the right to work, Sura 4 Verse 32 states:

“And in nowise convert those things in which Allah has bestowed his gifts more freely on some of you than on others: to men is allotted what they earn, and to women what they earn: But ask Allah of his bounty. For Allah has full knowledge of all things.

.In the pre-Islamic period as well as post-Islamic there were no restrictions in women’s full participation in the economic, political and social spheres of their society. For example, Khadijah, the prophet’s wife was one of the most important merchants of the time, and the Prophet himself was her employee.” (wikipedia.org.), accessed on 12-09-2009.

Again, according to Abdur-Razaq (1995:49), ‘it is un-Islamic to say that the woman’s place is the kitchen.’ One can therefore say that, a Muslim woman’s position is not limited to the kitchen but she can seek employment outside the matrimonial home.

She (1995; 47) further stated that:

perhaps we do not know that women are specially blessed by Almighty Allah. He has asked our men to take special care of us. We are to stay at home and take care of the house and children except we want to work and if we do want to work and have sought and obtain permission of our husbands whatever we earn is ours unless we want to share it or buy things in the house as we wish otherwise it is solely ours. However we must not leave our homes to work outside if it is at the detriment of the family. Allah and His last Prophet have assigned us the primary role of educating ourselves so that we may impart this education to our children and make better and more spiritual society.

A Muslim woman may work outside the home when she realizes that a specialized services is needed for the progress or welfare of the state and also if she needs additional financial support. The researcher is of the view that due to economic hardships and interest in rendering services to their societies, many Muslim women are working outside their matrimonial homes nowadays with the consent of their husbands. For example, we find in our research area that many women are head-potters, traders and civil servants, all trying to lessen the economic hardship in their marital homes and also rendering services to the society.

Christian women like as their Muslim sisters are not debarred from seeking employment outside their matrimonial home Article 24 Clause(1) of the 1992 Constitution of Ghana states that “Every person has the right to work under satisfactory, safe and healthy conditions, and shall receive equal pay for equal work without distinction of any kind.” The above article in the 1992 Constitution of Ghana gives every person in the country, irrespective of sex(male or female) or religious affiliation, whether Christian or Muslim, the right to work.

The Holy Bible in Proverbs 31 verses 10- 31 describes a virtuous or an ideal woman. The description includes a woman who works hard to cater for the husband and the children. Verse 13-14 states” She seeks wool and flax, and works with willing hands. She is like the ships of the merchant; she brings her food from afar. She rises while it is yet night and provides food for her household and tasks for her maidens” The verse 24 also states that “She makes linen garment and sells them; and delivers girdles to the merchant. “The above quotations show that Christianity abhors women who are indolent, and extols women who work hard, both in and outside the home, to care for the family.

### 5.8 Right to Express Thought

Islam like other religions has not trampled upon its women’s rights to express their thought. Despite the fact that Muslim women have the right to air their views on issues does not give them the mandate to do so in a violent manner. They are expected to take part in public debates as well as decision making in the *umma* but on the condition that, they will present their facts in a submissive and holistic manner. Al-Hageel (1999:66) gives principles modes for public speech in Muslim societies that he thinks can lead to *umma* harmony.

Freedom of thought and expression in Islam must be practised through a peaceful approach without resorting to violent or unlawful coercion. The lack of such safeguards will lead to chaos and disintegration of the society. In this respect, the Qur'an ordains: ‘invites (all) to the way of thy Lord with wisdom and beautiful preaching; and argue them in ways that are best and most gracious: for thy Lord knows best who have strayed from his path and who receive guidance. Allah also says: ‘But speak to him mildly; perchance he takes warning or fear (Allah). It is also ordained in Quran: ‘Nor can goodness and evil be equal, repel evil with what is better: then will he between whom and thee was hatred become as it were thy friend and intimate! In order to protect the individual in the Islamic community, the freedom of thought and expression must be controlled so as to protect people from being harassed or harmed. The purpose of freedom must not be directed to defamation and disclosure of confidentiality and degrading people. This kind of attitude has been prohibited by the Holy Quran in ‘numerous verses: ‘Allah loveth not the shouting of evil words in public speech, except by one who has been wronged, for Allah is He who heareth and knoweth all things. We read also: ‘Those who love to see scandal circulate among the believers, will have grievous chastisement in this life and in the Hereafter: Allah knows and ye not. As for the protection of the Islamic community as a whole and the protection of religion from being attacked, the freedom of thought and speech must not embark on Islam and Muslims. Otherwise a *Hadd* (punishment prescribed by the shari’ah) or *ta'zir* (punishment

according to the judge's own discretion) shall be inflicted on the trespasser who abuses this freedom that has been provided for the attainment of goodness and the containment of evil both at the individual level and the community level."

