

Islam: Women Rights and Violence against Women – Islamic Issues and Economic Factors

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Abstract.

As women are often victims of violence of various kinds of reasons extending from unequal marriage to financial and intellectual property, the sole purpose of the article is to find out the grounds of violence against women and the relation to the religious issues and economic factors. How much freedom and rights have given to women under Islamic jurisdiction will be well addressed. Various rights of women given by Islam will be discussed with popular perceptions of divinely ordinations. Sources of violence will be one of the concerns of this article. And economic and social factors of domestic violence will be briefly analyzed. The flawed system of marriage and divorce in Islam is one of the reasons behind violence against women and this problem will also be focused in the article.

Keywords: *Women, Violence, Rights, Islam, Jurisprudence.*

Introduction

Islamic law by its nature has determined by the distinction between theory and practice. And the Quran is the center of all kinds of Islamic actions and thoughts. Islamic jurisprudence based on the doctrines and norms derived from the various verses of the Quran. Though there are other sources of law in Islamic Jurisprudence, the Quran is the divine one. The words and practices of the Prophet of Islam (Allah bless him and give him peace), which are called as *Sunnah* is another source of law, as this one is not completely divine but as important as Muslims has to follow it.

Islamic jurisprudential thoughts along with laws are functioning only to make the world

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in a better place. Though many believed that Islam does not consider both men and women equally, but the accusation is not entirely true. The doctrines and norms derived from various sources of Islamic law are not analyzed in a proper way. These laws are treated partially by both Islamists and critics of Islam. But it does not take away the blame of gender-based violence in Muslim societies.

There is a fundamental difference between basic norm and injunction of the law. The injunctions derived when basic norms failed, but it cannot produce as much value and dignity of a community as norms can do. Though Westerns and critics of Islam have the perfect weapon as the Muslim community has driven away from the principles of the Quran and *Sunnah* hence, partial and rough interpretations of Islamic laws have developed as some Islamists and ultra-secularist Muslims are both undermining Islamic laws and values.

Islamic Jurisprudence is a very balanced system of law. This legal system is based on some basic principles. *Adl* – (the divine justice or justice of God), *Insaf* – (justice or equity by judge) and *Ihsan* – (virtuous, pious, God-fearing and devoted to God) are normally the three main principles of Islamic jurisprudence. The absence of these innate qualities or characteristics would make the promulgation and propagation of Islamic injunctions inconsistent with divinely inspired goals. Many of the recent Muslim presentations of Islamic laws are dangerously flawed jurisprudentially and economically non-viable and socially unacceptable (Khan, 2008).

Gender-based violence or violence against women is one of the major problems in Islamic societies and countries. Many claim that the violence is the outcome of inequality and fewer rights of women given by the Islamic laws. There are four schools of law under Islamic law and the different interpretations of laws of schools and the customs of sects and countries are mainly responsible for the claim. Though Muslim feminists say that current clarification of Islamic laws that persist in oppressing women have no origin in Islam. They claim that man-made interpretations of sacred laws are the reason behind the oppression of women.

In any society, the violence against women is dependent on social and economic factors. But it relates some religious issues also. And Muslim societies have the same problem. Though for many decades the violence was triggered by religious issues, in the modern world the social and economic factors are also playable. Western observers and critics along with Muslim secularists give blame to the Islamic belief about its position about women. But the rulers and leaders of Islamic countries cannot explain the violence against women on religious issues. They rather describe the violence as the only outcome of immoral Western society and the system.

Rights and Freedom of Women Given by Islam

In recent times, women all over the world demand equal rights as men. There are many interpretations of Islamic laws about the rights and the position of women. There are also some erroneous ideas about women's rights in Islam. In reality, among from all existing legal systems, the Islamic laws domain, guard and maintain the rights of women in the proper way. The common misconception about women's rights in Islam is their inferiority to men.

There are two types of arguments regarding the rights of women in Islamic laws. Firstly, as a human there is no distinction between men and women in Islam. They both had the same human rights and treated equally. Many Quranic verses support this. As God created both men and women from the same essence, only righteous deeds make them closer to God not gender.

“Whoever does righteousness, whether male or female, while he is a believer – We will surely cause him to live a good life, and We will surely give them their reward [in the Hereafter] according to the best of what they used to do” (Al Quran, 16:97).

God only not treated men and women equally in the present life, but also in the afterlife and only believing men and women will get rewarded regarding their gender. The believing men and women have to protect each other. They have some rights and obligations over each other.

