

# Women's Status and Justice in Islam: A Philosophical study

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## Abstract:

There is interregional and inter societal differentiation in the status of women. The status of women is not at par with men. The question of equality of women is quite complex and it deserves attention at all level in order to address it. In patriarchal societies, women are considered subordinate to men. A society, which fails to protect equality and status of its women, cannot be called a civilized society. Since the origin of human history women rights have been violated. Women were supposed to be subordinate to men and deprived of rights since the beginning of human civilization. Feminist raise this question from time to time and demand immediate protection of their rights. This paper will explore the basic rights, status and Justice of women in Islamic perspective. The arguments and findings in this paper are based on the evidences and references of the Quran and Hadiths.

*Key Word:* Islam, Justice, Rights, Quran, Hadith, Patriarchy.

## Introduction

There is interregional and inter societal differentiation in the status of women. In some societies they are equated with goddess while in others they are termed as home makers or the lady of the house. But in general the status of women is not at par with men. The question of equality of women is quite complex and it deserves attention at all level in order to address it. Patriarchal societies are based on the notion of male superiority and thus the question of gender equality question is not taken seriously as everything including the social structure is settled as per the whims of the male members.

In patriarchal societies, women are denied equal status on grounds of their low intellect level, physical weakness, and low mental strengths compared to men. As a corollary women always need the supervision of men in all aspects of life and without his support and protection she is always vulnerable. In short women are considered subordinate to men. In patriarchal social order freedom, power and authority are available and enjoyed by men. The women are supposed to act on the men's command. Women are considered as 'wife-man' which means 'mate of man' (Forlong, 2006, 339).

They have no authority to ask questions. It is against the values imposed on them. Women are enchained in moral values and the violation of those values will have adverse repercussions. In such a society violation of natural rights like right to life and liberty is obvious. Harassment, cruelty, and injustice are inevitable. In such

a scenario one cannot imagine of equality and justice which in fact couldn't be alienated from a modern democratic society.

Since the origin of human history women rights have been violated. Feminist raise this question from time to time and demand immediate protection of their rights. Their demand is genuine as they are just highlighting the fact that women form one half of the humanity and they deserve all the privileges enjoyed by their fellow male counterpart and it is the duty of the society to protect their rights. But patriarchal social structure didn't pay heed on their worries. Feminists held patriarchal set up of society responsible for the violation of the women rights. The literature, attitude, and so called moral values are deliberately shaped in such a way that a feeling of subordination and inferiority could be successfully instilled in women. Simone de Beauvoir, a revolutionary voice of feminist movement argues in her book "*The Second Sex*" that "one is not born, but rather becomes a woman. No biological, psychological or economic fact determines the figure that the human female presents in society; it is civilization as a whole that produces this creature, intermediate between male and eunuch, which is described as feminine" (Beavoir de, 1953, 293).

In his book "*The Subjection of Women*" J.S. Mill points out that the subjugation of the women is going on since time immemorial. He argues that patriarchal social set up shapes a women mind in such a way that she had to accept that her prime duty is to serve men. He stated, "All women are brought up from the very earliest years in the belief that their ideal of character is the very opposite to that of men; not self-will, and government by self-control, but submission, and yielding to the control of others. All the moralities tell them that it is the duty of women, and all the current sentimentalists that it is their nature, to live for others" (Rossi, 1970, 141).

As per Mill's statement we can come to the point that women's position in the society is undoubtedly man made. The sense of inferiority among women is unnatural and raised by the society. Absence of the moral support is taken as one of the possible reason behind the lower status of women in the society.

A society, which fails to protect equality and status of its women, cannot be called a civilized society. In other words, only that society is considered just and equitable which assures the protection of the rights of the women. Human rights and justice are the two sides of a coin. The justice would be of no use if it doesn't protect human rights' (Khadduri, 1984, 233).

David miller asserts that right and duties are correlated. According to him "if justice is concerned with what is due to each person considered individually, it is hardly surprising that one of the facts about a person which determines what is due to him is the set of positive rights which he possesses" (David, 1979, 76). Amartya Sen also accepts the importance of human rights in the concept of justice (Amartya, 2009, 357).

A society is called fair and just if its residents share fellow feelings and develop mutual humanity. Treat everyone equal and provide opportunities to get his/her share. In every society religion plays dominant role in the life of the believers. In order to be a part of a civilised society, individuals are supposed to possess desired social values. The major function of religion in a society is that it inculcates moral values in human beings.

Moral values like selflessness; kindness, honesty, and truthfulness etc. make individuals fit to lead a decent life. It helps in prevailing good sense in society. Religion aims at the establishment of equitable and just society.

