

## Surah Al Mumtahina (The Woman Under Questioning)

### Name

In verse 10 of this Surah it has been enjoined that the women who emigrate to *dar al-Islam* (the Islamic State) and claim to be Muslims, should be examined hence the title *Al-Mumtahinah*. The word is pronounced both as *mumtahinah* and as *mumtahanah*, the meaning according to the first pronunciation being "the Surah which examines", and according to the second, "the woman who is examined."

### Period of Revelation

The Surah deals with two incidents, the time of the occurrence of which is well known historically. The first relates to Hadrat Hatib bin Abz Balta'a, who, a little before the conquest of Makkah, had sent a secret letter to the Quraish chiefs informing them of the Holy Prophet's intention to attack them. The second relates to the Muslim women, who had started emigrating from Makkah to Madinah, after the conclusion of the Truce of Hudaibiyah, and the problem arose whether they also were to be returned to the disbelievers, like the Muslim men, according to the conditions of the Truce. The mention of these two things absolutely determines that this Surah came down during the interval between the Truce of Hudaibiyah and the Conquest of Makkah. Besides, there is a third thing also that has been mentioned at the end of the Surah to the effect; What should the Holy Prophet (upon whom be Allah's peace) make the women to pledge when they come to take the oath of allegiance before him as believers? About this part also the guess is that this too was sent down some time before the conquest of Makkah, for after this conquest a large number of the Quraish women, like their men, were going to enter Islam simultaneously and had to be administered the oath of allegiance collectively.

### Theme and Topics

This Surah has three parts;

The first part consists of vv. 1-9, and the concluding verse 13 also relates to it. In this strong exception has been taken to the act of Hadrat Hatib bin Abi Balta'a in that he had tried to inform the enemy of a very important war secret of the Holy Prophet (upon whom be Allah's peace) only for the sake of safe guarding his family. This would have caused great bloodshed at the conquest of Makkah had it not been made ineffective in time. It would have cost the Muslims many precious lives; many of the Quraish would have been killed, who were to render great services to Islam afterward; the gains which were to accrue from conquering Makkah peacefully would have been lost, and all these serious losses would have resulted only because one of the Muslims had wanted to safeguard his family from the dangers of war. Administering a severe warning at this blunder Allah

has taught the believers the lesson that no believer should, under any circumstances and for any motive, have relations of love and friendship with the disbelievers, who are actively hostile to Islam, and a believer should refrain from everything which might be helpful to them in the conflict between Islam and disbelief. However, there is no harm in dealing kindly and justly with those disbelievers, who may not be practically engaged in hostile activities against Islam and persecution of the Muslims.

The second part consists of vv. 10-11. In this a social problem has been settled, which was agitating the minds at that time. There were many Muslim women in Makkah, whose husbands were pagans, but they were emigrating and reaching Madinah somehow. Likewise, there were many Muslim men in Madinah, whose wives were pagans and had been left behind in Makkah. The question arose whether the marriage bond between them continued to be valid or not. Allah settled this problem for ever, saying that the pagan husband is not lawful for the Muslim women, nor the pagan wife lawful for the Muslim husband. This decision leads to very important legal consequences, which we shall explain in our notes below.

The third section consists of verse 12, in which the Holy Prophet (upon whom be Allah's peace) has been instructed to ask the women who accept Islam to pledge that they would refrain from the major evils that were prevalent among the womenfolk of the pre-Islamic Arab society, and to promise that they would henceforth follow the ways of goodness which the Messenger of Allah may enjoin.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allah, the Compassionate, the Merciful.

يَأَيُّهَا الَّذِينَ آمَنُوا لَا تَتَّخِذُوا عَدُوِّي وَعَدُوَّكُمْ أَوْلِيَاءَ  
تُلْقُونَ إِلَيْهِم بِالْمَوَدَّةِ وَقَدْ كَفَرُوا بِمَا جَاءَكُمْ مِنَ الْحَقِّ يُخْرِجُونَ  
الرَّسُولَ وَإِيَّاكُمْ أَنْ تُوْمِنُوا بِاللَّهِ رَبِّكُمْ إِنْ كُنْتُمْ خَرَجْتُمْ جِهَادًا  
فِي سَبِيلِي وَابْتِغَاءَ مَرْضَاتِي تُسِرُّونَ إِلَيْهِم بِالْمَوَدَّةِ وَأَنَا أَعْلَمُ  
بِمَا أَخْفَيْتُمْ وَمَا أَعْلَنْتُمْ وَمَنْ يَفْعَلْهُ مِنْكُمْ فَقَدْ ضَلَّ سَوَاءَ السَّبِيلِ ﴿١﴾

إِنْ يَتَّقُواكُمْ يَكُونُوا لَكُمْ أَعْدَاءً وَيَبْسُطُوا إِلَيْكُمْ أَيْدِيَهُمْ وَأَلْسِنَتَهُمْ  
بِالسُّوءِ وَوَدُّوا لَوْ تَكْفُرُونَ ﴿٢﴾

لَنْ تَنْفَعَكُمْ أَرْحَامُكُمْ وَلَا أَوْلَادُكُمْ يَوْمَ الْقِيَامَةِ يَفْصِلُ بَيْنَكُمْ وَاللَّهُ  
بِمَا تَعْمَلُونَ بَصِيرٌ ﴿٣﴾

[1-3] O you<sup>1</sup> who have believed, if you have come out (from your homes and emigrated) in order to fight in My way and to seek My goodwill, then do not make friends with My enemies and your enemies. You show them friendship even though they have refused to believe in the Truth that has come to you, while they drive out the Messenger and you away only because you believe in Allah, your Lord. You send them friendly messages secretly, whereas I know full well whatever you do secretly and whatever you do openly. Whoever from among you does so, has indeed gone astray from the right way. If these people overcome you, they will be enemies to you and will use their hands and their tongues to harm you. They wish that you should turn unbelievers somehow.<sup>2</sup> On the Day of Resurrection neither will your relationships avail you anything nor your children.<sup>3</sup> Allah on that Day shall cause separation between you,<sup>4</sup> and He is Seer of whatever you do.<sup>5</sup>

قَدْ كَانَتْ لَكُمْ أُسْوَةٌ حَسَنَةٌ فِي إِبْرَاهِيمَ وَالَّذِينَ مَعَهُ إِذْ قَالُوا لِقَوْمِهِمْ  
إِنَّا بُرَءُؤُا مِنْكُمْ وَمِمَّا تَعْبُدُونَ مِنْ دُونِ اللَّهِ كَفَرْنَا بِكُمْ وَبَدَا  
بَيْنَنَا وَبَيْنَكُمْ الْعَدَاوَةُ وَالْبَغْضَاءُ أَبَدًا حَتَّى تُؤْمِنُوا بِاللَّهِ وَحَدَّثْ  
إِلَّا قَوْلَ إِبْرَاهِيمَ لِأَبِيهِ لَأَسْتَغْفِرَنَّ لَكَ وَمَا أَمْلِكُ لَكَ مِنَ اللَّهِ مِنْ شَيْءٍ  
رَبَّنَا عَلَيكَ تَوَكَّلْنَا وَإِلَيْكَ أَنبَأْنَا وَإِلَيْكَ الْمَصِيرُ ﴿٤﴾

رَبَّنَا لَا تَجْعَلْنَا فِتْنَةً لِلَّذِينَ كَفَرُوا وَاعْفِرْ لَنَا رَبَّنَا إِنَّكَ أَنْتَ الْعَزِيزُ

الْحَكِيمُ ﴿٥﴾

[4-5] There is indeed an excellent example for you in Abraham and his Companions when they said to their people plainly: "We have nothing to do with you and your gods whom you worship instead of Allah. We renounce you<sup>6</sup> and there has arisen between us and you enmity and hatred for ever, until you believe in Allah, the One." But Abraham's saying this to his father (is excepted); "I shall certainly pray for your forgiveness, though I have no power to get anything for you from Allah."<sup>7</sup> (And the prayer of Abraham and his companions was: ) "O our Lord, in you alone have we put our trust and to You alone have we turned and to You we shall return finally. O our Lord: make us not a test and trial for those who have disbelieved,<sup>8</sup> and O our Lord, pardon us our errors. You indeed are the All-Mighty, the All-Wise."

لَقَدْ كَانَ لَكُمْ فِيهِمْ أُسْوَةٌ حَسَنَةٌ لِّمَن كَانَ يَرْجُوا اللَّهَ وَالْيَوْمَ الْآخِرَ وَمَن

يَتَوَلَّ فَإِنَّ اللَّهَ هُوَ الْغَنِيُّ الْحَمِيدُ ﴿٦﴾

[6] There is certainly in the conduct of those people an excellent example for you and for every such person who is hopeful of Allah and the last Day.<sup>9</sup> But whoever turns away from this (should know that) Allah is All-Sufficient and Self-Praiseworthy.<sup>10</sup>

﴿ عَسَى اللَّهُ أَن يَجْعَلَ بَيْنَكُمْ وَبَيْنَ الَّذِينَ عَادَيْتُم مِّنْهُمْ مَّوَدَّةً

وَاللَّهُ قَدِيرٌ ۗ وَاللَّهُ غَفُورٌ رَّحِيمٌ ﴿٧﴾

[7] It may well be that Allah will place love between you and those whose enmity you have now earned.<sup>11</sup> Allah is All-Powerful, and He is All-Forgiving, All-Merciful.