To get rewards and punishments, there is no gender-based distinction in Islamic laws. Whoever does good deeds will get rewarded. Also, whoever does any crime will get punished regarding their gender. God created men and women so that they can live in peace and tranquility with love and can fulfill each other. “They are clothing for you and you are clothing for them” (Al Quran, 2:187).

Secondly, there are some rights which divided between men and women. In some particular rights, men have the superiority over women. But the arguments over the superiority of men over women in Islamic laws have some textual grounds both in the Quran and Hadith of Prophet.

“And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority]. And Allah is Exalted in Might and Wise” (Al Quran, 2:228),

“Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth” (Al Quran, 4:34).

Narrated by Abu Bakra (RA), during the days (of the battle) of Al-Jamal, Allah benefited me with a word I had heard from Allah's Apostle after I had been about to join the Companions of Al-Jamal (i.e. the camel) and fight along with them. When Allah's Apostle was informed that the Persians had crowned the daughter of Khosrau as

their ruler, he said, "Such people as ruled by a lady will never be successful" (Hadith: Saheeh Bukhari Sharif, Volume 5, Book 59, Number 709)

From above textual references from the Quran and Hadith, the idea has emerged about the superiority of men over women. From the earlier discussion, it is clear that men and women have no distinction between them as human. The distinction between men and women are drawn in some particular cases. In case of responsibility and authority, men have superiority over women because, God has created men and women differently. Many Islamists argue that women are the only chance for survival of the human species because they are the cultivating ground. Women have to carry the next generation and for the reason of maternity, they have to be cared and protected for the sake of both the mother and the child. The growth of the human race depends on women. And as men are created physically stronger than women, the responsibility of protection of women has fallen upon them.

Women have the superiority over men in the case of maintenance. It is obligatory for men maintain his wife and children. There is no such obligation, for women. As the maintenance obligation is not mandatory, women do not need to work outside. Though in Islam, it is not forbidden for women to work, gain knowledge, to study or to manage her family.

According to Allameh Seyyed Mohammad Hossein Tabataba'i, equality is a natural prerequisite of social rights and duties, but equality that stems from social justice does not require that all social ranks be distributed among all members of the society. The prerequisite of social justice that can be interpreted as equality is for all to have their proper rights. Thus, equality between individuals and classes means only that every person should get what they are entitled to, without conflict between these entitlements. Quran 2:228 stresses equality in men's and women's rights and yet admits the natural differences between them (Kadivar, 2013, Translated by Ziba Mir-Hosseini).

The mere equality of men and women does not return justice to a society. The rights and duties of men and women have to be performed accordingly. And the rights and duties of men and women must be based on justice.

The above mentioned Hadith of Prophet has also some grounds of the superiority of men over women on leadership issues. To be a leader of a nation or a community one must be compatible with strong issues and must be capable of both physical and mental ways. And as women have some physical condition it is advised not to take an important responsibility of a community.

Inheritance is another issue where women are facing inequality of their counterpart men. In Islamic laws, a woman gets half of the shares of property from inheritance than men. But Islamic jurisprudence has the answer about this statement. From the earlier discussion, it is clear that the responsibility to maintain a family fallen upon men. Men

have the obligation to maintain his family. No such obligation for women. Men have to spend to maintain their family needs. This is the main reason behind the law of inheritance in Islam. The property which a woman gets from inheritance, she does not have any obligation to spend a single penny, but men have the obligation to spend for the maintenance of the family. But the Islamic law of inheritance has more criticized among various feminist groups and scholars in the world.

Nowadays, another misconception about Islam has grown up that it does not give any freedom to women. Westerns and Islamic secularists claim that Islam closes the gate of study and knowledge for women. This conception is not true. Islam does not forbid gathering knowledge or going outside of the house. It only gives that permission by taking proper *Hijab* (Women must cover her body and hair from the sight of non-mahram men). Here, one important thing has to be mentioned, that men also does have some responsibility over *Hijab* issues like it is forbidden for a man to look at the details of the face of a non-mahram women or her hands with sexual desire and vice versa.

Islam has given the right to women to choose her husband in marriage. Without the permission or consent of the girl or women, no marriage can take place. She is free from any coercion, and may accept the person or reject a proposal. But present Muslim societies do not follow this rule. They force their girls into marriage without their consent. As the Prophet of Islam himself has made this type of marriage (without the consent of bride) voids.

In Islamic laws, women have some particular rights as infants, child and daughters. Islam has ordered parents to take care of their children and their needs. Care and guardianship of children are most important to parents. The mother is entitled to the custody of her child regarding the child is a boy or girl. Islamic law orders that parents must care and pay attention to their children, especially girls for their special needs. Islam commands justice in all matters and this general ruling is applied to all children regardless of their sexes. There are many Quranic verses and Hadith of Prophet can be found supporting this.