It seems that Muslims are realizing the opposite of what has been discussed above because, generally some Muslims capitalize on the freedom of thought and expression to rain abusive insults that incur wrath and displeasure of people who listen to their preaching and finally generate into conflict that caused innocent people to lose their lives. Some of the researcher's relatives who dwell in Kintampo were victims of Muslim-Christian conflict around 1996 just after a crusade for preaching Jesus as the son of God and the only way to Heaven. We believe that women like their male counterparts have the rights to the expression of independent thoughts irrespective of their religious affiliation. Again, some Muslims particularly, the Mobile Preachers who live in our research area capitalize on the freedom of expression and thought to rain abusive insults on Christians when they are preaching and this goes contrary to what has been stated by Hageel above. The Christian woman just like the Muslim woman has the right to freedom of thought and expression. Van Pelt (2002:104) states that, "In a supportive relationship the partners will consult one another on issues that concern the family and its future. It is disappointing for one partner to discover that a major decision has been made without his or her knowledge. The mutual decision-making process reinforces equality and self-respect. He further stated that:

A husband should take his wife into confidence, ask for her opinions on family matters, and listen attentively as she presents her ideas. He needs her advice, not just to second all his motions, but as a counselor who possesses an intuitive grasp of situations that he may not see. Her knowledge of a problem may be limited, but her advice may be more reliable than his, due to her emotional reflection on issues. He should give her full opportunity to express herself, and as she speaks he should read between lines by observing her non-verbal communication.



## 5.9 Right to Maintenance

A Muslim woman has the right to maintenance as has been discussed in 2.6.1.

Maintenance in Islamic marriage is one of the essential conditions because Allah has made it so. The husband is responsible for the up-keep of the wife and children. During the era of the prophet, he was responsible for the maintenance of his wife and children. According to Ibrahim,(2000:22) “the prophet used to sell the dates of the garden of Bani An-Nadir and store for his family so much food as would cover their needs for a whole year”. This points to the fact that, maintenance plays a vital role in Islamic marriage. Even though, that the man is responsible for the provision of shelter, clothing, food, and protection does not mean that, he should maintain his wife and children above his financial capabilities because it can lead to bankruptcy. Again, in the event of divorce, the divorcing husband is responsible for her residence and maintenance till the period of waiting (*iddah*), which is normally three consecutive menstrual periods, is over. The *iddah* is to make sure that the woman is not pregnant for the divorcing husband.

Van Pelt (2002:108) states that “a woman also needs the protection of her husband. She needs shelter from the rougher elements of life-not only from physical assaults but also from emotional and spiritual traumas. If an irate landlord bangs on the door and lets loose a multitude of complaints, she might reply, I’ll speak to my husband about it! She uses this not as an out but as a natural response from one living under the protection of her mate. He went further to say that:

“A husband’s protectiveness over his wife also saves her from spiritual attack. When a woman leaves under the protection of her husband, she can move with great freedom in spiritual things as well as all other matters. God intended that the man stand between his wife and the assaults of the world to absorb many of the pressures that might strike her .However the husband need not carry such protection too



far. Some women have been so protected by their husbands that they have not only felt the loss of personhood but when the husband died, they floundered in total helplessness.”

We do not agree with Van Pelt’s advice that there should be a limit to protection in the sense that, generally women are vulnerable and as a result, the husband should give his wife the maximum protection until she is fully satisfied and secured. It is an undisputable fact that Muslim married women are entitled to basic marital rights, but some of these rights have a lot of challenges. For example, the Muslim married woman has the right to demand from her husband, but in a polygamous marriage, the husband is supposed to sleep in turns with the wives, how does a wife satisfy her sexual desires if it is not yet her turn?

Also, the right to equality can never be met in a polygamous home. Much as the husband will try to give the wives equal treatment materially, he cannot love all of them equally and Qur'an 4:129 has made this very clear, “You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them (by giving her more of your time and provision) so as to leave the other hanging (i.e. neither divorced nor married). And if you do justice, and do all that is right and fear Allah by keeping away from all that is wrong, then Allah is Ever oft-forgiving, most merciful.”

### 5.10 Conclusion

In this chapter, we realized that, Christian women also have the right to equality, right to engage in economic activity, right to demand sex with their husbands, and right to inheritance. But with regards to the right to bride wealth, Christians follow the customs and traditions of the area. Christians are not given the right to divorce by the Bible.

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## CHAPTER SIX

### CONCLUDING OBSERVATION AND RECOMMENDATIONS

#### 6.1. Summary of Chapters

The main purpose of this study has been to find out the truth in the belief held by many non-Muslims from time immemorial that, Muslim married women are not allowed to freely enjoy their basic marital rights, as their rights are dictated by their male counterparts. The material for the study has been drawn from the Qur'an and the *sunna* of the prophet, which are the main source of authority for the Islamic religion.