لَا يَنْهَكُمُ اللَّهُ عَنِ الَّذِينَ لَمْ يُقَاتِلُوكُمْ فِي الدِّينِ وَلَمْ  
يُخْرِجُواكُم مِّن دِيَارِكُمْ أَن تَبَرُّوهُمْ وَتُقْسِطُوا إِلَيْهِمْ إِنَّ اللَّهَ يُحِبُّ  
الْمُقْسِطِينَ ﴿٨﴾

إِنَّمَا يَنْهَكُمُ اللَّهُ عَنِ الَّذِينَ قَاتَلُوكُمْ فِي الدِّينِ وَأَخْرَجُواكُم  
مِّن دِيَارِكُمْ وَظَاهَرُوا عَلَىٰ إِخْرَاجِكُمْ أَن تَوَلَّوهُمْ وَمَن يَتَوَلَّهُمْ  
فَأُولَٰئِكَ هُم الظَّالِمُونَ ﴿٩﴾

[8-9] Allah does not forbid you to treat kindly and act equitably towards those who have neither fought you in the matter of religion nor driven you out of your homes. Indeed Allah loves the just.<sup>12</sup> He only forbids you to take for friends those who fought you in the matter of religion, and drove you out of your homes, and cooperated with others in your expulsion. Those who take them for friends are indeed the wrongdoers.<sup>13</sup>

يَتَأَيَّهَا الَّذِينَ ءَامَنُوا إِذَا جَاءَكُمُ الْمُؤْمِنَاتُ مِهْجِرَاتٍ فَامْتَحِنُوهُنَّ  
اللَّهُ أَعْلَمُ بِإِيمَانِهِنَّ فَإِن عَلِمْتُمُوهُنَّ مُؤْمِنَاتٍ فَلَا  
تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ لَأَهُنَّ حِلٌّ لَهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ وَءَاتُوهُم  
مَّا أَنفَقُوا وَلَا جُنَاحَ عَلَيْكُمْ أَن تَنكِحُوهُنَّ إِذَا ءَاتَيْتُمُوهُنَّ  
أُجُورَهُنَّ وَلَا تُمْسِكُوا بِعِصَمِ الْكَوَافِرِ وَسَّأَلُوا مَّا أَنفَقْتُمْ وَلَيْسَ لَكُم  
مَّا أَنفَقُوا ذَلِكُمْ حُكْمُ اللَّهِ يَحْكُمُ بَيْنَكُمْ وَاللَّهُ عَلِيمٌ حَكِيمٌ ﴿١٠﴾

وَإِنْ فَاتَكُمْ شَيْءٌ مِّنْ أَرْوَاجِكُمْ إِلَى الْكُفَّارِ فَعاقِبْتُمْ  
فَعَاتُوا الَّذِينَ ذَهَبَتْ أَرْوَاجُهُمْ مِّثْلَ مَا أَنْفَقُوا وَأَنْتَقُوا اللَّهَ الَّذِي أَنْتُمْ

بِهِ مُؤْمِنُونَ ﴿١١﴾

[10-11] O you who have believed, when the believing women come to you as emigrants, examine and test (their faith), although Allah only knows best the truth of their faith. Then, when you find them to be true believers, do not return them to the disbelievers.<sup>14</sup> Neither are they lawful for the disbelievers nor are the disbelievers lawful for them. Return to their disbelieving husbands the dowers that they had given them; and there is no blame on you if you marry them when you have paid them their dowers.<sup>15</sup> And you also should not hold back unbelieving women in marriage. Ask for the dowers that you had given to your unbelieving wives, and let the disbelievers ask for the dowers that they had given to their Muslim wives.<sup>16</sup> This is Allah's command: He judges between you, and He is All-Knowing, All-Wise. And if you do not get back from the disbelievers a part of the dower of your disbelieving wives, and then your turn comes, pay to the people whose wives have been left on the other side an amount equivalent to the dowers given by them.<sup>17</sup> And fear that Allah in Whom you have believed.

يَأْتِيهَا النَّبِيُّ إِذَا جَاءَكَ الْمُؤْمِنَاتُ يَبَايِعَنَّكَ عَلَى أَنْ لَا يُشْرِكْنَ بِاللَّهِ شَيْئًا  
وَلَا يَسْرِقْنَ وَلَا يَزْنِينَ وَلَا يَقْتُلْنَ أَوْلَادَهُنَّ وَلَا يَأْتِينَ بِبُهْتَانٍ يَفْتَرِينَهُ  
بَيْنَ أَيْدِيهِنَّ وَأَرْجُلِهِنَّ وَلَا يَعْصِيَنَّكَ فِي مَعْرُوفٍ فَبَايِعْنَهُنَّ وَأَسْتَغْفِرْ لَهُنَّ  
اللَّهُ إِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ ﴿١٢﴾

[12] O Prophet, when the believing women come to you to take the oath of allegiance,<sup>18</sup> and pledge that they would neither associate anything with Allah, nor steal<sup>19</sup> nor commit adultery nor child murder,<sup>20</sup> nor bring a calumny forged between their own hands and feet,<sup>21</sup> nor disobey you in what is good,<sup>22</sup> accept their allegiance<sup>23</sup> and pray for their forgiveness. Surely Allah is All-Forgiving! All Merciful.

يٰۤاَيُّهَا الَّذِيْنَ ءَامَنُوْا لَا تَتَوَلَّوْا قَوْمًا غَضِبَ اللّٰهُ عَلَيْهِمْ قَدْ يَّسُّوْا مِّنَ  
 الْاٰخِرَةِ كَمَا يَّسَّ الْكٰفِرُوْنَ مِنْ اَصْحٰبِ الْقُبُوْرِ ﴿١٣﴾

[13] O you who have believed, do not make friends with those whom Allah has condemned, who have despaired of the Hereafter just as the disbelievers, who are lying in the graves, have despaired.<sup>24</sup>

<sup>1</sup>It would be appropriate to give at the outset the details of the incident concerning which these verses were sent down so that the subject that follows is understood easily. The commentators are agreed, and Ibn 'Abbas, Mujahid, Qatadah, 'Urwah bin Zubair and others also have unanimously reported, that these verses were revealed at the time when a letter of Hadrat Hatib bin Abi Balta'a to the pagans of Makkah was intercepted.

It so happened that, when the Quraish broke the Treaty of Hudaibiyah, the Holy Prophet (upon whom be Allah's peace) started making preparations for an invasion of Makkah, but he did not tell anyone, except a few close Companions, what was the goal of the expedition. By chance at about the same time a woman arrived from Makkah, who had been a slave-girl of the Bani 'Abdul Muttalib, and then after her freedom had adopted singing as her profession. She complained of poverty to the Holy Prophet and requested for financial help. The Holy Prophet appealed to the Bani 'Abdul Muttalib and the Bani al-Muttalib and satisfied her need. When she was about to leave for Makkah, Hadrat Hatib bin Abi Balta'a met her and quietly gave her a letter addressed to some of the Makkah chiefs and paid her ten dinars so that she kept the secret and carried the letter to the addressees secretly. When she had just left Madinah, Allah informed the Holy Prophet (Upon whom be Allah's peace) of it. So the Holy Prophet immediately sent Hadrat 'Ali, Hadrat Zubair and Hadrat Miqdad bin Aswad after her with the instruction: "Make haste: At Raudah khaki (12 miles from Madinah on the road to Makkah) you will meet a woman, who carries a letter from Hatib to the pagans of Makkah Seize that letter by any means you like. If she delivers the letter willingly, let her go; if she refuses to deliver it, kill her." When these Companions reached the place, they found the woman there They demanded the letter from her. She replied that she had a letter. They searched her but could find no letter. At last, they told her to deliver the letter, otherwise they would strip her and search her. When she saw that there was no way of escape, she took out the letter from her hair-plait and delivered it to them, and they brought it to the Holy Prophet. When the letter was opened and read it was found to contain information to the Quraish that the Holy Prophet (upon whom be Allah's peace) was making preparations to attack them. (In different traditions different wordings of the letter have been reported but the purport of all is one and the same). The Holy Prophet asked Hadrat Hatib what induced him to act thus. He replied: "Sir, do not make haste in this matter of mine. I have not done this because I have become a disbeliever or an apostate, and have started preferring disbelief to Islam. But the truth is that my near

and dear ones are still in Makkah. I do not belong to the tribe of the Quraish, but had settled there under the guardianship of some of them. The families of the Emigrants, which are still in Makkah, will be defended and protected by their tribes and clans, but I have no tribe, which could give protection to my family. Therefore, I sent this letter in order to keep the Quraish under obligation so that they did not harm my children. " (According to Hadrat Hatib's son `Abdur Rahman, Hadrat Hatib had his children and brother still in Makkah at that time, and according to Hadrat Hatib's own report his mother also was there). Hearing what Hatib had to say, the Holy Prophet (upon whom be Allah's peace) said to the people: "Hatib has told you the truth. " That is, the real motive of his action was this and not any treachery against Islam or any intention to support disbelief. Hadrat `Umar rose and said: "Permit me, O Messenger of Allah, that I should cut off this hypocrite's head: he has been treacherous to Allah and His Messenger and the Muslims." The Holy Prophet said: "This man has participated in the Battle of Badr: You may not know, O `Umar, Allah may have looked favorably at the people of Badr and said: "Do as you please, I have forgiven you. " (The words in the last sentence are different in different traditions. In some these are to the effect: "I have granted you forgiveness"; in some other: I am your Forgiver"; and in still another: "I will forgive you.") Hearing this Hadrat `Umar wept and said: "Allah and His Messenger have the best knowledge. " This is a resume of those many traditions which Bukhari, Muslim, Ahmad, Abu Da'ud, Timidhi Nasa'i, Ibn Jarir Tabari, Ibn Hisham, Ibn Hibban and Ibn Abi Hatim have related on the authority of several reliable transmitters. The most authentic of these is the tradition which Hadrat `Ali's secretary, 'Ubaidullah bin Abu Rafi', heard from Hadrat `Ali himself, and from him Hadrat `Ali's grandson, Hasan bin Muhammad bin Hanafiyah, heard and conveyed to the later reporters. In none of these there is any mention that Hadrat Hatib was pardoned when he presented this excuse. But there is no hint either to show that he was awarded some punishment. That is why the Muslim scholars have concluded that Hadrat Hatib's excuse was accepted and he was pardoned.