Muslim women are granted all kinds of property rights. They have the absolute ownership over a property. They have the right to acquire new ownership and possession of a property.

“And do not wish for that by which Allah has made some of you exceed others. For men is a share of what they have earned, and for women is a share of what they have earned” (Al Quran, 4:32).

But in practice Muslim women are deprived of their rights of ownership and possession over a property. The deprivation started from her father's family. The property distribution under inheritance laws in Islam is more critical. Also, the customs of Islamic societies are not in favor of a woman regarding the inheritance. But women have the

absolute ownership over the property which is either transferred or inherited. Though a woman inherited property, she has still the right of being maintained by her husband.

The absolute right over the property of a woman is significant because the largest religions in the world do not give the women absolute power over property. But they have overcome this problem by codifying rules and regulations. In this sense, Islam has given the women more rights over property than any other religion.

Mahr (dower) is a right of women given by Islam in marriage. This right is also absolute to women. A wife can claim money at the time of marriage and divorce from her husband. There is no limit of dower, but a wife can claim the amount of money what the bride and bridegroom have agreed upon the time of marriage. Dower has to be paid by the husband to his wife before and/or after the marriage. Dower is prompt money, which allows Muslim women to be economically independent.

Another important right that has given by Islam to women is the right to get divorced. Divorce is religiously and socially undesirable for any Muslim. But the permission of dissolution of marriage has given in case of unhappy or pitiful marriage. The property a woman has owned, or has possession at the time of marriage, she is entitled to keep almost all of it. The relation between husband and wife is very sacred in Islam.

Islamic jurisprudence permits the wife to have her marriage nullified upon her request if the husband abuses her physically or verbally. She is also entitled to have the marriage nullified for the following general reasons (Al Sheha, 1997):

- a. if the husband is impotent and cannot perform his marital duties;
- b. or if the husband for any reason, refuses to have sexual relations with his wife and fulfill her lawful needs;
- c. or is afflicted with a disabling terminal illness after the marriage;
- d. or contracts any type of venereal or reproductive disease that may harm the wife or make her lose her desire to be with her husband.

There are some conceptions and misconceptions about the rights of women given by Islamic laws. Apart from the complex inheritance laws and superiority issue, the women have enjoyed much right and freedom, but in a proper way or under the guidance of Islam.

Violence against Women in Islamic Societies

Any type of violence in any society is not permissible. Violence against women in any society is caused for many reasons. There are some social and economic factors as well as some religious issues. In Islamic societies, the violence against women has those factors. In the pre-Islamic era, women were not treated as human. Female infanticide was common practice. They had no legal rights even human rights. They were treated as goods. But Islam has changed the idea of treating women as goods and for sexual

desires only. Islam gave women legal rights and human rights also. Female infanticide has prohibited and it has recognized as one of the hatred crime.

But after the Islamic golden period, the situation has changed rapidly. In Islamic societies, women are now facing violence which is prohibited in Islamic laws. As mentioned earlier the absence of the basic three principles of Islamic jurisprudence *adl*, *insaf* and *ihsan*, the Muslim societies have stumbled. However, the most violence against women has lessened from particularly religious standards. In recent paced world women are engaging in workplaces, studying or outside of the home. They have also been struggling to get equitable treatment from home. Western observers and Muslim secularists too easily are likely to lay all the blame on Islamic beliefs.

Wife and daughter beating are commonly practiced in Islamic societies. Over 90 percent of Pakistani wives, for instance, have been struck, beaten, or abused sexually – for offenses like cooking an unsatisfactory meal, or for failing to give birth to a male child (Amnesty International, 2002). Women who are raped in Muslim countries often end up being punished while the rapist gets off free (Sisters in Islam, 2000). Many little Muslim girls have their genitals cut out – without anesthesia – in order to destroy their sexuality and make them “pure” (Ayaan, 2007). These are some example of violence against women in Islamic societies. But it has to be cleared that, there is no place of violence against women in Islam. From the readings of the Quran and Hadiths, it will be clear that there is no such place of violence in Islam.

There are two types of violence, private violence and public violence. Private violence includes violence at home including spousal abuse, wife beating, dowry-related violence, torture by in-laws and family members, polygamy, marital rape, risky pregnancy, incest and rape by family members or friends and in some cases honor crimes like honor killing. Public violence includes sexual harassment, eve-teasing, rape, trafficking, murder, *fatwa* violence acid throwing, forced suicides, etc.

