

## STATUS OF WOMEN IN SHARIA'H: AN ANALYTICAL STUDY FROM SOCIAL AND POLITICAL PERSPECTIVE

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### ABSTRACT

*Reform movement is not new in Islam. Reform of women's legal, social and political rights started in the early period of Islam as a result of the revelation of Al-Qur'an and practices of the Sunnah. However, patriarchal modern laws consider women as second class citizens. Western feminist jurisprudence is the reactive product of patriarchal Western society and its gender biased laws. In the West, women are still under the tutelage of men. On the other hand, gender basis discrimination is entirely absent in Islam. All injections and obligations are addressed to both genders. Islam provides liberty, authority and convenes responsibilities on women after reaching their age of majority. It confers extra responsibilities onto men and gives them some recompense for their unlimited liabilities. This article examines some important issues regarding the social and political rights of the Muslim women and tries to find the viable solution to this matter in the light of Islamic principles. This study relies on both primary and secondary sources. For primary sources, the study utilized the Qur'an and the Hadith while the secondary sources consist of internet resources and online databases.*

**Keywords:** *Discrimination, Reformation, Women, Empowerment, Jurisprudence, Islam.*

### 1. INTRODUCTION

The revelation of Al-Qur'an and practices of the Sunnah in the early period of Islam gave pace to reform in every sector of Muslims' life. Subsequently, women's legal, social and political rights have been reformed in accordance with Islamic principles. There are two fundamental concepts that strongly prevail in Islam which are *Islah* (reform) and *Tajdid*

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(renewal) (Masud.et.al, 2009) but it should be seen under the light of the Qur'anic principles and the Prophetic Sunnah. Though patriarchal modern laws consider women as second class citizens, Islam has due processes to the elimination of prejudice. Definitions of feminist jurisprudence can be either inclusive or exclusive (Thornton & Margaret, 1998). Western feminist jurisprudence is the reactive product of patriarchal Western society and its gender biased laws (Smith & Patricia, 2009). Women are often predicated on their classification as the weaker vassal (Yacowar & Maurice, 1997). In the West, women are still under the tutelage of men (Mitchell & Linda, 2012.). On the other hand, gender basis discrimination is entirely absent in Islam (Syed Rahman, 2016). Women are considered worthy human beings, enjoy equal rights and adore the same status as men. Men and women are created from the same soul (Al-A'raf:189) but each soul will be alleged for its own endeavors (Al-Muddathir:38). However, Islam does use men as a channel to convey messages to women. All injections and obligations are addressed to both genders equally. Islam provided liberty, authority and convenes responsibilities on women after reaching their age of majority. The principle of equitability amongst men and women is upheld in Islam, in the Holy Qur'an; Surah Al-Baqara verse 228 expressly mentions that

*“Women have rights similar to those against them in a just manner, and men are a degree above them”.*

Furthermore, the gradation does not refer to any supremacy or domination to men over women. It confers additional obligations on man and gives him some recompense for his unlimited liabilities (Abdalati & Hammudah, 1993). In certain cases, women have been under privileged. The rights that the Muslim women had in the Prophet's (S.A.W.S) time, today, the Muslim women deserve at least the same social, economic and political rights. Perhaps the changes required to transform the theoretical rights into practical ones have only begun. Thus, this study considers the following research question to what extent Sharia'h uphold women's legal, social and political rights paralleled to the Western point of view?

### **1.1 Statement of the Problem**

Though patriarchal modern laws consider women as second class citizens, Islam has due processes to eliminate this bias. In the West, women are still struggling against eradication of discriminatory laws and gaining honorable treatment at the place of work and in the society. Similarly, in certain spheres of social life, the Muslim women are currently deprived of some of their justifiable rights because of some traditionalist views.

### **1.2 Research Objectives**

This article has the following objectives:

- i) To examine some important issues regarding the social and political rights of the Muslim women;
- ii) To identify the viable solution of the matter in the light of Islamic principles.