2 Although what has been said up to here, and what follows in this regard, was sent down in connection with the incident relating to Hadrat Hatib, Allah, instead of dwelling on his case only, has given the believers this lesson for ever and ever: "It is contrary to the profession of the Faith that a person should act, out of any motive or reason, in a way detrimental to the interests of Islam and subservient to the interests of disbelief when a conflict is going on between Islam and disbelief and some people have adopted a hostile attitude towards the Muslims only because they are Muslims. Even if a person be wholly free from any ill-will against Islam and acts thus not with an evil intention but for the sake of a dire personal need, the act anyhow is unbecoming of a believer, and whoever acts thus strays from the right way."

3 The allusion is to Hadrat Hatib. As he had acted thus only in order to ensure that his mother and brother and children remained safe in the event of a war, it is being said: "The relations for whose sake you have committed this grave error, will not save you on the Day of Resurrection. No one will dare come forward in the Court of Allah and say: `Our father, or our son, or our brother had committed this sin for our sake; therefore, we may be punished instead of him. At that time everyone will be worried

only about himself, and weighed down with the anxiety of somehow saving himself from the consequences of his own acts, not to speak of being ready to take the burden of another's sins on his head," This thing has been expressed in clearer words at several other places in the Qur'an. At one place it has been said: "To save oneself from the torment of that Day, the culprit will wish to give his children, his wife, his brother, his kinsfolk, who gave him shelter, and all the people of the earth, in ransom that this device might rescue him." (Al-Ma'arij -11-14). At another place: "On the Day man shall flee from his brother and his mother and his father and his wife and his children. Each one of them, on that Day, shall have enough to occupy him so as to make him heedless of others." ('Abasa: 34-37).

4 That is, "All worldly relationships and bonds of love and friendship shall be rendered void in the Hereafter. The people will not be judged as groups and parties and families, but every person will have to present himself as an individual and render his own account only. Therefore, no one in the world should commit a wrong for the sake of a relationship or friendship or fraternity, for he will himself have to face all its consequences, and no one else will become a partner in a matter of his personal responsibility."

5 The following conclusions are deduced from the details of the case of Hadrat Hatib, as mentioned above, and the verses which were sent down in this connection:

(1) Whatever the motive of the person, it was in itself an act of espionage, and a very dangerous kind of espionage on a critical occasion. The enemy, who was absolutely unaware, had been informed of the imminent attack from Madinah. Then it was not a case based on suspicion but a letter written by the concerned person himself had been intercepted, after which no other proof of the guilt was required. These were not peace but war time conditions; yet the Holy Prophet (upon whom be Allah's peace) did not place Hadrat Hatib in confinement without giving him a chance of self-defense: This chance also was not given him in private but publicly before the people. This makes it manifest that there is no room in Islam for such laws and regulations under which the ruler may have the right in any case to imprison a person only on the basis of his own knowledge or suspicion. Islam also does not recognize the method of trying a person secretly in secret.

(2) Hadrat Hatib was not only one of the Emigrants but also a participant in the Battle of Badr, and enjoyed a distinguished place among the Companions. But despite this a serious crime happened to be committed by him and Allah took him to task for this in the Qur'an as is evident from the above verses. In the Hadith too, his case has been narrated in detail and among the commentators also there may be none who has not made a reference to it. These are some of the evidences which prove that the Companions were not innocent. They also could commit errors because of human weaknesses, and errors happened to be committed by them practically. The teaching of regarding them with respect and reverence that Allah and His Messenger have given, does not at all require that if one of them happened to commit an error, it should not be mentioned, for evidently, if this were their demand, neither would Allah

have mentioned them in His Book, nor the Companions and their successors and the traditionists and the commentators would have related their details in their traditions and books.

- (3) The view that Hadrat `Umar expressed in the case of Hadrat Hatib concerned the apparent aspect of the act. His reasoning was that the act was clearly in the nature of treachery to Allah and His Messenger and the Muslims; therefore, Hatib was a hypocrite and deserved to be put to death. But the Holy Prophet (upon whom be Allah's peace) rejected his viewpoint and explained the viewpoint of the Islamic Shari'ah, saying: "Decision should not be given only on the outward form of the act but it should also be seen what evidence is given by the past life and general character of the person, who happens to commit the act and the circumstances under which he commits it. The act, no doubt, smacked of espionage, but did the attitude of the person concerned towards Islam and the followers of Islam until then indicate that he could do such a thing with the intention of treachery to Allah and His Messenger and the Muslims? He was one of those who had emigrated for the sake of the Faith. Could he have made such a sacrifice without sincerity? He fought in a critical battle like Badr for the sake of his Faith when the Muslims were facing an enemy much better equipped and three times their number, Could the sincerity of such a person be doubted? Or, could it be believed that he had the slightest inclination towards the Quraish? He was telling the plain truth that his family at Makkah did not enjoy the protection of any tribe or clan, which the families of the other Emigrants enjoyed; therefore, he acted thus during war time only in order to safeguard his children from the persecution of the disbelievers. The facts confirmed that he did not really belong to any tribe at Makkah and this too was known that his family members were still back at Makkah. Therefore, there was no reason why his statement should be taken as false and the opinion formed that his actual motive was not this but the intention of treachery. No doubt, for a sincere Muslim even with a good intention it was not lawful that he should inform the enemy of the military plans of the Muslims only for the sake of his personal interests, yet there is a great difference between the error of a sincere Muslim and the treachery of a hypocrite. Both cannot be awarded the same punishment only on the basis of the similarity between their acts. This was the Holy Prophet's decision in this case, and Allah confirmed it in the verses of Surah Al Mumtahinah. A careful study of the above three verses will show that in these Allah has certainly reprimanded Hatib, but it is a kind of a reprimand administered to a believer and not the one administered to a hypocrite. Moreover, no penalty, or physical punishment was awarded to him, but he was administered a severe rebuke publicly and let off, which meant that in a Muslim society even a blot on the honor of a guilty believer and his falling into disrepute also was a very severe punishment.
- (4) About the great merit of the Companions who fought at Badr, the Holy Prophet (upon whom be Allah's peace) said: You may not know Allah might have looked favorably at the people of Badr and said: 'Do as you please, I have forgiven you'." This does not mean that the Companions of Badr were forgiven each and every sin and they were at liberty to commit whatever sin and crime they pleased, for forgiveness had already been guaranteed to them. This was neither meant by the Holy Prophet (upon whom be

Allah's peace) nor the Companions ever understood it in this meaning, nor any Companion of Badr after hearing this good news ever thought that he was free to commit any sin, nor ever any rule was made on the basis of this in the Islamic Shari'ah that if a Companion of Badr happened to commit a sin, he should not be given any punishment for it. As a matter of fact, if one considers the circumstances under which this was said and the words that the Holy Prophet used on this occasion carefully, one can clearly understand the meaning to be this: "It would not be anything impossible if in view of the great and meritorious services that the Companions rendered at Badr out of sincerity and devotion and at the very risk of their lives for the sake of Allah and His Religion, Allah might have forgiven all their former and latter sins mercifully. Therefore, you should not suspect such a Companion of treachery and hypocrisy, and should accept the excuse that he himself is presenting for his crime."

- (5) From the Qur'an and the Holy Prophet's sayings it also becomes evident that a Muslim's being involved in espionage for the disbelievers by itself is not a sufficient basis for the conclusion that he has become an apostate, or is devoid of the Faith, or is a hypocrite. For reaching such a conclusion if there are some other circumstances and evidences, it would be a different thing; otherwise by itself this act is only a crime, not a sign of disbelief.
- (6) From these verses of the Qur'an it also becomes evident that for a Muslim it is in no case permissible that he should spy for the disbelievers, no matter how gravely his own life and property, or that of his near and dear ones, might be endangered.
- (7) When Hadrat `Umar asked for the Holy Prophet's permission to put Hadrat Hatib to death for the crime of espionage, the Holy Prophet did not say that the crime was not punishable with death, but declined permission on the ground that Hatib's being a Companion of Badr was an express proof of his being sincere, and the statement given by him was correct that he had acted thus not out of any good wishes for the enemies but for the sake of safeguarding his family from any possible persecution to death. From this one section of the jurists has argued that the general law in respect of a Muslim spy is that he should be put to death, unless there are very weighty reasons for awarding him a lesser punishment or a mere reprimand. But the jurists have disputed this question. Imam Shafe'i and some other jurists hold the view that the Muslim spy is punishable, but not with death. Imam Abu Hanifah and Imam Auza'i maintain that he will be subjected to corporal punishment and long imprisonment. Imam Malik says that he will be put to death, but the Malik; jurists hold different views on this question. Ash'hab says that the Muslim ruler has vast powers in this matter. He can exercise his judgment keeping in view the circumstances of the crime and the culprit and award him any punishment. A saying of Imam Malik and Ibn al-Qasim also is to the same effect. Ibn al Majishun and `Abdul Malik bin Habib say that if the culprit is a habitual spy, he should be put to death. Ibn Wahb says that the punishment of the spy is death, but if he repents of spying, he may be pardoned. Sahnun says that one cannot know whether his repentance is genuine or deceptive; therefore, he should be put to death. There is a saying of Ibn al-Qasim also in support of this. And Asbagh says that the belligerent spy is punishable with death, but the Muslim or dhimmi spy

should be given corporal punishment instead of the death sentence, unless he be helping the enemies openly as against the Muslims. (Ibn al-`Arabi, Ahkam al-Qur'an; 'Umdat al-Qari; Fath al-Bari.)