Violence against women and girls perpetrated by their intimate partners is a global phenomenon experienced by at least one in three women during their lifetime (World Health Organization, 2014). Violence against women can be looked from two extensive views, at home, or domestic violence, and at workplace. But the basic characteristics of the violence are same. Mismatched marriage, financial dependence and the absence of social and legal safety are the main causes behind the violence against women.

Mismatched Marriage, Polygamy and Divorce

In Islamic laws, marriage is only a civil contract. It is not any kind of sacrament. An Islamic marriage has three types of aspects: legal, social and religious. Legally, marriage is a civil contract. A woman’s social status has increased after marriage. And religiously, marriage is a fort where the bride and bridegroom save each other from evil. In Islamic

jurisprudence, marriage is the base of a society where husband and wife live happily and save each other from all evil things.

But this marriage can be a burden upon husband or wife if it is mismatched. When the social status of the bride or bridegroom does not match, when the bride or bridegroom does not like one another or they have another preference, when the ideology of two families differs, they causes mismatched marriage and they lead the path of unhappiness and violence. The most important paramounds of a family life are peace, happiness and tranquility. But domestic violence destroys thehappinessof a family. Children witness the violent act of their parents and it will affect their future in negatively.

In a marriage, there are some jurisprudential principles. A woman cannot marry someone without permission of *wali* – the legal guardian (Al-Tirmidhi, 1101; Abu Dawood, 2085; Ibn Maajah, 1881) because, when something bad happens in a marriage, a woman has to return to her father's family. But nowadays many marriages took place without the permission of *wali*. Women are more emotional than men, and that's why their decision cannot always be good for their own. And on the other hand, a woman has the absolute right to choose her husband. The consent of the bride has to be free without any coercion. But this principle is also ignored. Many families force their girls for marriage. The absence of these two principles in a marriage leads to mismatched marriage. And it leads the path of violence against women.

The social and economic status of the bride and bridegroom has to be equal in a marriage. But this is also ignored by Muslim societies. The complicated extended family system and economic adversity create pressures in a family and it causes violence. Only husbands are duty bound to maintain the family and all its responsibilities. But the wife has no such bindings. The lifestyle and economic capabilities of two families must be equal to lead a happy marriage.

The wife has to live as her husband tells her without any *haram* (prohibited) things to do. The problem is Muslim men thinks that this principle gives them the right to beat their wives. Though Islam has given permission on certain grounds to beat wife e.g. if the wife does not hear any words of her husband. This beating also has some rules like a husband cannot beat his wife's face or cannot beat like which causes injury. But Muslim societies practice this generally. They beat their wives like a daily routine. They do not follow the rules and grounds.

Islamic laws always give husbands orders to maintain their wives as equals. Prophet of Islam orders husbands to act kindly towards women (Saheeh Muslim, Book 008, Number 3468). Islamic laws also command to give wives food and clothes as the same standards as husbands and not to beat wives (Sunan Abu-Dawud, Book 11, Number 2139). Do not angry and furious towards wives (Saheeh Bukhari, Volume 8, Book 73, Number 137).

“Women impure for men impure. And women of purity for men of purity. These are not affected by what people say. For them is forgiveness and an honorable provision” (Al Quran, 24:26).

So there are divine texts about behaving with goodness and kindness towards wives. But in Islamic societies, the absence of basic principles of Islam causes serious problems and this causes violence and other evil things.

Polygamy is another matter which leads domestic violence in Muslim societies. Polygamy is permitted for men and prohibited for women. In this issue also, Islamic jurisprudence has some principles. The permission to take more than one wife also has some rules. If any husband cannot maintain equality or keep justice among his wives, then the polygamy is prohibited.

“And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice]” (Al Quran, 4:3).

But in Muslim societies this law is also absent. They take more than one wife as their own ways and do injustice towards them. They use the system of polygamy to abuse wives and children.

The complication of divorce for women is another reason for domestic violence. However, Islamic laws do not prohibit divorce. If a husband ill-treated his wife, does not maintain her, or have some extra-marital relation, a woman can get divorced. There are also some other grounds where a Muslim woman can get a divorce which has been discussed earlier.

Economic and Social Factors

The social status of a woman is ignored in many Islamic societies. Though the status has been given by Islam, many social and economic factors are causing disturbance in the life of a woman. Many Western observers and Islamic secularists argue that the lack of opportunity to gain knowledge and education and economic dependence are the reasons behind violence against women. And they questioned Islamic laws about this. They have argued that Islam keeps women in the house and it causes all problems.

