

Rational Approach Towards Women Rights In Islam

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Abstract:

In modern society of ours, Islamic view regarding women rights is misunderstood. Both of the fractions-Muslims and non-Muslim- scholars are at two extremes. Muslim scholars of different continents of the globe err in interpreting women rights as they are greatly influenced by their geographical customs and traditions and non-Muslim scholars seems to be expert of a postulate which they did not practically experienced in their life. Apart from both of the approaches regarding women rights, the Sharī'ah (Islamic Law) puts a great stress on equitable distribution of rights and duties for both men and women. This equitable and judicial allocation of rights and duties is supported by biological, economical, social and emotional formation of humans in the global society. Men are made responsible for their own chapter and women entertain their own domain without taking the extra burden of responsibilities of other fraction i.e. men.

This work will aim to analyze the gap between two approaches of which one is culturally influenced by theological approach and the second is based on liberty beyond any limits. We will try to illuminate the modern and liberal approach of Islamic Law dealing women rights through interpreting it in pure rational and practical approach (not violating the basic rules of interpretation) compatible with the needs of the day. The effort to prove the above mentioned approach will be fortified of Islamic texts and practical examples of daily life. This paper will follow the comparative and analytical research methods.

Key Words: Sharī'ah, Theological and Rational approaches, Quran and Sunnah

Introduction

"O mankind! Be dutiful to your Lord, Who created you from a single person (Adam), and from him (Adam) He created his wife (Eve), and from them both He created many men and women and fear Allah through Whom you demand

your mutual (rights), and (do not cut the relations of) the wombs (kinship). Surely, Allah is Ever and All-Watcher over you."*

Women, from the time of their inception, were made tender, soft and kind in relation to men who are biologically hard in their daily life. The fact of being biologically weak led them to the hegemony and control of men. The question of superiority is the matter of discourse between the learned scholars around the globe and all of them got arguments to favor their stances. In ancient times, women were subject to sexual and material satisfaction. Women were deemed as the commodity to satisfy men's desire and were dealt as marketable thing which can be sold after use and abuse. The concept of justice and equality which got traces in divinity, Greek and Roman philosophies enlightened the way towards a society based on equitable rights and duties.

A man is a social being and started living in societies. Another basic characteristic of human is to learn and correct one's evils. Our life is changing its way and we are shaping our societies in a better way through evolution in education and modern acceptable modes of living. It would be open injustice if one claims that a specific civilization or a specific ruler was the first to grant and ensure women rights. It will also be wrong to portrait any civilization as savage or barbaric in the case of women rights as we all human got some feelings and emotions. It is pertinent to mention here that the history of humankind is evolutionary not revolutionary. We have developed and organized society in more proper manner with the passage of time. Civilization evolved in all fields including women rights. Women, being the prone to exploitation and injustice, are more powerful in the current age and the same will evolve.

Islam being the last divine religion on Earth draws an equitable account of guidelines for the protection of women's right and it is distinct from the Western theory of equality as Islam does not put extra burden on women on the basis of equality neither it ignores them on the basis of second class creature but draws equitable standards in explaining women's rights.

**Al-Quran 4:1*

Women in Different Civilizations

In order to draw a comparative view regarding development of women's rights in different stages, we will try to quote texts of different civilizations. In Indian civilization women were subject to men and a clear independent character of women was lacking. Here, women were the facilitating part of men and were at complete disposal of men. To quote here, Manu, the Hindu Law Giver says as under”

“A women whose mind, speech and body are kept in subjection, acquired high renown in this world, and, in the next, the same abode with her husband.”[†]

Because of significance of the law, the same law was enacted. We cannot and should not ignore the postulate of Manu in totality. A law is being enacted in a society after giving head to a number of issues and problems. Hindu Law stresses upon complete loyalty of women for the men in a family state. A state in its constitution demands loyalty of its citizens and ensures economy through the way of security. Same was the idea of Manu as he treated a family unit as a state, where a woman is required to be loyal to men for the smooth functioning of family. Women were actually dependent upon men before the advent of modern industrial revolution. The idea of Romans seems identical to that of women's rights in Hindu Law.[‡]

Roman law regarding Women Rights

Roman law also established complete dependence of women upon men. In doing so, it did not rendered any property rights upon women. Women were unable to possess property and a clear example of that is transfer of property from women to men after her marriage. Encyclopedia Britannica puts some light upon the Roman Philosophy regarding women rights as under:

“In Roman law a woman was even in historic times completely dependent... if married she and her property passed into the

[†]Shamsuddin. (1983). *Meos of India-Their Customs and Laws*. Delhi. Ashish Publishing House.