(8) The Hadith that has been cited above also permits that for the investigation of the crime not only the male but the female accused also can be stripped if so required. Although Hadrat `Ali, Hadrat Zubair and Hadrat Miqdad had not stripped the woman, yet they had threatened her that if she did not produce the letter, they would strip and search her.. Obviously, if it were not lawful, the three illustrious Companions could not have threatened her thus. And one can understand that they must have reported the story of their expedition on their return to the Holy Prophet (upon whom be Allah s peace). Had he expressed his displeasure, it must have been reported. That is why the jurists have held it as permissible. ('Umdat al-Qari).

6 That is, "We reject you: we neither consider you to be in the right nor your religion. " The inevitable demand of the faith in Allah is denial of taghut (Satan): "Whoever rejects taghut and believes in Allah has taken a firm support that never gives way." (Al-Baqarah: 256).

7 In other words, it means: "Though there is an excellent example for you in Abraham's conduct in that he expressed disapproval of his pagan people and broke off all connections with them, yet his promise to pray for the forgiveness of his pagan father and then carrying it out practically is not worth following, for the believers should not have even this much relationship of love and sympathy with the disbelievers. In At-Taubah: 113, Allah has clearly warned: "It does not behoove the Prophet and those who have believed that they should pray for the forgiveness of the polytheists even though they be near kinsmen. " Thus, no Muslim is allowed to pray for the forgiveness of his unbelieving kinsmen on the basis of the argument that the Prophet Abraham had done so. As for the question, why did the Prophet Abraham pray thus, and did he carry out his promise practically? the answer has been provided by the Qur'an in full detail. When his father expelled him from the house, he had said on his departure: "I bid you farewell: I will pray to my Lord for your forgiveness." (maryam: 47). On the basis of this very promise he prayed for him twice. One prayer is contained in Surah Ibrahim: 41: "Lord, forgive me and my parents and the believers on the Day when reckoning will be hold. " And the second prayer is in Surah Ash Shua'ra 86: "Forgive my father, for indeed he is from among those who have strayed and do not disgrace the an the Day when the people will be raised back to life." But afterwards when he realized that the father for whose forgiveness he was praying, wan an enemy of Allah, he excused himself from it and broke off even this relationship of love and sympathy with him:

"As regards the prayer of Abraham for his father, it was only to fulfill a promise he bad made to him, but when he realized that he was an enemy of Allah, he disowned him. The fact is that Abraham was a tender-hearted, God fearing and forbearing man (At-Taubah: 114).

A study of these verses make: the principle manifest that only that act of the prophets worthy of following, which they persistently practiced till the end. As regards those acts which they themselves gave up, or which Allah restrained them from practicing or which were forbidden in the Divine Shari ah, they are not worth following, and no one showed follow such acts of theirs on the basis of the argument that that was such and such a prophet's practice.

Here, another question also arises, which may create confusion in some minds. In the verse under discussion, the saying of the Prophet Abraham which Allah has declared as not worth following, has two parts. The first part is that he said to his father: "I will pray for your forgiveness," and the second: "I have no power to get anything for you from Allah." Of these the first thing's not being a worthy examples to be followed is understandable, but, what is wrong with the second thing that that too has been made an exception from being an example worthily of imitation, whereas it by itself is a truth? The answer is that the saying of the Prophet Abraham has been included in the exception for the reason that when a person after making a promise with another to do something, says that it is riot in his power to do anything beyond that for him, it automatically gives the meaning that if it were in his power to do anything further for him, he would have done that too for his sake. This makes his relationship of sympathy with the other person even more manifest. On that very basis this second part of the saying of the Prophet Abraham also deserved to be included in the exception, although its subject was true in so far as it does not lit even in the power of a Prophet to have a person forgiven by Allah. 'Allama Alusi also in his Ruh al-Ma ani has given this same answer to this question.

8 There are several ways in which the believers can become a cause of trial for the disbelievers, for which every believer should seek Allah's refuge. For example,

- (1) the disbelievers may gain in upper hand over them and consider it a proof of their being in the right and the believers being in the wrong; otherwise it could not be that in spite of Allah's good pleasure that they claim to enjoy, the disbelievers would have been able to gain an upper hand over them;
- (2) the persecution of the believers by the disbelievers may become unbearable with the result that they may yield to them and abandon their Faith and moral values this would subject the believers to public ridicule and would provide the disbelievers with an opportunity to humiliate and debase than and their religion:
- (3) in spite of being the standard-bearers of the true Faith the believers may lose their moral superiority that should accrue to them as believers. and the people have the same defects and deficiencies in their character as are commonly found in an un-Islamic community: this would give the disbelievers an opportunity to say that the Faith of the believers was in no way superior to their disbelief. (For further details sec E.N. 8.3 of Surah Yunus).

9"Who is hopeful Or Allah and the Last Day": who expects that one Day he will have to present himself before Allah and is hopeful that Allah will treat him benevolently and help him attain to success in the Hereafter.

10That is, "Allah has no need of such believers, who profess to believe in His Religion as well as maintain friendly relations with His enemies. He is Self Sufficient: His Godhead does not require that they should acknowledge Him as God. He is Self-Praiseworthy, i.e.'His being praiseworthy is not dependent on the people's praising and glorifying Him. , If they affirm the faith, they do so not for any good of Allah, but for their own good: and they cannot gain anything from their affirmation of the faith until they break off all connections of love and friendship with the enemies of Allah as the Prophet Abraham and his companions did."

11Although the true believers were following the exhortation to sever their connections with the unbelieving kinsmen patiently, yet Allah knew how hard it was to break off one's connections with one's parents, brothers and sisters and near relations. Therefore, Allah consoled them with the hope that a time would soon come when their same relations would become Muslims and their today's enmity would again change into love tomorrow. When this thing was said no one could understand how this would happen. But hardly a few weeks had passed after the revelation of these verses when Makkah fell and the people of Quraish began to enter Islam in large numbers, and the Muslims witnessed with their own eyes how the hope they were given materialized.

12Here a doubt may arise in the minds. It is all right to treat the disbelievers, who are not hostile, kindly, but should only they be treated unjustly? And should the disbelievers, who are hostile, be treated unjustly? The answer is that in this context, the word justice, in fact, has been used in a special sense. It means: "Justice demands that you should not be hostile to those who are not hostile to you, for it is not justice to treat the enemy and the non-enemy alike. You have every right to adopt a stern attitude towards those who persecuted you for embracing Islam and compelled you to leave your homes and pursued you even after your expulsion. But as for those who were not partners in persecuting you, you should treat them well and should fulfill the right they have on you because of blood and other relationships. "

13The instructions to sever relations with the disbelievers given in the preceding verses, could cause the people the misunderstanding that this was because of their being the disbelievers. Therefore, in these verses it has been made clear that its actual cause is not their disbelief but their hostility to Islam and their tyrannical treatment of the followers of Islam. The Muslims, therefore, should distinguish between the hostile disbeliever and the non-hostile disbeliever, and should treat those disbelievers well who have never treated them evilly. Its best explanation is the incident that took place between Hadrat Asma', daughter of Abu Bakr, and her disbelieving mother. A wife of Hadrat Abu Bakr's was Qutaylah bint 'Abdul 'Uzza, who was a disbeliever and had remained behind in Makkah after the migration. Hadrat Asma' had been born of her. After the peace treaty of Hudaibiyah when the traffic opened between Makkah and Madinah, she came to Madinah to see her daughter and also brought some gifts.