### 1.3 Literature Review

There is no uniform and universal definition of feminist jurisprudence. It is really impossible to give a simple and distinct answer as to what the term means. Definitions of feminist jurisprudence can be either inclusive or exclusive. It is a unifying feature of thought throughout contemporary literature that our patriarchal society considers women as second class citizens (Ameli, Saied Reza, and I. Western Feminism, 2001). Feminist jurisprudence strives for unveiling existing traditional and legal inequalities faced by women in society and tries to find appropriate ways to redress the enduring inequalities (Kfir & Isaac, 2014). Inequalities based on gender in many aspects of the substantive law have long been evident to feminist scholars. Whether it is the criminal law, family law, employment law or property law, discrimination based on gender has represented a real and problematic feature of law. Basically, feminist jurisprudence is a philosophy of law based on the political, economic, and social equality of sexes (Barnett & Hilaire, 2013). Feminist jurisprudence is hence, a form of feminist theory-making (Cain & Patricia, 1988). The term 'Islamic feminism' does not mechanically or rigidly use the same crutch to illustrate the oppression of women in Islamic tradition (Garcia & Karina, 2014). Meanwhile, Western feminist movement is against their legal jurisprudence (Bartlett & Katharine, 1990). In contrast, Islamic feminism does not fault Islam as a religion for her inequality; rather it argues that the Qur'an is in full support of male-female equity. The Qur'an does not contain verses that imply "inequity" between men and women. According to Fatima Mernissi (1992):

*"It is neither because of the Quran... nor the Islamic tradition, but simply because [women's] rights conflict with the interests of a male elite. Not only have the sacred texts always been manipulated, but the manipulation of them is a structural characteristic of the practice of power".*

The term 'Islamic feminism', defined by Badran & Margot (2009), means "a feminist discourse and practice articulated within an Islamic paradigm. Islamic feminism, which derives its understanding and mandate from the Qur'an, seeks rights and justice for women, and for men, in the totality of their existence". Western feminists fail in their own social context, including at the universal level (Chris Weedon, 2002). First and foremost, the Western practiced feminism forfeits their exportable qualities across to cultural boundaries because of regionally and culturally conceived goals. On the other hand, goals of Islamic feminism can be implemented across boundaries (Moghadam & Valentine, 2002) due to the enormous influence of Islamic ideology compared to the ritual life of a person. Secondly, the feminist perception is that, religious acts and omissions are the main barriers for progress and well-being of women. Amid the Muslim women, Islamic teachings, values and norms are considered as allies and paramount adherents. Finally, Islamic feminism clearly demarcates the roles and responsibilities of a male and female in favor of their family, society as well as state (Galloway & Sonia, 2014). In contrast, there is no such demarcation in conventional feminism. Their

movement is to establish a unisex society in order to achieve equal rights for women (Violet K. Dixon, 2011).

## **2. RESEARCH METHODOLOGY**

The research methodology chosen for this article is doctrinal in nature. In doctrinal research, library based research is the most common methodology (Singhal, Ashish Kumar, and Ikramuddin Malik, 2012). It analyses the legal doctrines and how it apply and develop from time to time (Mc Conville and Wing Hong, 2007). In the doctrinal method, this article will rely on both primary and secondary sources. For primary sources, the article utilizes the Qur'an and Hadith while the secondary sources consist of textbooks, journal articles, newspapers, Internet resources and online databases.

## **3. ANALYSIS AND FINDINGS**

The following are some analytical and controversial issues regarding women's status in Islam that can be solved in the light of the Qur'an and Hadith.