[‡]Ali Ameer.(1979). *Mohammadan Law* (pp13-14). Lahore.

power of her husband... the wife was the purchased property of her husband and like a slave acquired only for his benefit. A woman could not exercise any civil or public office... could not be a witness, surety, tutor or curator; she could not adopt or be adopted, or make will or contract.”[§]

The aforementioned practice of Roman society clearly paints the picture of women rights as was the case of Indian law by Manu. Both of the codes assert the dependence of women in their societies. In this case, Roman law goes a step further in subjection of women by the way of imperfection of her legal capacity.

In order to support our assertion of dependent capacity of women in Roman civilization, we can quote another example of status of women as under:

“A babe, a minor, a ward, a person incapable of doing or acting anything according to her own individual taste, a person continually under the tutelage and guardianship of her husband.”^{**}

Women in Arabic Peninsula

Islam was incepted in Arabic continent where the plight of women was worse than in India and Rome. The women of Arabia were dealt as an instrument of satanic satisfaction of men. Men were deemed as sole owners and custodians of women. Women were not given a status but of chattel. In that extremely degraded society, the living conditions for women were enormously inhumane. Women were one of the subjects of inheritance to her elder son after the death of her husband.^{††} They were sold as other commodities for their beauty and ability to perform laborious duties. In order to paint the clear

[§]Britannica Encyclopedia, XXVIII, 11th Edition (pp782).(1911). England. University Press Cambridge.

^{**}Allen, E.A. (1887). “History of Civilization” (pp.444). Cincinnati. Central Publishing House.

^{††}Ameer Ali (1979)

picture of Arab thinking about women, some of the ancient Arab quotes are being mentioned”

1. “A man can bear anything but the mentions of his wives;”
2. “women are the whips of Satan;”
3. “our mother forbids us to err and runs into errors;”
4. “obedience to women will have to be repented of;”
5. “trust neither a king, a horse, nor a woman;”
6. “What has a woman to do with the council of a nation?” ††

We can still hear the proverbs of the same kind from ignorant and prejudices fractions of our times. This clearly depicts the ideas of Arab pagans regarding women. Their hostile attitude was for every woman irrespective of their blood relations like mother, sister or etc. They deemed women as evil creature with no purpose but to spoil their qualities and honor. This was the time when Prophet Muhammad (P.B.U.H) came with Islamic teachings in the most backward and un-educated peninsula of Arabian continent.

Islam is the religion which started from Adam (AS) and is concluded on Prophet Muhammad (SAWW). It is clearly mentioned in Quran that:

“And verily, the religion near Allah is Islam”. §§

Then it is stated that:

“Today, I have concluded your dīn (code of life) for you”. ***

This supports the aforementioned idea of evolution of laws and ethics on Earth. Quran, the last book of Allah, clearly mentioned that evolution of Sharī’ah of Islam started from Adam and was concluded on Holy Prophet Muhammad (SAWW). Same is the case of women rights and one should not deny and criticize the standers of women rights in last codes blindly. Human history is of evolutionary nature and humans tried their best to work out the

††Doi, A.R.I, (1983). Women in Shariah (pp13). Zaria.

§§Al-Quran 2:25

***Al-Quran 3:75

best plans to live on this planet, Earth. Beyond criticizing the standers of any code of life, one should try to figure out the rationale and philosophy of some rule or order.