Hadrat Asma' herself has related that she went to the Holy Prophet and asked: "Should I see my mother? And can I treat her as a daughter should treat her mother?" The Holy Prophet replied: "Yes, treat her as your mother. " (Musnad Ahmad, Bukhari, Muslim). Hadrat Asma's son, 'Abdullah bin Zubair, has given further details of this incident. He says that Hadrat Asma' in the beginning had refused to see her mother. Then, when she received Allah and His Messenger's permission she met her. (Musnad Ahmad, Ibn Jarir, Ibn Abi Hatim). This by itself leads to the conclusion that a Muslim's serving his unbelieving parents and his helping his unbelieving brothers and sisters and relatives is permissible when they are not hostile to Islam; Likewise one can spend one's charities also on the indigent among the dhimmis (Al-Jassas, Ahkam al-Qur'an; Ruh al-Ma'ani)

14The background of this injunction is that after the peace treaty of Hudaibiyah, in the beginning, the Muslim men started fleeing Makkah and arriving at Madinah and they were sent back according to the terms of the treaty. Then the Muslim women started arriving and, first of all, Umm Kulthum Uqbah bin Abi Mu'ait emigrated to Madinah, The disbelievers invoked the treaty and demanded return, and two brothers of Umm Kulthum, Walid bin `Uqbah and 'Amarah bin `Uqbah, came to Madinah to take her back. At this the question arose whether the treaty of Hudaibiyah applied to the women as well. Allah has answered this very question here, saying: "If they are Muslims, and it is ascertained that they have emigrated only for the sake of the Faith and for no other motive, they are not to be returned "

Here, a complication has arisen on account of the narration of the Hadith from the viewpoint of the meaning and content, and it must be resolved. The traditions that are found in the Ahadith about the conditions of the treaty of Hudaibiyah are mostly traditions narrated from the viewpoint of the meaning and purport, About the condition under discussion the words in the different traditions are different. In some the words are to the effect: "Whoever reaches us from you, we will not return him, but whoever reaches you from us, you shall return. " In some others the words are to the effect: "Whoever of his Companions comes to the Messenger of Allah without the permission of his guardian, he will send him back." And in still another the words are: "Whoever, from the Quraish goes to Muhammad without the permission of his guardian, he will return him to Quraish. " The style of these traditions by itself shows that this condition of the treaty has not been reported in the actual words of the treaty, but the reporters have reported its purport in their own words. But since most of the traditions are of the same nature, the commentators and traditionists generally have understood that the treaty was general, which applied to both men and women, and the women too were to be returned according to it. Later, when this injunction of the Qur'an that the believing women were not to be returned, came to their knowledge, they interpreted it to mean that Allah in this verse had decided to break the treaty in so far as it related to the believing women But this was not an ordinary thing which should be accepted so easily. If the treaty was general, without any exception in respect of men and women, it could not be lawful for one party to amend it unilaterally and change a part of it by itself. And even if such a thing happened, it is strange that the Quraish did not protest against it, whereas they remained on the lookout for an

opportunity to raise objections against everything that the Holy Prophet (upon whom be Allah's peace) and the Muslims did. Had they found that the Holy Prophet had committed a breach of the treaty conditions, they would have raised a loud clamor. But we do not find any trace of it in any tradition that they took an exception to this ruling of the Qur'an. Had this question been carefully considered the problem could have been resolved by reference to the actual words of the treaty. But many people paid no attention they it; if some scholars (e.g Qadi Abu Bakr Ibn al-'Arabi) did pay any attention, they did not hesitate to say that the reason why the Quraish did not raise any objection was that Allah had miraculously sealed their mouths in this matter. It is strange how these scholars felt satisfied at this explanation.

The fact of the matter is that this condition of the peace treaty had been proposed by the disbelieving Quraish, and not by the Muslims, and the words that Suhail bin 'Amr, their representative, had-got included in the treaty were: "And that whichever man (rajul) come to you from us, even if he be on your religion, you will return him to us." These words of the treaty have been reproduced in Bukhari (Kitab ash-Shurut: Bab ash-Shurut fil-Jihad wal-Masalahah) through authentic channels. It may be that Suhail used the word rajul in the meaning of a person, but this might be the meaning he had in his mind. The word written in the treaty was rajul, which is used for a full-grown man in Arabic. That is why when the brothers of Umm Kulthum bint 'Uqbah came to the Holy Prophet (upon whom be Allah's peace) and demanded her return, (according to Imam Zuhri's tradition) the Holy Prophet (upon whom be Allah's peace) refused return her, saying: "The condition was about the men, not the women. " (Ibn al- Arabi, Ahkam al-Qur an; Loam Razi, Tafsir Kabir) Until then the people of Quraish themselves were under the delusion that the treaty applied to all kinds of emigrants, men or women; But when the Holy Prophet drew their attention to these words of the treaty, they were struck dumb and had to accept this decision.

According to this condition of the treaty the Muslims had the right to decline return of any woman who emigrated from Makkah to Madinah, for any reason whatever. But Islam was interested only in safeguarding the believing women and not to make the holy city of Madinah a place of refuge for every kind of female fugitive. Therefore, Allah enjoined: "Ascertain by examination the faith of the women who emigrated to you and profess to have believed; and when it is fully ascertained that they have emigrated with genuine faith, and no other motive, do not return them." Thus, the procedure adopted for carrying out this Command was that the women who emigrated were questioned whether they believed in the oneness of Allah and the Prophethood of Muhammad (upon whom be Allah's peace) and had emigrated only for the sake of Allah and His Messenger, and not out of any worldly consideration, e.g. hatred of the husband, or love of somebody in Madinah, or some other worldly motive. Only those women who gave satisfactory answers to these questions were detained, others were sent back. (Ibn Jarir on the authority of Iba `Abbas, Qatadah, Mujahid, `Ikrimah, Ibn Zaid).

In this verse a basic principle of the Law of Evidence also has been stated and its further clarification has been made by the procedure that the Holy Prophet (upon whom be Allah's peace) had prescribed for implementing it, The verse enjoins three things:

- (1) Examine the faith of the emigrating women who present themselves as believers;
- (2) Allah alone knows the truth about their faith; the Muslims have no means to find out whether they have really believed or not; and
- (3) when it has been ascertained that they are believers, they are not to be returned.

Then, in accordance with this injunction, the method that the Holy Prophet prescribed for examining and ascertaining the faith of the women was that the statement given by them on oath should be relied on and it should be made sure after necessary examination that they had no other motive of emigration than the Faith. First, it gives the principle that for taking decision on different matters it is not necessary for the court to have direct knowledge of the truth; for the court only that knowledge is sufficient which is obtained through evidence. Second, the statement given by a person on oath will be regarded as reliable until it is proved to be false by a clear evidence. Third, whatever declaration a person himself may make about his creed and faith, will be accepted and no search will be made into finding out, whether what he states actually constitutes his faith or not, unless there is a clear indication to the contrary. And fourth, in the personal affairs of a person, which no one else can know, his own statement will be trusted. e.g. in the matters of divorce and the waiting period (iddat) the woman's own statement about her menstrual course and state of purity will be regarded as reliable, whether it is true or false. According to these very rules, in the science of the Hadith also, those traditions will be accepted, the apparent state of whose reporters testifies to their being righteous, unless, of course, there are other circumstances which forbid the acceptance of a particular tradition.

15 This means that a Muslim who wants to marry any of these women should pay a fresh dower and marry her. The dowers to be repaid to their unbelieving husbands will not be considered their dowers.

16 Four very important injunctions have been, laid down in these verses, which relate both to the family law of Islam and to the international law.

First, that the woman who becomes a Muslim is no longer lawful for her unbelieving husband nor her unbelieving husband is lawful for her.

Second, that the marriage of the married woman who becomes a Muslim and emigrates from the abode of disbelief (dar al-kufr to the abode of Islam (dar al-Islam) is automatically annulled, and any Muslim who likes can marry her after paying her dower.

Third, that it is not lawful for a man who becomes a Muslim to retain his wife in wedlock if she likes to remain an infidel.

Fourth that if there exist relations of peace between the abode of disbelief and the abode of Islam, the Islamic government should try to settle the question of the return of dowers with the non-Muslim government, thus: The dowers of the married women of the disbelievers, who become Muslims and emigrate to the abode of Islam, should be returned by the Muslims, and the dowers of the unbelieving married women of the Muslims. who are left behind in the abode of disbelief, should be got back from the disbelievers.

The historical background of these injunctions is as follows: In the beginning of Islam, there were many such men, who accepted Islam but their wives did not become Muslim, and there were many such women who became Muslim but their husbands did not accept Islam. Abul-'As, the husband of Zainab, a daughter of the Holy Prophet (upon whom be Allah's peace), was a non-Muslim and he remained non-Muslim for several years. In the early period no command had been given to the effect that the pagan husband was unlawful for the Muslim wife and the pagan wife was unlawful for the Muslim husband. Therefore, the marital relations continued to exist between them, Even after the migration for several years, it so happened that many women became Muslim and emigrated Madinah while their pagan husbands remained in the abode of disbelief. Likewise, many Muslim men emigrated and their pagan wives were left in the abode of disbelief. But in spite of this their marriage continued. This was creating complications for the women in particular, for the men could marry other women, but this was not possible for the women. Until their marriage with their previous husbands was dissolved, they could not remarry. After the peace treaty of Hudaibiyah when these verses came down, they annulled the previous marriage between the Muslims and the pagans, and laid down an absolute and clear law for guidance in future. The jurists of Islam have codified this law under four major heads:

First, the case when both the man and the wife are in the abode of Islam and one of them becomes a Muslim and the other remains an infidel.

Second, the case when both the man and the wife are in the abode of disbelief, and one of them becomes a Muslim and the other remains an infidel.

Third, the case when one of the spouses becomes a Muslim and emigrates to the abode of Islam and the other remains an infidel in the abode of disbelief.

Fourth, the case when either of the Muslim spouses becomes an apostate.

Below we give the viewpoints of the jurists with regard to all the four cases separately:

(1) In the first case, if the husband has accepted Islam and his wife is a Christian or a Jewess, and she remains faithful to her religion, their marriage will endure, for it is

permissible for a Muslim to have a wife who is a follower of the earlier scriptures. This is agreed upon by all jurists.