In chapter two, we dealt briefly with the history of Islam in Kumasi. We established that several factors brought Muslims to Kumasi including diplomatic mission, diplomatic contact with Burkina Fasso and other northern towns of Ghana, and trade. Some schools of thought highlighted us in 2.2 above that, in the initial stages all Muslims were at the same place in Kumasi which was referred to as the Zongo before the Muslim communities sprang up in 1896 as discussed in 2.2.

Second, it was discovered that Muslims are scattered in Kumasi but the pre-dominant Muslim areas that our studies focused on are Suame, Tafo and Asawase. The importance here to us is that Kumasi Muslims migrated from different parts of the country, they all identified themselves as one people with a common goal and as a result, there was no misunderstanding or conflicts between them due to ideological differences. Third, the chapter dealt with the associations of Muslim women in Kumasi. This chapter informs us of how Muslim Women's

Associations in the Kumasi metropolitan area strove to achieve public recognition in order to prove to the public that, Muslim women are not just confined to their marital homes alone. Again, the aims of these associations were to improve the standard of living of Muslim women, unifying them, educating them on their rights, instilling discipline in them and above all propagating Islam.

In chapter three, we discussed the forms of Islamic Marriage. It was realized that the Islamic family law has four forms of marriages: monogamous marriage, polygamous marriage, *mut'a* marriage which is practised by the Shiahs, and slavery marriage.

Second, though the chapter focused on forms of Islamic marriage, it was extended to customary marriage, statutory ordinance marriage, and pre-Islamic marriage so that readers will understand what goes on in other forms of marriages in the research area.

In Kumasi, monogamous and polygamous marriages are the most prevalent. Another issue that was discussed in this chapter was maintenance in Islamic marriage, divorce in Islamic marriage, rights and responsibilities of the couple and inheritance in Islamic marriage.

In chapter four we collected data on Muslim women's marital rights in our research area with these Islamic religious groups: Tijaniyya, Alhus Sunna Wal-Jama'al, Ahmadiyya Muslim Mission and Ghana Muslim Mission. The data showed that, Muslim women know most of their marital rights. Women were interviewed on their marital rights and the result showed that they knew their right to maintenance, right to own property, whether married or not, right to engage in economic activity, right to inheritance, right to seek divorce, right to

demand sex in marriage and right to freedom of thought and expression. It was also realized that, they do not know their right to *mahr* and right to equality. We established that, some Muslim women are not happy when it comes to inheritance as men take double portion of what the women are supposed to take.

Chapter five focused on the comparison of Muslim women's marital rights to Christian women's marital rights and we learnt that both groups had the right to demand sex from their husbands. Inheritance, freedom of thought and expression, maintenance and protection, and right to equality are also rights due women.

Whereas Muslim women dwell on the issue of *mahr* in the Qur'an and the Sunna, the Christian women's right to *mahr* conforms to what pertains in the localities.





## 6.2 Recommendations

To strengthen the knowledge and awareness of Muslim women's marital rights in marriage relationship, we may have to consider at least six recommendations.

Firstly, there is the need for Muslim preachers to preach more on Muslim women's rights in order to educate both men and women who are ignorant on Muslim women's marital rights.

Secondly, majority of the women feel there is no equality between them and the men as discussed in 3.2.4 above. We recommend that the Imams should give Muslim women the chance to occupy positions seen as 'no go area' for women in order for them to feel that there is equality. Women, for example, could be given the chance serve to serve as deputy *Aimah(Imams)*. This will enable women to feel free to voice their concerns.

Thirdly, even though we have established that per Islamic family law, it is the responsibility of the man to cater for the family, but the prevailing economic hardships as indicated by the women themselves in the research area has made them work to help the family. We therefore recommend that they continue to work to support the family but with the permission of their husbands.

Fourthly, Muslims should make publications on the women's right in general and more specifically, Islamic women's marital rights, available to both Muslims and non Muslims to erase the perception held by many, especially non-Muslims, that Muslim Women do not enjoy any right in marriage.

Fifthly, it was realized that Muslim women feel cheated when it comes to inheritance as their male counterparts take double portion of what the woman takes. Muslim scholars should educate the women as to why the men take double portion of what the woman gets in inheritance so that the women will not feel cheated.

Lastly, there is cultural infiltration into the Islamic religion and this has been allowed to supersede the religion's teachings on marriage. The *Aimah* (Imams) and the *ulammá* must educate Muslims to differentiate between culture and Islam.