One can observe that most Western and Muslim secular writings indicate that Quranic or Islamic laws are the main culprits behind all kinds of violence against women in the Muslim world. In reality, there cannot be found any codified comprehensive normative legal system in Islam that could be held responsible for endemic violence against women in the Muslim world (Khan, 2008).

The textual references in Islamic laws have supported that it does not close the gates for women. Women have the permission to go out for their needs (Saheeh Bukhari,

Books: 6, Volume: 60, Hadith: 318). Though the best place for women is home, where she is closer to Allah. Women should take permission of her father or her husband before going out. And they have to go out in the prescribed manner which Islam allows. But in many Islamic societies, men do not allow women to go out. But the scenario has changed. Women are now going out to study or work. But this does not solve the problem which Westerns and secularists have argued. Rather the violence at academic institutions and the workplace has arisen against women like rape, sexual harassment, acid violence, murder, etc.

The reason behind the violence outside of home has some reasons also. There are some rules and regulations about the behavior of both men and women prescribed in Islamic laws. For example, a man cannot look at non-mahram woman's face or body; a man cannot touch any other women other than who is permitted. So there is no chance of doing a violent act if anyone follows the rules of Islamic laws. A woman must cover her body and hair from the sight of non-mahram man; it is prohibited to women regarding putting perfumes when going out; it is prohibited to women regarding showing her charms when going out etc.

In Islamic societies, women are deprived of their property rights. There are so many examples where a woman is deprived of her inherited share of property. After the death of her father, she cannot take away her property which she inherited. Many Islamic societies prefer sons over girls. They discriminate between boys and girls in early family life. These customs must be changed in Islamic societies. Prophet of Islam strictly prohibited such discrimination in a family. He also states that well treatment of girls will save parents from hellfire.

Dowry system is another setback for Muslim societies. This is another issue for which women have faced torture (both physically and mentally). In many Muslim societies this system is practiced by the family of the husband. This system of taking money after marriage from wife's family is completely forbidden in Islam.

Sexual harassment or assault at workplace is caused for many reasons. The working environments in many Muslim countries are not favorable for women. Women's rights in working places are not protected by laws. A huge number of populations in the Muslim world are poor and there is a large portion of women. The modern economic fluctuations make these populations vulnerable. They need foods and money, and to manage their family's responsibility and maintenance women have to go out for work. But Muslim societies do not accept women in working place easily yet. So it is very tough for them to survive in such hard situation. And in many families this causes problems between husband and wife. And it occurs, violence against women.

Islamic countries have to take some steps towards the solution of economic and social problems. The poverty alleviation of women and economic dependence, enough earn-

ing and ensuring the entitlement of rights which has given by Islamic laws like right to get inherited property, legal safety of women at workplace and institutions, ensuring the opportunity to get education, human rights and medical treatment will be the first priority for countries and societies.

Conclusion

The Muslim scholars and jurists want to add some new principles in Islamic legal system that could cover the norms and principles which cannot be found in the Quran and Hadith. The Islamic schools have also their own civil and criminal legal system based on Islamic jurisprudence. This is actually not a bad idea because every day new problems have risen and Islamic legal system has to cope with it. But there is no precedent system and codified laws in the Islamic legal system which can be followed by the court.

In the absence of codified laws and precedent system, the Islamic societies have faced with some evil customs like honor killing or rape. The causes of violence against women vary from country to country. But the victims are same in every society. Different customs and economic status of countries make a huge gap between Islamic societies.

About the rights of women given by Islam, many Islamic countries are in confusion. And in most of the time Islamic societies give priority to customs rather than Islamic laws. They followed the customs in place of the rules of the Quran or practice of the Prophet.

Islamic extremists and moderates have to both understand the jurisprudential explanation of Islamic laws and rules. The violence against women and children is a social disease. Without understanding the natural way of living and wisdom, Muslim societies cannot win against the fight of violence against women. Women have to understand that in the name of modernism, they cannot throw away the natural way of living. And the natural way living is what Islamic laws suggest and prescribes.

Women have to acknowledge their rights in Islam and have to earn it by the way Islam prescribes. And the jurists and scholars have to use up-to-date procedures in enforcing laws. It will help Islamic precepts to save women's legitimate rights and from abuse. It is a very tough challenge to find out a balanced middle path to protect the rights of women and to protect them from violence. But if both men and women and leaders in a society follow the natural way of living and *hikma* (wisdom), then it can be possible.

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