And if the wife of the man who has accepted Islam, is not a follower of the 'earlier Books, and she adheres to her Faith, the Hanafis say that Islam will be presented before her; if she accepts it, the marriage will endure; if she refuses to accept it, separation will be effected between them. In this case, if consummation between them had taken place, the woman will be entitled to the dower; if there was no consummation, she will not be entitled to any dower, for separation has been caused because of her refusal. (Al-Mabsut; Hedayah; Fath al-Qadir). Imam Shafe'i and Imam Ahmad say that if the spouses did not have had consummation, the woman would be outside wedlock as soon as the man accepted Islam, and if consummation had taken place; the woman will remain in wedlock till three menstruations. During this period if she accepts Islam of her own free wills the marriage will continue, otherwise it will become void automatically as soon as she is free from her third menstrual course. Imam Shafei also adds that it is not right to present Islam before the woman on the basis of the pledge of non-interference in religion that the dhimmis have been given by the Muslims. But this, in fact, is a weak argument for interference in the dhimmi woman's religion would be if she was compelled to accept Islam. It is no interference to tell her that if she accepted Islam, she would continue to be her husband's wife, otherwise she would be separated from him. In Hadrat Ali's time there has been a precedent of this nature An Iraqi landowner who was a Majusi by religion accepted Islam and his wife remained an unbeliever, Hadrat 'Ali presented Islam before her, and when she refused to accept it, he effected separation between them. (Al-Mabsut). Imam Malik says that if consummation has not taken place, the unbelieving wife would forthwith cease to be the wife as soon as the man embraced Islam, and if consummation has taken place, Islam would be presented before the woman, and in case she refuses to accept it. separation will result. (Ibn Qudamah, Al-Mughni ).

And if Islam has been accepted by the woman and the man remains an infidel. whether he is a follower of an earlier scripture or a non-follower, the Hanafis say that Islam will be presented before the husband whether consummation between them has taken place or not. If he accepts it, the woman will continue to be his wife; if he rejects it the qadi will effect separation between them. So long as the man does not refuse to accept Islam, the woman will remain his wife, but he will not have the right to have sexual relations with her. In case the husband refuses, separation will become effective just like an irrevocable divorce. If consummation has not taken place before this, the woman will be entitled to half the dower, and if it has taken place, the woman will be entitled to full dower as well as maintenance during the waiting period ( iddat). (Al-Mabsut; Hedayah; Fath at-Qadir). According to Imam Shafe`i, marriage will dissolve as soon as the woman accepted Islam in case consummation has not taken place, and in case it has taken place, the woman will continue to be the man's wife till the end of the waiting period. If in the mean-time he accepts Islam, marriage will remain valid, otherwise separation will take place as soon as the waiting period comes to an end. But in the case of the man also Imam Shafe'i has expressed the same opinion as he has expressed about the woman as cited above. That is, it is not right to

present Islam before him. But this is a weak opinion. In the time of Hadrat 'Umar, on several occasions, the woman accepted Islam and the man was invited to Islam; when he refused to accept it, separation was effected between the spouses. There is, for example, the case of the wife of a Christian of the Bani Taghlib, which was brought before him. Hadrat 'Umar said to the man, "Accept Islam, otherwise I will effect separation between you two." He declined, and the Caliph enforced the decree. The case of a newly converted lady of Bahz al-Malik was sent to him. In her case too he ordered that Islam be presented before her husband; if he accepts it well and good, otherwise separation be effected between them. These incidents had happened in front of the Companions and no dispute or difference of opinion has been reported. (Al-Jassas, Ahkam al-Qur'an; Al-Mabsut; Fath al-Qadir). Imam Malik's opinion in this connection is that if the woman becomes a Muslim before the consummation of marriage Islam should be presented before the husband; if he accepts it, well and good; otherwise separation should be effected forthwith. And if consummation has taken place, and the woman has accepted Islam afterwards, she will have to wait till the end of the waiting period. If the husband accepts Islam in the meantime, marriage will continue otherwise separation will take place as soon as the waiting period expires. A saying of Imam Ahmad is in support of Imam Shafe'i. His other saying is to the effect that the event of the difference of religion between the spouses will in any case lead to immediate separation, whether consummation between them has taken place or not. (Al-Mughni).

- (2) If in dar al-kufr (abode of disbelief) the woman becomes a Muslim and the man remains an infidel, or the man becomes a Muslim and the wife (who neither is Christian nor Jew but is follower of a non-revealed religion) remains an infidel the Hanafi viewpoint is that separation will not take place, whether consummation between them has taken place or not, until the woman completes three menstrual courses, or until she passes three months in case she is non-menstruating. If in the meantime the other spouse is also converted, marriage will remain valid, otherwise separation will take place on the expiry of the term. Imam Shafe'i, in this case also, distinguishes between the occurrence of consummation and its nonoccurrence. He maintains that if there was no consummation, separation would occur immediately on the event of the difference of religion between the spouses. And if the difference of religion has occurred after the consummation, marriage will continue valid until the end of the waiting period. If in the meantime the other spouse does not accept Islam, marriage will dissolve as soon as the waiting period comes to an end. (Al-Mabsut, Fath al-Qadir, Al-Jassas Ahkam al-Qur'an).

In case where along with the difference of religion between the spouses the separation of abode also takes place, i.e. one of them remains an infidel in dar al-kufr (the non-Muslim state) and the other emigrates to dar al-Islam (the Islamic state), the Hanafi viewpoint is that marriage between them will automatically dissolve. If the emigrant is the woman, she has the right to remarry immediately; she does not have to observe any waiting period. However, her husband will have to abstain from sexual intercourse until after she has discharged the menses once; and if she is pregnant, even then marriage can be contracted, but the husband must abstain from cohabitation until

after the delivery. Imam Muhammad and Imam Abu Yusuf have differed from Imam Abu Hanifah in this. They say that the woman has to observe the waiting period; and if she is pregnant, she cannot contract marriage before the delivery. (Al-Mabsut; Hedayah; Al-Jassas, Ahkam al-Qur'an). Imam Shafe'i, Imam Ahmad and Imam Malik maintain that the separation of abode has nothing to do with this, for the real thing is only the deference of religion. If this difference takes place between the spouses, the injunctions to govern this are the same as those which govern it in case such a difference takes place between the spouses in the Islamic state (Al-Mughni). Imam Shafe'i along with his above-cited opinion has also expressed the view that if the emigrant Muslim woman has emigrated after a quarrel with her infidel husband, with the intention of dissolving his marital right, an immediate separation will take place not on the basis of the separation of abode (ikhtilaf dar) but on the basis of her this intention. (Al-Mabsut' Hedayah).

But a careful consideration of the Qur'anic verse under discussion clearly shows that in this matter the most sound opinion is the one that Imam Abu Hanifah has expressed. Allah has sent down this verse concerning the believing women who emigrated and about them He has said that they are no longer lawful for the pagan husbands whom they have left behind in dar al-k-kufr, and has allowed the Muslims of the Islamic state to marry them after they have paid them the dowers. On the other hand, the emigrant Muslims have been addressed and enjoined not to keep those of their pagan wives in wedlock, who are left in dar al-kufr, and to ask of the disbelievers the dowers that they had given to those women. Obviously, these injunctions do not pertain only to the difference of religion, but it is the difference of abode that has given these injunctions this particular form. If on account of migration the marriages of the Muslim women with their pagan husbands had not become dissolved, how could the Muslims be permitted to marry them, and that too in a way that the permission does not contain any reference to the observance of the waiting period by them? Likewise, if even after the revelation of the Command, "and you also should not hold back unbelieving women in marriage the pagan wives of the Muslim emigrants had continued to be their wives, they also would have been commanded to divorce them. But there is no reference here to this either. No doubt, it is correct that after the revelation of this verse, Hadrat `Umar and Hadrat Talhah and some other Emigrants had divorced their wives, but this is no proof that such a thing was at all necessary, and their severing of the marital relationship with those wives depended on their pronouncing divorce on them, and if they had not pronounced the divorce, the wives would have continued to be their legal wives.

In response to this, three events of the Holy Prophet's time are quoted as precedents, which are regarded as a proof that even after the revelation these verses the Holy prophet (upon whom be Allah's peace), in spite of the separation of abode, allowed the marriage relationship to continue between the believing and the unbelieving spouses. The first event is this, a little before the conquest of Makkah, Abu Sufyan visited the Islamic army at Marr az-Zahran (present Wadi Fatimah) and accepted Islam, and his wife, Hind, remained a pagan in Makkah. Then Hind accepted Islam after the conquest of Makkah, and the Holy Prophet (upon whom be peace) ruled that

their previous marriage would continue to be valid. The second event is that after the conquest of Makkah, `Ikrimah bin Abu Jahl and Hakim bin Hizam fled Makkah and in their absence the wives of both became Muslims. Then they sought the Holy Prophet's protection for their husbands and went and brought them back. Both the men come before the Holy Prophet and accepted Islam and in their case too he held their previous marriages as valid. The third event relates to the Holy Prophet's own daughter, Hadrat Zainab, who emigrated to Madinah and her husband, Abul-'As, was left an infidel in Makkah. About him Musnad Ahmad, Abu Da'ud, Tirmidhi and Ibn Majah contain a tradition on the authority of Ibn `Abbas, saying that he came to Madinah in A.H. 8 and became a Muslim, and the Holy Prophet allowed his daughter to continue in marriage with him, without renewal of marriage. But the first two of these events, in fact, do not come under the definition of the difference of abode. For the difference of abode does not mean a person's temporarily leaving one place for another, or his fleeing to another place, but the difference takes place only in case a person emigrates from one place and settles down in another place and the difference of nationality takes place between him and his wife. As for the event relating to Hadrat Zainab (may Allah bless her), there are two traditions, one related on the authority of Ibn `Abbas, as referred to above, and the other related by Imam Ahmad, Tirmidhi and Ibn Majah on the authority of Hadrat 'Abdullah bin 'Amr bin `As. In this second tradition it has been stated that the Holy Prophet (upon whom be Allah's peace) allowed his daughter to continue as the wife of Abul-'As after renewal of the marriage, and with a fresh dower. Thus, in the first place, this precedent, due to the difference in reporting, no longer remains a definite argument with those who deny the legal effect of the separation of abode. Secondly, if they insist on the authenticity of Ibn `Abbas's tradition, it contradicts their own viewpoint. For, according to their viewpoint, the marriage of the spouses between whom difference of religion takes place and who have consummated their marriage remains valid only until three menstruations. In the meantime if the other party also accepts Islam the marriage continues to be valid, otherwise it dissolves automatically as soon as the third menstrual course starts. But in the case of Hadrat Zainab from which they take their argument, the difference of religion between the spouses had taken place several years earlier. Abul-'As had affirmed the faith six years after Hadrat Zainab's emigration, and at least two years before his conversion to Islam the injunction had been revealed' in the Qur'an, according to which the Muslim woman had been forbidden for the pagans.