### **3.1 Status of Women in Islam**

Islam is commonly blamed by the Western feminists for sexual subordination (Johannsdottir & Nina Katrin, 2009). All forms of organized religion are also said to be hostile to women: the Hindu widow on the funeral pyre, the Turkish woman in the harem, the American mother refusing chloroform in childbirth because she must suffer for Eve's original sin – all are victims of male-dominated religions (Mudzingwa Rosemary, 2013). However, Islam shows the completely different attitude to women. In every sphere of life the status of women is a fully settled one. According to the Qur'anic verses An-Nisa: 1; Al-A'raf: 189; An-Nahl: 72; Ar-Rum: 21; Az-Zumar: 6 and Ash-Shura: 11, the creation of both men and women are highlighted, and that is, from *nafs* or *aanfus* (plural of *nafs*) both of them are created. It is evident from the Qur'an that from the perspectives of rights and responsibilities, the woman is completely equated with man in the sight of Allah. Furthermore, another Qur'anic verse (Al-Muddathir: 38) mentions that, *"Every soul will be (held) in pledge for its deeds"*. In terms of independent personality, human qualities and worthy of spiritual aspirations, women are acknowledged very humbly in Islam. As a matter of fact, her human nature is neither inferior nor deviant compared to men. In the eye of Islam both are the affiliates for one another. In the aspects of religious obligations, for instance the daily prayers, fasting, alms giving and the pilgrimage, women are the same as men. In contrast, in some cases such as during her menstrual periods and forty days after childbirth she is exempted from daily prayers and from fasting that provides certain advantages over men. So in Islam the status of women does not constitute any confusion or discrimination, instead it confers extra respect and honor.

### 3.2 Educational Rights of Women in Islam

One of the earliest feminist demands was access to education. There is a common blame on Islam that some of its legal systems create religious hindrances to equality posed for women, whereas women education, in Islam, is strongly supported by the Qur'an and Sunnah. The first guidance given to mankind in al-Qur'an is *Iqrai.e.* to read, recite or proclaim. Surah al-'Alaq chapter 96, verse 1-5 states:

*“Read! In the Name of your Lord, Who has created the human, out of a congealed clot of blood. Read and the Lord is Most Bountiful. He who taught (the use of) the Pen taught man that which he knew not.”*

The above lesson is given to both males and females. Islam provides abundant evidence on the significance of education. There is a no gender disparity for men and women in Islam that makes it imperative to educate. There is famous a *hadith* indicating that seeking knowledge is obligatory for women (Ibna Maja, Part 1, *hadith* 224). This *hadith* does not give any privilege to men. It imposes obligation on women to acquire knowledge without any limitations and hindrances. Thus, in the pursuit of education and knowledge women are equal to men. When Islam enjoins the seeking of knowledge upon the Muslims, it makes no distinction between man and woman. Nearly fourteen centuries ago, Muhammad (S.A.W.A) declared that the pursuit of knowledge is incumbent on every Muslim male and female. This declaration was very clear and was implemented by Muslims throughout history. Most of the Muslim countries have improved the educational attainment for females dramatically.

### 3.3 Political Rights of Women in Islam

In the realm of religious (the reference to prayer), social (rendering purifying dues, presumably to help the needy), and in the political and educational realm (the reference to heeding Allah and His Apostle – one must understand what Allah commands and have a voice in society to heed Allah's teachings), men and women are to work together by virtue of the Qur'anic verse (Surah al-Tawbah :71).

*“The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those - Allah will have mercy upon them. Indeed, Allah is exalted in Might and Wise”.*

The above reference shows that both women and men are to take active roles in society rather than merely passive ones. In view of participation of women in the choice of rulers, on public issues, in law-making, in administrative positions, in scholarship and teaching, and even in the battlefield Islam has satisfactory historical evidence. In social and political affairs women's involvement is not conducted based on the participants'

losing sight of the complementary priorities of both genders and it is done without violating the Islamic guidelines of modesty and virtue.

### **3.3.1 Work as Head of the State**

Except in leading prayers, there is no text in the Qur'an or Sunnah that precludes women from any position of leadership. A common question asks the eligibility of Muslim women to be heads of state. Based on the reference of the Qur'anic verse (An-Nisa:34) some may argue that according to this verse men are the protectors and maintainers of women. Such a leadership position (responsibility or *qiwamah*) for men in the family implies their exclusive leadership in political life as well. Benazir Bhutto in Pakistan, Khaleda Zia and Sheikh Hasinain Bangladesh and Sukorno Putri in Indonesia has been elected to the positions of Prime Minister / President. Perhaps this sets a final seal on this argument and confirms that Muslim women can become heads of administration in states with absolute majority Muslims.