Sharī'ah Based Standers of Inheritance

One of the main misconception regarding inheritance rights according to Islam is that a daughter inherits half of the share of son. This only proposition is knocked blindly without examining the whole law of inheritance according to Sharī'ah. If we give a thorough study of Islamic law of inheritance then the thing is clear that a woman inherits half of the share of his brother beyond she don't have any financial liability to support any family. She is free to use her share of property at her will but contrary to that the male counterpart is subject to maintain wife, children and whole family. Right of maintenance of women is one sided and a man is liable for maintaining his wife. Islamic law of inheritance is based on equity not equality and it is not trait of judicious decision to distribute something in equal shares without considering the status or what one deserves. ^{†††}Justice is to provide what one deserves otherwise equality will lead towards injustice. There are clear instances in same inheritance law when both male and female inherit the same share as is the case of mother and father. If the traffic of economic responsibility is clearly observed then it would become clear that it is of one way, from men to women. A man is liable for maintenance, marriage expenses, dower and etc.^{†††} In spite of absence of financial liabilities; a woman is given her share in inheritance contrary to other codes and laws which denied the economic rights of women till the twentieth century.

Evidence of Women in Sharī'ah

“O ye who believe! When ye deal with each other, in transactions involving future obligations in fixed period of time, reduce them to writing. Let a scribe

^{†††}Siddique, M.Nejatullah. (1970). Some Aspects of the Islamic History (pp123). Lahore.

^{†††}Siddique, M.Nejatullah. (1970).

refuse to write: as Allah has taught him, so let him write. Let him who incurs the liability of dictate, but let him fear his Lord Allah and not diminish the ought of what he owes. If the party liable is mentally deficient, or weak, or unable himself to dictate, let his guardian dictate faithfully. And get two of witness out of your own men, and if there are not 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.” §§§

The aforementioned verse of The Quran is often mode of discussion among the different fractions of thinkers. Quran makes the testimony of a male equal to two of females in business transaction. This proposition is often subject of criticism for a specific class of intellectuals. Women in Islamic society are given the domain of family life and they are made custodian of one of the basic unit of every society. These are women who are builders of the nation and they have been given concession from combating the external affairs of economy, defense and etc. So, being the custodian of family life, they have less exposure in business transactions and outer life and that is why their testimony is considered half of the men who got full external exposure.

It will be un-just to interpret a certain section of some act in isolation of the whole statute. Cannons of construction or interpretation clearly indicate that an isolated interpretation of some section will lead toward absurd meanings unless and until the whole statute is kept in mind.**** Same is the case of Quran and if a certain injunction is being interpreted then one should give a view of whole system of Sharī'ah. Women and men both enjoy different domains and testimony of both is important in different fields.

There are number of instances where the testimony of a male is not acceptable and only females' testimony is accepted. This is the case of suckling (Radaa') and etc. On another instance Quran clearly makes the testimony of women equal to men and the examples are the cases of Lian or imprecation where husband charges his wife of adultery. Encyclopedia of Seerah says:

§§§The -Quran 2:282

**** AIR 1977 SC 965

“However, in some other fields, a woman witness specially--- and mind it! These are not few matters since the women constitute half of human beings-- - the evidence of many men and women, especially in fields where expert and sound knowledge is needed in which women may be more proficient than a man.^{†††}

Hence, it is clear that Islamic principles of evidence are based upon the respective exposures of both men and women. It would be injustice to examine evidence in business transaction with a certain mind set to underestimate the principles of Islam. One is duty bound to give rationale approach to Islamic philosophies of evidence instead of insisting upon them without clear arguments.

Conclusion

To conclude here, it would be important to emphasize upon the understanding rationale behind different divine and other codes of life. One should not be prejudices while acting as scholar. Stubborn attitude can never match with learning and actual learning is to ratify one’s flaws. Innovation and advancement in our life will evolve with the passage of time. Intellect cannot be claimed by a certain civilization or society. Case of women rights is same as every nation contributed in it. Islam played an important part in reforming a tough and backward Arabian society. Arabian society travelled from female infanticide to female dignity under the flag of Islam. Services of Islam cannot be neglected in any prejudiced manner. In order to understand a clear picture of Islamic concept of women rights, one should study the whole social, economic and political system of Islam. An isolated study of different Islamic injunctions pertaining to inheritance, evidence and etc will be injustice as it is against the cannons of interpretation. Duty also lies upon the shoulder to all of us, the Muslims, to interpret women right in a practical and rationale manner to compete the demands of 21st century.

^{†††} [Afzal-Ur-Rahman](#). (1986). “Encyclopedia of Seerah”(Volume: IV, pp: 235). London. Seerah Foundation.

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