- (4) The fourth case is of apostasy. Its one form is that both the husband and the wife should become apostates together, and the other that one of them becomes an apostate and the other remains a Muslim.

If both the husband and the wife become apostates together, the Shafe'is and the Hanbalis say that their marriage contracted in Islam will dissolve immediately if this happened before consummation, and after the lapse of the waiting period if it happened after consummation. On the contrary, the Hanafis hold the view that, although according to common sense their marriage should dissolve, yet in the time of Hadrat Abu Bakr, when thousands of people became apostates, and then again became Muslims, the Companions did not direct anyone to renew the marriage;

therefore, we accept this unanimous decision of the ('companions and admit, contrary to common sense, that in case both the husband and the wife become apostates together, their ' marriages do not dissolve.')(AIMabsut; Hedayah; Fath al-Qadir Al-Fiqh 'alal-Madhahib al- Arba'h).

If the husband becomes an apostate and the wife continues to be Muslim, according to the Hanafis and the Malikis, the marriage will dissolve immediately, whether this happens before consummation or after it. But the Shafe'is and the Hanbalis in this connection make a distinction between the two states. If it happens before consummation, the marriage will dissolved immediately, and if it happens after consummation it will endure till the end of the waiting period, In the meantime ii' the person returns to Islam, marriage will continue to hold good, otherwise, on the expiry of the waiting period, it will be deemed to have dissolved since he became an apostate. That is, the woman will not have to observe another waiting period afresh. All the four jurists are agreed that if this happened before consummation, the woman would be entitled to half the dower, and if after consummation to full dower.

And if the woman became an apostate, the old ruling of the Hanafis was that in this case too. marriage would dissolve immediately. But later the scholars of Balkh and Samarkand gave the ruling that in case the woman becomes an apostate, separation does not take place immediately; and by this their object was to discourage the women from adopting this course in order to get rid of their husbands. The Malikis' verdict is somewhat similar. They say that if circumstances testify that the woman adopted this course only as a pretence to win separation from the husband, separation will not take place. The Shafe'is and the Hanbalis say that in case of the woman's turning an apostate too, the law is the same as in case of the husband's turning an apostate. That is, if she became an apostate before consummation, marriage would dissolve immediately and if after consummation, Marriage will endure till the end of the waiting period. If conversion takes place in the meantime marriage will continue to hold good, otherwise it will be deemed to have dissolved since the time of apostasy. There is consensus with regard to the dower. If the woman became an apostate, before consummation she would not be entitled to any dower, and if she adopted apostasy after consummation, she would be entitled to full dower. (Al-Mabsut.' Hedayah; Fath al-Qadlr, Al Mughni; Al-Fiqh alal-Madhahib al-Arb ah).

17This thing had two alternatives and the verse applies to both. First, with the disbelievers with whom the Muslims had treaty relations, they wanted to settle the matter, thus: "We shall return the dowers of the women who have emigrated to us, and you will return the dowers of the pagan wives of our men) who have been left on your side." But the disbelievers did not agree to this. However, according to Imam Zuhri, the Muslims, in obedience to the Divine Command became ready to return the dowers of the women who were left behind with the pagans in Makkah, but the pagans refused to return the dowers of the women who had emigrated to the Muslims in Madinah. Thereupon Allah enjoined that the dowers of the emigrant women, which were to be returned to the pagans, should be collected together in Madinah instead of sending these to pagans; then from these collections disbursements should be made

to those to whom the dowers were due from the pagans according to what was due to them.

The second alternative was that there were several converts to Islam, who had emigrated to the abode of Islam from the territories of the disbelievers with whom the Muslims had no treaty relations, leaving their pagan wives behind. Likewise, some women also had become converts and emigrated, leaving their pagan husbands behind. About them it was decreed that the matter should be settled in the abode of Islam itself on the bargain basis. That is, when the dowers were not being returned by the disbelievers, no dowers should be returned to them. Instead, the dower of the woman who had emigrated to the abode of Islam, should be paid to the person, whose wife had been left with the disbelievers.

But in case the account could not be settled equitably thus, and the amount of the dower due on behalf of the disbelieving wives of Muslims, who were left in the abode of disbelief, exceeded the amount of the dowers of the Muslim women who had emigrated, it was enjoined that the deficiency be made up from the spoils that the Muslims took in the wars against the disbelievers. Ibn 'Abbas has related that the Holy Prophet (upon whom be Allah's peace) would command that the loss of the person who did not receive his share of the dower be made up from the spoils. (Ibn Jarir). This same view has been adopted by 'Ata', Mujahid, Zuhri, Masruq Ibrahim Nakha'i, Qatadah, Muqatil and Dahhak. All these scholars say, that the people whose dowers are left with the disbelievers, should be paid these from the collective spoils taken from the enemy. That is, before the booty is distributed, the dead dowers of the people should be paid and then the distribution made in which these people too should be given their equal shares along with the other soldiers. Some jurists say that the loss of such people can be made up not only from the spoils but even from the fai properties. But a large section of the scholars does not subscribe to this view.

18As we have explained above, this verse was sent down some time before the conquest of Makkah. After the conquest the Quraish stated coming to the Holy Prophet in large numbers to take the oath of allegiance. From the men he took the oath himself on Mount Safa, As for the woman he appointed Hadrat 'Umar to administer the oath to them on his behalf and to ask them to pledge that they would refrain from the things mentioned in this verse. (Ibn Jarir, on the authority of Ibn 'Abbas; Ibn Abi Hatim, on the authority of Qatadah). Then, on his return to Madinah he ordered the Muslim women of Madinah to be gathered together in a house and he sent Hadrat Umar to take the oath from them. (Ibn Jarir, Ibn Marduyah, Bazzar, Ibn Hibban, on the authority of Umm 'Atiyyah Ansariah). On the 'Id day also, after his address to men, he went to the assembly of women and in his sermon to them he recited this verse and asked them to pledge that they would refrain from the things mentioned in it. (Bukhari on the authority of Ibn 'Abbas's tradition). Apart from these occasions, at different other times also, the women came before the Holy Prophet individually as well as collectively to take the oath of allegiance, as mentioned in several Ahadith.

19In Makkah, when the oath of allegiance was being administered, Hind bint `Utbah, wife of Abu Sufyan, asked the Holy Prophet its explanation and said: "Messenger of Allah, Abu Sufyan is rather stingy. Will it be sinful if I take out something from his wealth without his permission to meet my own and my children's needs?" The Holy Prophet replied: "Nay, but only, lastly and lawfully; i.e. take only that much as may actually suffice for your needs." (Ibn al-'Arabi, Ahkam al-Qur'an).

20This also includes abortion, whether it is abortion of the legitimate or of the illegitimate fetus.

21This implies two kinds of calumny:

- (1) a woman's accusing other women of having illicit relations with other men and her spreading such stories among the people, for the women are generally prone to spreading such things; and
- (2) a woman's delivering a child by somebody else and making her husband believe that it is his. Abu Da'ud has related a tradition from Abu Hurairah saying that he heard the Holy Prophet say: "The woman who brings such a child into a family as does not actually belong to it, has no connection with Allah, and Allah will never admit her to Paradise."

22In this brief sentence two important points of the law have been stated:

First, that obedience even to the Holy Prophet (upon whom be Allah's peace) has been restricted to "in what is good", although about the Holy Prophet no one could imagine that he would order somebody to do an evil. From this it automatically follows that no one in the world can be obeyed outside the bounds of Divine law. For when obedience to Allah's Messenger-himself is conditional upon "in what is good", who else can have a position to demand unconditional obedience and require the people to obey and follow each of his commands, laws, rules or customs, which are opposed to the law of Allah? The Holy Prophet (upon whom be Allah's peace) has stated this principle, thus: "There is no obedience in the disobedience of Allah; obedience is only in what is good and right." (Muslim, Abu Da'ud, Nasa'i). Our great doctors have derived this very theme from this verse, Hadrat 'Abdur Rehman bin Zaid bin Aslam says:

"Allah has not said that they should not disobey you (the Holy Prophet) but that they should not disobey you in what is good.

Then, when Allah Almighty has made obedience even to the Holy Prophet himself conditional upon this, how can another person have the right that he should be obeyed in anything but what is good?" (Ibn Jarir).

