

EQUALITY OF WITNESSES

Question:

Why are two witnesses who are women, equivalent to only one witness who is a man ?

Answer:

It is not true that two female witnesses are always considered as equal to only one male witness. It is true only in certain cases. There are about five verses in the Quran that mention witnesses, without specifying male or female. There is only one verse in the Quran, that says two female witnesses are equal to one male witness. This verse is Surah Baqarah, chapter 2 verse 282. This is the longest verse in the Quran and deals with financial transactions. It says:

"Oh! ye who believe! When ye deal with each other, in transactions involving future obligation in a fixed period of time reduce them to writing and get two witnesses out of your own men and if there are not two men, then a man and two women, such as ye choose, for witnesses so that if one of them errs the other can remind her." [Al-Quran 2:282]

This verse of the Quran deals only with financial transactions. In such cases, it is advised to make an agreement in writing between the parties and take two witnesses, preferably both of which should be men only. In case you cannot find two men, then one man and two women would suffice.

For instance, suppose a person wants to undergo an operation for a particular ailment. To confirm the treatment, he would prefer taking references from two qualified surgeons. In case he is unable to find two surgeons, his second option would be one surgeon and two general practitioners who are plain MBBS doctors.

Similarly in financial transactions, two men are preferred. Islam expects men to be the breadwinners of their families. Since financial responsibility is shouldered by men, they are expected to be well versed in financial transactions as compared to women. As a second option, the witness can be one man and two women, so that if one of the women errs the other can remind her. The Arabic word used in the Quran is *Tazil* which means confused or to err. Many have wrongly translated this word as to forget. Thus financial transactions constitute the only case in which two female witnesses are equal to one male witness.

However, some scholars are of the opinion that the feminine attitude can also have an effect on the witness in a murder case. In such circumstances a woman is more

terrified as compared to a man. Due to her emotional condition she can get confused. Therefore, according to some jurists, even in cases of murder, two female witnesses are equivalent to one male witness. In all other cases, one female witness is equivalent to one male witness. There are about five verses in the Quran which speak about witnesses without specifying man or woman.

While making a will of inheritance, two just persons are required as witnesses. In Surah Maidah chapter 5 verse 106, the Glorious Quran says:

"Oh you who believe! When death approaches any of you, (take) witnesses among yourself when making bequests." [Al-Quran 5:106]

two just persons of your own (brotherhood) or other from outside if you are journeying through the earth and the chance of death befalls you." [Al-Quran 65:2]

Two persons endowed with justice in case of talaq.

"Four witnesses are required in case of charge against chaste women, [Al-Quran 24:4]

There are some scholars who are of the opinion that the rule of two female witnesses equal to one male witness should be applied to all the cases. This cannot be agreed upon because one particular verse of the Quran from Surah Noor chapter 24, verse 6 clearly equates one female witness and one male witness:

"And those who launch a charge against their spouses, and have (in support) no evidence but their own - their solitary evidence can be received." [Al-Quran 24:6]

Hazrat Ayesha (RA) hadith narrated of one witness

Many jurists agree that even one witness of a woman is sufficient for the sighting of the crescent of the moon. Imagine one woman witness is sufficient for one of the pillars of Islam, i.e. fasting and the whole Muslim community of men and women agree and accept her witness! Some jurists say that one witness is required at the beginning of *Ramadaan* and two witnesses at the end of *Ramadaan*. It makes no difference whether the witnesses are men or women.

Some incidents require only female witness and that of a male cannot be accepted. For instance, in dealing with the problems of women, while giving the burial bath i.e. *ghusl* to a woman, the witness has to be a woman.

The seeming inequality of male and female witnesses in financial transactions is not due to any inequality of the sexes in Islam. It is only due to the different natures and roles of men and women in society as envisaged by Islam