Religion along with moral values is a strong cultural force which advocates for equal right of the women. It also provides philosophical, moral and ideological basis for giving desired status to the women. Men's attitude about their responsibility in society and treatment of women are also determined by their religion. The association of vices and virtues to the women's role in society is also done by religion. Thus the role of religion in relation to the status of women is considerable. The topic of women's position in society has got prominence in various inter religious discussions. At the outset it has been mentioned that the status of women varies from society to society. Also, their religious practices and societal set up determines their status in the society. To judge the status of women of any society one needs to get familiar with the social structure of the society which is likely to be based on the religious principles. It can fairly be said that all restrictions and allocations of women are decided by the religious practices.

Thus, without taking into consideration the rights and status given by a religion to women the study of the women's position will be incomplete. This paper makes an attempt to underline the status of women in Islamic societies. Being the ultimate guidebooks of Islam, thorough perusal and deep understanding of the Quran and related Hadiths becomes inevitable.

The concern of women's position in general and its dealing in Islam in particular is a much discussed topic. In Islam some preachers hold feminist approach as contradictory to the basic teachings of Islam. However, this perspective shows their narrow understanding and myopic outlook towards the broader concepts of Islam. The definition of women by such preachers has closeness to the patriarchal definition and it asserts on the submissive nature of women. But deep examination of the Quranic verses clearly highlights that it doesn't differentiate between men and women in terms of capability. In some issues due to socio-political conditions Sharia formulations are made in the reference of the Quran. But it has nothing to do with Islamic perspective of women.

Here, I will throw light on the rights accorded to women under Islam. Women were supposed to be subordinate to men and deprived of rights since the beginning of human civilization. Aristotle said, "The female is a female by virtue of a certain lack of qualities, we should regard the female nature as afflicted with a natural defectiveness" (Beauvoir de, 1953, 16). St. Thomas pronounced woman to be an 'imperfect man', an 'incidental' being. Thus it becomes a natural tendency to suppose women weaker than men, needing protection and support rather than equal treatment, (Ibid, 16).

Simone de Beauvoir in her book "*The Second Sex*" stated, "man defines women not in herself but as relative to him; she is not regarded as an autonomous being...She is defined and differentiated with reference to man and not with reference to her; she is the incidental, the inessential as opposed to the essential. He is the Subject, he is the Absolute – she is the other" (Ibid, 16).

Humanity is a two winged bird. Women constitute the half of humanity. Depriving half of humanity from their human rights, which has been done since the beginning of human civilization, means denying the overall progress of a society as well as humanity. It goes against the principle of justice. As remarked by David Miller, justice is concerned with ‘what is due to each person’?

In the modern era which is defined by its advancement in all aspects of life women empowerment is increasingly given impetus. Thus, a modern woman is more equipped to demand equality through democratic legal institutions. In this context Islam had been a pioneer in providing basic rights to the women like right to property inheritance, right to *Mahr* (arbitrary payment, in the form of money or possession paid by the groom to the bride) right to marriage, right to divorce, right to maintenance, and right to education etc. Out of the above mentioned rights this paper will discussed some important rights of women below:

### **Right to education:**

Education is of prime importance for any individual. Without education life will be like a candle having no light. It inculcates social virtues, develops personalities, rationality which help in creating good environment in society. No society can progress without education. Development and social change is impossible without education. Denial of educational right means snatching someone’s fundamental right. Education is the only tool that can bring equality in society. Reduction of differences between communities and empowerment of women cannot be expected without education. Education in Islam is a *Fard* (religious duty commanded by Allah) for both men and women. Following Hadiths put more light in this context.

“Whosoever goes out in search of knowledge, he is actually in the path of Allah till he returns.

Whoever searches after knowledge, it will be expiation for his past sins” (Karim, 2001, 353).

“Search for knowledge is compulsory upon every Muslim male and female” (Ibid, 353).

Acquiring knowledge was made mandatory by Prophet Muhammad (PBUH) for men and women. From the above Hadiths it is evident that acquiring knowledge for men and women is mandatory. Education in these verses is not only restricted to religious learning but also include other branches of education. Prophet Mohammed (PBUH) advised his followers by saying: “Search knowledge though it be in China”<sup>12</sup> (Ibid, 363)

The term China is used as a metaphor to put emphasis on education. Prophet Muhammad (PUBH) emphasized his followers to go abroad for the sake of knowledge. He knew that progress and prosperity of any community is impossible without education. In this Hadiths prophet says; “Ayesha reported that the Messenger of Allah said: The superiority in education is better than the superiority in Divine service” (Ibid, 359).

In another Hadith

“Tbn Abbas reported that the Messenger of Allah said: A learned theologian is stronger than a thousand of pious worshippers” (Ibid, 353). “The Messenger of Allah said: The superiority of the learned man over the pious worshipper is like my superiority over the meanest of you” (Sharif, 1991, 118).