Imam Abu Bakr al-Jassas writes:

"Allah knew that His Prophet never enjoined anything but what was good. Still He restricted obedience to him only in what is good, so that no one ever may find a provision to obey the kings when they enjoined something outside the obedience of Allah. The Holy Prophet (upon whom be Allah's peace) has said: 'He who obeys a creature in disobedience to the Creator, Allah appoints the same creature over him in power' . " (Ahkam al-Qur'an).

'Allama Alusi says:

"This command refutes the view of those ignorant people who think that obedience to the ruler is absolutely necessary. Allah has restricted even obedience to His Messenger only in what is good, whereas the Messenger never enjoins anything but what is good. This is meant to warn the people that obedience to no one is lawful in disobedience to the Creator. " (Ruh al-Ma'ani).

Thus, this command in fact, is the foundation stone of the rule of law in Islam. The rule is that anything which is opposed to the law of Islam is a crime, and no one has the right to enjoin any such thing on any one. Anyone who enjoins anything against the law, is a culprit; and the one who obeys such a command is also a culprit. No subordinate can escape the punishment on the basis of the excuse that his superior officer had ordered him to do something which was a crime in the law.

The other thing which has great legal import is that in this verse after enjoining five prohibitions only one positive command has been given, namely that the Holy Prophet (upon whom be Allah's peace) will be obeyed in all good things. As for the evils, the major evils in which women of the pre-Islamic days were generally involved, have been mentioned and a pledge taken from them to refrain from them. But as for the good works, they have neither been mentioned nor any pledge taken to observe them. The only pledge that has been taken is that they will have to obey the Holy Prophet in every good work that he enjoins. Now obviously, if the good works be only those which Allah Almighty has enjoined in the Qur'an, the pledge should have been to the effect: "You will not disobey Allah," or "You will not disobey the injunctions of the Qur'an." But when the pledge taken was to the effect: "You will not disobey any good work that is enjoined by the Messenger of Allah", it automatically leads to the conclusion that the Holy Prophet has been given vast powers for the reformation of society, and it is obligatory to obey all his commands, whether they are found in the Qur'an or not.

On the basis of this very legal authority the Holy Prophet (upon whom be Allah's peace) asked the women to pledge that they would refrain from all those evils which were prevalent among the women of the Arabian society at that time, and gave several such commands as have not been mentioned in the Qur'an. One may study the following Ahadith in this connection

Ibn 'Abbas, Umm Salamah, Umm 'Atiyyah Ansariah and others have reported that the Holy Prophet (upon whom be Allah's peace) while administering the oath of allegiance

to the women asked them to pledge that they would refrain from mourning over the dead. These traditions have been related by Bukhari, Muslim, Nasa'i and Ibn Jarir.

A tradition reported by Ibn `Abbas contains this detail: "The Holy Prophet appointed Hadrat `Umar to administer the oath of allegiance to the women and commanded that he should forbid them to mourn over the dead, for in the days of pre-Islamic ignorance women used to tear their clothes and hair, scratched their faces and bewailed in aloud voice." (Ibn Jarir).

Zaid bin Aslam has reported that the Holy Prophet while administering the oath of allegiance forbade the women to scratch their faces tear their garments, bewail and sing verses while mourning over the dead. (Ibn Jarir). Another tradition bearing on the same subject has been reported by Ibn Abi Hatim and Ibn Jarir from a woman who was among the women taking the oath of allegiance.

Qatadah and Hasan Basri (may Allah bless them) say that one of the things that the Holy Prophet (upon whom be Allah's peace) had made the women to pledge also was that they would refrain from talking with the other men freely. Ibn 'Abbas has explained it in a tradition, thus: "That they would not talk with the other men in private." Qatadah has further explained it thus: hearing this command Hadrat 'Abdur Rahman bin 'Auf said; `O Messenger of Allah. sometimes it so happens that we are not present in the house and somebody comes to see us.' The Holy Prophet replied: 'I do not mean this. "That is, the woman is not forbidden to tell the visitor that the master of the house is not present." (These traditions have been cited by Ibn Jarir and Ibn Abi Hatim).

Hadrat 'Abdullah bin 'Amr bin al-'As has reported another tradition from Umaimah bint-Rugaiqah, maternal aunt of Hadrat Fatimah (may Allah be pleased with her), saying: "The Holy Prophet made me to pledge that I would neither bewail the dead nor display myself like the women of the pre-Islamic paganism." (Musnad Ahmad, Ibn Jarir).

Salmah bint Qais, a maternal aunt of the Holy Prophet, says: "I went before the Holy Prophet with some other women of the Ansar to take the oath of allegiance. He made us to pledge that we would abstain from the things mentioned in this verse, and then said: `Do not defraud your husbands.' When we were about to leave, a woman said to me: `Go and ask the Holy Prophet what is meant by defrauding the husbands?' When I went and asked the explanation, he replied: 'This that you should defraud him of his money and expend it on others.'" (Musnad Ahmad).

Umm 'Atiyyah says: "The Holy Prophet after administering to us the oath commanded us that we would attend the `Id congregational prayers, but the Friday prayer is not obligatory for us, and he forbade us to follow the bier." (Ibn Jarir).

The people who think that the constitutional powers and authority that the Holy Prophet possessed emanated from his position as a ruler instead of his position as a Messenger of Allah, and say that since he was also the ruler at the time, whatever commands he gave in that capacity were only meant to be obeyed during his time,

say an absurd thing. Consider the Holy Prophet's commands and instructions that we have cited above. If these instructions given by him for the reformation of the woman had emanated only from his position as a ruler how could these reforms then be introduced and enforced among the women of the Muslim society of the entire world for ever? Which ruler has there been in the world, who might have had the position that a command issued by him just once for a reform might have become enforced in the Muslim society everywhere in the world for ever? (For further explanation, see E. N . 15 of Surah Al-Hashr).

23Several authentic Ahadith show that in the Holy Prophet's time the procedure of administering the oath of allegiance to the women was different from that to the men. For the men the procedure was that the ones pledging allegiance would give their hand in the hand of the Holy Prophet and take the oath. As for the women; the Holy Prophet never took any woman's hand in his own hand, but adopted different other methods. In this connection, the following traditions have been reported:

Hadrat 'A'ishah says: "By God, in connection with the oath of allegiance the Holy Prophet's hand never touched any other woman's hand. While administering the oath of allegiance to a woman, he would only say to her: 'I have accepted your allegiance' ." (Bukhari, Ibn Jarir).

Umaisah bint Ruqaiyah has stated: "I along with some other women went before the Holy Prophet to pledge allegiance, and he made us to pledge according to this verse of the Qur'ān. When we said: 'We will not disobey you in what is good and right', he said: 'As far as it is in your power.' We submitted: 'Allah and His Messenger are more kind to us than we could be to ourselves.' Then we said: 'O Messenger of Allah, stretch your hand so that we may pledge allegiance.' He replied: 'I do not shake hands with women: I only make them take the pledge. So he made us to pledge." In another tradition she has stated: "The Holy Prophet did not take the hand of any of us in his own hand. " (Musnad Ahmad, Tirmidhi, Nasa'i, Ibn Majah, Ibn Jarir, Ibn Abi Hatim).

Abu Da'ud, in Marasi, has related this from Sha'bi: "While administering the oath of allegiance to the women, a sheet of cloth was stretched towards the Holy Prophet, which he took in his hand and said: 'I do not take the woman's hand in my hand'." This same subject has been related by Ibn Abi Hatim from Sha'bi, by 'Abdur Razzaq from Ibrahim Nakha'i and by Sa'id bin Mansur from Qais bin Abi Hazim.

Ibn Ishaq, in Maghazi has related this from Aban bin Salih.: "The Holy Prophet would put his hand in a vessel full of water and then the woman also would put her hand in the same vessel. " In Bukhari, a tradition from 'Abdullah bin 'Abbas is to the effect: "After giving the Eid congregational sermon, the Holy Prophet went through the rows of the then to the place where the women were sitting. There, in his address, he recited this verse of the Qur'an, then asked the women: 'Do you promise to act according to it?' A woman from the assembly replied: 'Yes, O Messenger of Allah'.

In a tradition related by Ibn Hibban, Ibn Jarir, Bazzar and others, Umm 'Atiyyah Ansariah has stated this: "The Holy Prophet extended his hand from outside the house and we extended our hands from inside the house. " But this does not prove that the women might have shaken hands with the Holy Prophet, for Hadrat Umm `Atiyyah has not made any mention of the shaking of hands. Probably on this occasion for the purpose of taking the pledge the Holy Prophet might have extended his hand from outside and the women their hands from inside the house towards him without any of their hands touching his.

24The words in the original can have two meanings:

First, that they have despaired of their well-being and rewards in the Hereafter just as the deniers of the life-after-death have despaired of the resurrection of their near and dear ones, who are dead and gone into the graves. This meaning has been given by Hadrat 'Abdullah bin 'Abbas and Hadrat Hasan Basri, Qatadah and Dahak (may Allah bless them).

The second meaning can be: They have despaired of the mercy and forgiveness of the Hereafter just as the disbelievers, who are lying in the graves, have despaired of every good, for they are certain of their being involved in the punishment. This meaning has been related from Hadrat `Abdullah bin Mas'ud and from Mujahid, 'Ikrimah, Ibn Zaid, Kalbi, Muqatil, Mansur (may Allah bless them all).