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Abdul- Karim Rufai	Arabic Teacher, Alzariyya, Tafo, Kumasi	20/09/09
Abdul-Mumin Jaharatu	Housewife, Suame, Kumasi.	12/10/09
Abdul Wahab Safuratu	Housewife, Suame, Kumasi	07/11/09
Abdullah Zurehatu	Trader, Kumasi	16/10/09
Abubakr Adisa	Seamstress, Aboabo, Kumasi	01/10/09
Ahmed Seidu Ustaz	Executive Secretary to the Council of Ulamma, Ghana & Secretary to the Imam, , Central Mosque, Kumasi.	11/11/09
Alhassan Maimunatu	Former Groundnut Seller, Aboabo, K'si	07/09/09
Appeadu Yasmmin	Regional FOMWAG President, Ashanti	22/09/09
Barasaid Rabbiatu	Trader, Kumasi.	16/10/09
Baryeh Alhassan	Pharmacist, Ashanti Regional Medical Stores	03/10/09
Birago Hawa	Retired Nurse, KATH	1/09/09
Birago Mamunatu	Trader, Kumasi Central Market.	05/11/09
Dauda Bintu	Housewife, Asawasi, Kumasi.	09/11/09
Dramani Aminu	Lecturer, KNUST, Dept. of History and Political Studies	15/10/09

Hussein Muhammad	Driver, Aboabo, Kumasi.	17/10/09
Ibrahim Hawa	Teacher, Eden Preparatory School, Kumasi.	10/09/09
Ibrahim Latifa	Housewife, Aboabo, Kumasi.	10/09/09
Issah Salfia	Housewife, Aboabo, Kumasi.	10/09/09
Isshak Ajarah	Caterer, Kumasi	11/09/09
Jafar Sarkina	Member, Al-Ansariyya Islamic Society, Sofo- Line, Kumasi	04/11/09
Latiff Amima	Retired Caterer, Sofo-Line	15/10/09
Muhammad Adamu	Teacher, Afua Kobi Ampem Girl's SHS	03/11/09
Mustafa Aisha	Administrative staff, PWD	01/11/09
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Tanko Katummi	Cloth Seller, Central Market.	11/11/09
Uthman Ibrahim	Electric Welder, Akwatia line, Kumasi	10/09/09

Yakubu Asana	Private Nurse, Kumasi	04/10/09
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**APPENDIX**  
**SAMPLE THESIS QUESTIONNAIRE**

**TOPIC: THE RIGHTS OF MUSLIM WOMEN IN MARRIAGE**

**RELATIONSHIP WITHIN THE KUMASI METROPOLITAN AREA**

**PERSONAL DATA**

NAME

AGE

SEX

EDUCATIONAL LEVEL: ( ) PRIMARY, ( ) JHS, ( ) SHS, ( ) TERTIARY

MARITAL STATUS:

a. What are the *Muslim* women's right that you know of? -----

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b. Do you get tuition on marital rights from the Muslim Women's wing? Yes / No.

***Mahr***

a. Do you remember what your husband/ you gave as your *Marh*? Yes /No

b. Who determined the *Mahr*? -----

c. Is it still with you? Yes/No

d. Did your husband/ you (if a man) benefit from it? Yes/No

**Right to seek employment**

.a. Are you working? Yes / No

b.i Are you aware that your wife is working? Yes/ No.

ii. Is your husband aware that you are working? Yes/ No

c. What type of work if any? -----

. i. Why are you working? -----

-----

**Right to own property**

a. Do you have your own property? Yes/No

ii. Does your wife own any property? Yes/ No

b. If yes what type of property? -----

**Right to express thought**

.a How do you and your husband/wife take decisions at home? -----

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b. Are your suggestions taken? Yes /No

**Right to divorce**

a. Have you ever experienced divorce? Yes / No

b. If yes who sought for the divorce? -----

c. Do you think a woman in *Islam* can ask for divorce? Yes/No

d. On what grounds can a woman seek divorce in Islam?-----

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e. Is the *Mahr* refundable if the divorce was initiated by the woman? Yes/ No

### **Right to inheritance**

a.i. Are your parents alive? Yes/No

ii. Is your husband alive? Yes/ No

b. Have you ever inherited anything from parents or husband? Yes /No

### **Right to maintenance in marriage**

a. Do wives have the right to maintenance? Yes/ No

b. Who takes care of the house in terms of maintenance?

i. Husband

ii. Wife

iii. Both

c. i Can a Muslim woman forfeit her maintenance? Yes / No.

ii. On what grounds can a Muslim woman forfeit her maintenance?

.....  
.....  
.....  
.....

### **Right to sex**

a. Do women have the right to demand sex from their husbands? Yes /No

b..Is it *Islamic* or *anti-Islam*?

c. Can Muslim women refuse their husbands from having sex with them? Yes/No

d. If yes, on what grounds can they refuse their husbands from having sex with them?

e. Is it Islamic or un-Islamic for a *Muslim* woman to refuse her husband from having sex with her? Yes/ No.

**Right to equality**

- a. Is there any equality between men and women in Islam? Yes/ No
- b. Is it Islamic or un-Islamic?

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