From above mentioned Hadiths it is clear that the Quran from the beginning to the end had put emphasis on the importance of knowledge and education. In the Quranic verses superiority lies in getting knowledge and only those among men will be considered superior who are more knowledgeable. First revelation of the Quran begins with the word ‘iqra’ which means read which highlights the importance of education in Islam. Other verses in this regard says:

“Read! In the Name of your Lord Who has created. He has created man from a clot (a piece of thick coagulated blood). Read! And your Lord is the Most Generous. Who has taught (the writing) by the pen. He has taught man that which he knew not” (Khan & Tariq-ud-Din, 1999, 96:1-5)

In the above verses focus is laid on the reading, writing and teaching. Though, the purpose of sending messenger or prophets among mankind is to make them enlightened, aware and educated. After the prophet this legacy of conveying message among masses is carried out by the followers of Islam. Hadiths and the Quran are the prime sources they consult to spread the message of enlightenment. Ummah (the whole community of Muslims bound together by ties of religion) is the real inheritor of Hadiths and the Quran.

In Islam it is believed that if a woman remain illiterate and she dies in such a state of ignorance then three persons will be held responsible on the day of judgement for her illiteracy, her father, husband, and son. Thus, providing education to the women is a worthy act. If one fails in assuring this then it leads to the punishment in the Hereafter.

### **Right to inheritance:**

Islam entitled women to have property. It makes them financially secure. In our societies disputes over property division are common. To disinherit women of her property right is to make her dependent, weak, and subordinate. Nobel laureate Amartya Sen says “the ownership of property can also add to the influence and power of women in decisions within the family and beyond” (Sen, 2005, 238). He also said that “the absence of claims to property can not only reduce the voice of women, it can also make it harder for women to enter and flourish in commercial, economic and social activities” (Ibid, 238).

For the empowerment of the women self-dependence is must. In order to bring gender equality in the society there is need to provide equality of opportunity. Her socio-economic status need to be uplifted. The Quran credits women with equal share in the property of their parents. The Quran states that, “From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large – a determinate share” (Hameedullah, 1991, 53). These verses talk of the equal inheritance of both men and women. Women are entitled to have shared in the property of husband, son etc.

### **Right to marriage:**

Right to get married and to have a family is a basic right of any human being. Universal declaration of human right declared it as the fundamental right. Men and women of full age have all rights to get married. In case of inter caste and inter religious marriages law of the land is liable to provide security to the couple. Marital right is an important aspect of women's equality.

Unlike marriages in other religions Islamic marriage is contractual in nature. It is a contract between two adults who give their consent to get into relation. In Islam women enjoy all rights to authenticate their marriage contract. They act as free agent in marriage without whose consent no condition of marriage is valid. In order to validate the marriage women's consent is final and absolute. Following is the Hadiths in this regard, "Abu Hurairah reported that the Messenger of Allah said: A woman without her husband shall not be married till she gives consent nor a virgin be married till her consent is sought. They asked: How shall be her permission? He said: If she remains silent" (Karim, 2001' 611).

This Hadith clearly states that no women either virgin or widow can be forced to get married without her consent. If after marriage woman claims that she is married without her consent the marriage becomes null and void. She cannot be pressurised to abide by the decision of her guardian to get married against her wish. One more Hadith in this regard is worth mentioning to have a better understanding of the issue, "Khansa'a – bn – Khezam reported that her father gave her in marriage while she was a woman previously married. She disliked it, and so she came to the Prophet. He annulled this marriage" (Ibid, 613).

This Hadith shows that how a Lady complained to the prophet against her marriage. Prophet considered it illegal and cancelled it out. In case of marriage the consent of the women is obligatory at any cost. This applies to minors as well. If a minor has been given in marriage by her parents then she reserves the right to take decision with regard to that marriage after getting maturity.

### **Right to Mahr:**

In Islam *Mahr* is an arbitrary payment by the husband to his wife. It is a mutually determined amount to pay in cash or kind. It is to provide financial security to the bride. This is a unique right provided only in the Islamic marriage. No marriage in Islam is considered valid and no condition is finalised until *Mahr* is fixed. Before *Nikah* (marriage contract) the amount of *Mahr* is disclosed before bride and only after her consent the process of *Nikah* is complete. Women have all exclusive right over *Mahr*. Neither her father nor her husband or any relative can put a claim over it. She can use it as per her wishes. Quran had not fixed any amount for *Mahr*. It is mutually decided by both the sides.

### **Conclusion**

This paper can be concluded with the assertion that the above discussion reveals that several conventional rights are accorded on women in Islam which are not only uplift women's status and dignity in society but also provides justice towards them in qualitative sense. The Quran is so much concerned about women's rights that it will be wrong to say that the Quran preaches feminism. The rights granted to women in the Quran and by Prophet Muhammad (PUBH) are obviously the great improvement in comparison to the condition of women prior to the advent of Islam. The concept of gender justice is thought to be non-existent in Islam. But if the Quranic teachings are understood and practiced in its true spirit, it will make clear that gender justice is not denied in the Quranic Teachings. There are many verses in the Quran in which it is stated that man and woman are equal. They receive justice and equal treatment from Allah. The great damage done to Muslim women's status today is mainly due to the lack of understanding of the Quranic teachings. And also due to the ignorance of Muslims women of their rights prescribed in the Islamic scripture for them.

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