### **3.3.2 Women's Participation in Law-Making Process**

In this respect, Islam has similar point of view as mentioned earlier. In one instance, one day Hazrat Umar was discussing about the regulation of Mehr in the mosque. Some of the men were talking about putting restrictions on the Mehr and some of them were discouraging young Muslim men from getting married. At that time a lady from the back of the mosque objected, giving Qur'anic reference and saying no one had the right to introduce this "When Allah has not put restrictions on the Mehr then who are you to put restrictions to it". Hazrat Umar humbly replied that the woman was right and Umar wrong (Tafsir Ibn Kathir 1/468). In political terminology, women's objection is called objection to the breaking of the law of the constitution as al-Qur'an is the constitution for the Muslims.

### **3.3.3 Social Status of Women in Islam**

Islam does not prohibit women seeking work; indeed, in the ideal Islamic society it is necessary that women should fill certain posts. It follows therefore that women need to have the education and the training necessary to take up such important professions as teaching, medicine, etc. Furthermore, in Islam, learning is not simply a right of everyone; it is a duty and responsibility. Prophet Muhammad (S.A.W.S.) said, "*Seeking knowledge is mandatory on a Muslim male and female*" (Ibn Majah). This saying of the Prophet is confirmed by the Qur'an, which says that Allah endows a higher status on those who are knowledgeable. There is no provision in Islamic law that specifies areas of education permitted to women or areas prohibited (Bassiouni, 2012).

Areas of knowledge that are mandatory for both men and women to study include fundamental Islamic beliefs, acts of worship, and moral teachings. There are

certain fields that are particularly recommended for women to study so that they can equip themselves better for the role for which Allah has created them.

### **3.4 Some Controversial Issues**

#### **3.4.1 Women Testimony**

The term ‘testimony’ means by which something is proven or known to be true and correct. It is true information about the fact. However, on the issue of women’s testimony a number of questions are often raised:

- i. Do women have weaker memories than men?
- ii. Why should two women be needed in the place of one man?
- iii. Are women inferior to men?

According to the Surah al-Baqarah, verse 282, Allah mentions that:

*“...And get two witnesses out of your own men. And if they are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her...”*

The above verse does not mean that a woman does not understand or cannot remember things; this is because women are not as experienced in practical life as men. It is not an indication of the women being inferior to men. In another verse, Allah says the reason for that rule (al-Nisaa: 34).

#### **3.4.2 Coeducation**

The term ‘coeducation’ refers to the gathering of male and female students in one classroom. At the time of the Prophet (S.A.W.S) women were always present at his lessons. During that time Friday prayers as well as night (Al-Esha) and dawn (Al-Fajr) prayers were attended by women in the major congregational prayers in the Prophet's (S.A.W.S.) mosque. The Prophet (S.A.W.S) would direct them to form rows behind the men. According to the Prophet (S.A.W.S), it was legitimate and natural for them to meet each other in the right circumstances and for good reasons. Most of the Muslim countries today except Saudi Arabia allow co-education as well.

Therefore, from the above discussion it is clear that for all of women’s legal, social and political rights Islam provides adequate respect and liability for them. If Islam gives men more responsibilities there are reasons for that but Islam does not discriminate against women. However it confers equal rights and obligations on both men and women.

### **4. CONCLUSION**

In Islam women hold extraordinary status and credibility that is appropriate to their nature. Compared to men, women’s rights and duties are equal but not necessarily or absolutely identical. In some aspects women have a degree of benefits and the related accountability just like men and overall both are equal. From that statement it is apparent that the stereotype of the mistreatment and inequality within the Islamic religion is

misconceived and it is recommended that there should be no misinterpretations of the role of women in the Islamic religion or in the Muslim society today. The delusion that does lie was created by those who are in lack of knowledge of the Quran and the teachings of Islam.

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